REGULATION NO. Reg-01-18

ADOPTION OF REGULATIONS FOR CITY OF GAITHERSBURG, MARYLAND, ELECTIONS AS PROVIDED BY CHAPTER 2 OF THE CITY CODE ENTITLED "ADMINISTRATION"

WHEREAS, Chapter 2 of the Gaithersburg City Code, entitled "Administration," authorizes the City Council to enact regulations to implement or carry out the provisions of any law or ordinance on any subject matter provided for in the City Charter, the City Code of Gaithersburg or laws of Maryland; and

WHEREAS, the Mayor and City Council have determined that regulations for conducting City elections is in the public interest; and

WHEREAS, Chapter 2, Article II, Section 2-10 of the said regulations require approval by the Gaithersburg City Council:

NOW, THEREFORE, BE IT RESOLVED, by the Mayor and City Council of Gaithersburg, Adoption of Regulations for City of Gaithersburg Elections as provided by Chapter 2 of the City Code Entitled "Administration"

NOW, THEREFORE, BE IT RESOLVED by the Mayor and the City Council of the City of Gaithersburg, that the Regulations for City of Gaithersburg Elections as attached hereto, are hereby adopted by the Mayor and City Council and shall be effective on September 9, 2018.

ADOPTED by the City Council this 20th day of August, 2018.

JUD ASHMAN, MAYOR and
President of the Council

THIS IS TO CERTIFY, that the foregoing Resolution was adopted by the City Council, in public meeting assembled on the 20th day of August, 2018. This Resolution will become effective on the 9th day of September, 2018.

Tony Tomasello, City Manager

REGULATION NO. Reg-01-18

REGULATIONS ENACTED PURSUANT TO CITY CODE §2-10 TO IMPLEMENT CITY CODE §§6C-3.1, ENTITLED "POWERS AND DUTIES OF THE BOARD OF SUPERVISORS OF ELECTIONS", ESTABLISHING CITY OF GAITHERSBURG ELECTION REGULATIONS

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I. INTRODUCTION

The Gaithersburg Election Regulations delineate the rules for candidates for public office and elected officials. They will be enforced by the Gaithersburg Board of Supervisors of Elections (BOSE), which is responsible for their interpretation. The BOSE may refer any matter regarding enforcement of these Regulations to the City Manager or City Attorney to assist with implementation or enforcement.

II. CITY RESOURCES

On-duty City personnel, equipment, facilities, postage, City letterhead or official stationary, and funding, will not be used for promotion or opposition to any candidate for political office or political party for any office or by an organization or individual advocating for or against a particular issue on a local, state or national level. This would not preclude an independent, non-partisan organization from holding a candidate forum or debate in a City facility or for a debate or candidate forum from being televised in the manner outlined in these Regulations, nor would these Regulations prohibit the City from its lobbying efforts at the county, state and national level.

III. CAMPAIGN MATERIALS

A Candidate may not use the City seal, logo, or tree graphic or a graphic similar to these images in campaign materials. A Candidate, other than an elected official, may not use the title of the position sought in the election as their title in campaign materials or to solicit campaign contributions (i.e., an incumbent Councilmember may use Councilmember [name] in materials; a non-incumbent may not use Councilmember [name] in materials, but may use [name] for Council).

IV. RULES FOR CITY FESTIVALS AND EVENTS

A. <u>INCUMBENT ELECTED OFFICIALS:</u>

a. **Incumbent City Officials at City Festivals and Events** – All current City elected officials may represent the City at festivals and special events (whether they are running for re-election or not). If incumbent City officials wish to participate in an event in their elected capacity *and* as a candidate, they may do so, provided that when campaigning at events they shall abide by the same rules as non-incumbent candidates and may not campaign at official City tables or booths, from a stage during events, or within an official display such as a float.

b. **Incumbent County, State or Federal Officials at City Festivals and Events** – Incumbent elected officials who wish to participate in an event in their elected capacity *and* as a candidate may do so, provided that when campaigning at events they shall abide by the same rules as non-incumbent candidates and

may not campaign at official City tables or booths, from a stage during events, or from an official City display such as a float.

B. CANDIDATES FOR ELECTED OFFICE:

a. For the purposes of these Regulations, a candidate is a person who has publicly announced that he or she is seeking election to a public office at the City, County, State, or Federal level of government.

b. Incumbents who have publicly announced their candidacy for re-election, or for election to a different public office than they currently hold, may participate as a candidate *and* as an incumbent in City festivals and events.

C. RULES FOR SPECIFIC FESTIVALS OR EVENTS:

All participants, including candidates, shall comply with any and all Regulations**, program criteria, policies and procedures established for City festivals and events, including but not limited to City Resolution R-73-05. Copies of said documents are available upon request.**

Oktoberfest

Candidates and/or their representatives may have a booth in the section of the festival designated for political candidates. Candidates may walk within the festival to meet and greet people but they cannot use amplifiers or impede pedestrians who wish to move around the festival.

Candidates and/or their representatives may not go on to a stage to speak unless invited by a City official. If so invited, they may not campaign.

Candidates and/or their representatives may not post campaign signs except within assigned areas and may not attach stickers to any public property or signage. Candidates and/or their representatives shall not carry signs outside of their allocated space.

Gaithersburg Book Festival

Candidates and/or their representatives may walk within the festival to meet and greet people but they cannot carry signs, use amplifiers or impede pedestrians who wish to move around the festival, or post campaign signs or attach stickers to any public property or signage. Designated participation in this event must be of a literary nature, therefore there are no assigned spaces for other types of activities, including an area to post campaign signs.

Candidates and/or their representatives may not go on to a stage to speak unless invited by a City official. If so invited, they may not campaign.

Fourth of July Celebration/SummerFest

Candidates and/or their representatives may meet and greet attendees as they walk throughout the event site. Tables may be set up in a specified area to distribute literature. The use of amplifiers or actions that impede the flow of pedestrians who wish to move around the event is prohibited. Candidates and/or their representatives may not go on to a stage to speak unless invited by a City official. If so invited, they may not campaign.

Candidates and/or their representatives may not post campaign signs except within assigned areas and may not attach stickers to any public property or signage. Candidates and/or their representatives shall not carry signs outside of their allocated space.

National Night Out

Candidates may meet and greet attendees and distribute literature within the site(s), but not at City tables or booths.

City Concerts (City Hall Pavilion, City parks and other venues)

Candidates and/or their representatives may meet and greet the audience before or after the concert or at intermission. Candidates and/or their representatives should not interrupt the concert, block vehicular or pedestrian traffic, or impede the performance in any way.

The use of amplifiers or actions that impede the flow of pedestrians who wish to move around the event is prohibited. Candidates and/or their representatives may not go on to a stage to speak unless invited by a City official. If so invited, they may not campaign.

Candidates and/or their representatives may not post campaign signs except within assigned areas and may not attach stickers to any public property or signage. Candidates and/or their representatives shall not carry signs.

Flea Markets and Farmers Markets

Candidates and/or their representatives may meet and greet attendees while they walk the site but may not impede traffic or the operation of the event in any way. The use of amplifiers or actions that impede the flow of pedestrians who wish to move around the event is prohibited.

Candidates and/or their representatives may not post campaign signs except within assigned areas and may not attach stickers to any public property or signage. Candidates and/or their representatives shall not carry signs.

Labor Day, St. Patrick's Day and Other Parades

Elected Officials and individuals running for office are welcome to participate in City of Gaithersburg Parades. The order of appearance, with politicians interspersed between other parade units, is determined by the following protocol.

1. Incumbent Elected Officials not actively campaigning while participating in the parade

2. Incumbent Elected Officials actively campaigning while participating in the parade

3. Candidates running for office who do not currently hold an elected office

Placement within each group is predetermined based on elected office. Incumbent Elected Officials who are running may choose to participate with or without actively campaigning, and will be placed accordingly. For the purpose of City of Gaithersburg parades, "campaigning" is defined as displaying and/or passing out banners, signs, posters, buttons, literature, stickers, or other political campaign material. Campaigning may be conducted from private units only, and campaigning politicians may have only one private unit in the Parade. Private units are to be provided by the candidate.

Candidates and/or their representatives who are not in a pre-registered, private unit may distribute literature to attendees along the parade route by utilizing the sidewalks, but they must not walk in, or otherwise enter the street where the parade is traveling. Additionally, candidates and/or their representatives who are not in private units must not use sound amplification, impede or interfere with the parade or its attendees in any manner.

The order of appearance for elected officials and candidates is as follows:

<u>Elected Officials:</u>

Incumbent Mayor and City Council (Official City unit)
United States President and Vice President
Incumbent Governor and Lieutenant Governor
Incumbent District 17 Senator and Delegates
Incumbent Federal Elected Officials
Incumbent State of Maryland Elected Officials (except District 17)
Incumbent Montgomery County Elected Officials
Incumbent Montgomery County Board of Education Officials
Incumbent Judges
Other

Candidates:

Mayor and/or City Council
United States President and Vice President
Governor and Lieutenant Governor
District 17 Senator and Delegates
Federal Offices
State of Maryland Officials (except District 17)
Montgomery County Offices
Montgomery County Board of Education Offices
Judges
Other

Other Events

From time to time, the City may hold other events than the ones described above. The City may also cancel or postpone events (or create new ones) as its needs dictate. Regulations for campaigning at such events will be developed by City staff as needed but are expected to follow the same general Regulations as existing events.

Campaign Apparel

These Regulations allow for incumbents to participate at City events in both their elected capacity and as a candidate. However, when campaigning at events, candidates are required to abide by the same rules as non-incumbents, so incumbent candidates should not wear campaign t-shirts, buttons or other campaign apparel when appearing at events in their elected capacity. When they are not in their elected capacity at events, incumbents are free to wear campaign apparel.

V. POLICY FOR CANDIDATE FORUMS OR DEBATES

A. **City Elections**: The City may air up to three candidate debates or forums prior to the Gaithersburg General Election, subject to the following conditions:

1. Debate/forum must focus on citywide issues and must be sponsored by an independent, non-partisan, non-profit organization that does not endorse candidates. The sponsoring organization cannot have an affiliation with any of the candidates for office.

2. For technical reasons, the proposed debate/forum must be held in a City facility capable of live broadcasting on Gaithersburg TV, the City's cable channel. Any debate/forum which is to appear on Gaithersburg TV may not conflict with any regularly scheduled meeting held in the designated facility.

3. City staff must not be involved in any way in the hosting, moderating, facilitating, or asking of questions. The only involvement from City staff will be a producer, director and control room crew. A representative of the BOSE may be present in the control booth to supervise the producer.

4. No editing will be done by staff with the exception of adding opening and closing graphics and correcting technical problems. However, the BOSE member supervising the producer shall have the authority to halt airing any portion of a forum or debate if obscene language is used or other disturbances occur.

5. All candidates certified to appear on the ballot by the BOSE must be invited to participate in any televised debate or forum. However, the BOSE may, at the request of the sponsoring organization, approve separate debates for mayoral candidates and council candidates.

6. Any debate or forum aired on Gaithersburg TV will be aired live on the City's Cable TV channel and on the City's YouTube channel. Notification of the upcoming debate will be advertised on the Cable TV channel for five days prior to the live airing. The unedited debate or forum will be replayed at least once daily on Gaithersburg TV for a period of one week or until the airing of the next live debate, with one airing to be conducted during the hours of 8:00 p.m. to 11:00 p.m. The schedule of airings will be posted on the City's website and will be advertised on Gaithersburg TV. Within 48 hours of the airing, the debate or forum will be linked to the Elections Page of the City website for on-demand viewing.

7. Any organization that wishes to sponsor a debate or forum to appear on Gaithersburg TV must submit a written request to the BOSE at least 45 days prior to the election. The BOSE will determine if the organization meets the requirements outlined in Paragraph 1 above.

8. If more than three organizations submit proposals that meet these Regulations, the three debates or forums will be selected based on a random drawing by the BOSE.

9. It shall be the responsibility of the BOSE to administer forums and debates in accordance with this policy.

B. **Non-City Elections**: The City may host debates and forums for any public offices for which Gaithersburg citizens vote. No more than two debates or forums will be televised for each election cycle, including both primary and general elections. All non-City election forums and debates will be held in accordance with the criteria for City Elections above and must be sponsored by an independent, non-partisan organization that does not endorse candidate.

VI. POLITICAL ADS AND SPONSORSHIPS

A. The City will not accept ads for any publication sponsored by or supporting or opposing any candidate or elected official for any political office or political party.

B. The City will not accept sponsorships for City events from any candidate or elected official for political office, political party or slate of candidates for any office.

VII. CAMPAIGNING IN CITY FACILITIES

Campaigning, defined as publicly promoting one's candidacy, in or on any City facilities or property is prohibited and campaign materials may not be left or distributed inside City facilities. This prohibition does not apply to: (1) forums or debates conducted in accordance with these Regulations, (2) campaigning at City events conducted in accordance with these Regulations (3) or campaigning on a scheduled Early Voting Session or Election Day at designated polling sites as permitted by the City Code. In addition, this provision is not intended to prohibit elected officials and candidates from leasing City facilities under the same terms and conditions as the general public in accordance with the City's rental policies and campaigning at such leased facilities during the lease period.

VIII. ELECTION ADVERTISEMENTS AND SIGNAGE

REQUIREMENTS FOR ADVERTISING:

A. **City Code Requirements:** Any broadcasting, publication or printing, including sample ballots, signs, flyers, postcards, etc., paid for by a candidate must include language on its face indicating that it is a paid political advertisement, and the candidate or candidates who paid for the publication or printing shall be identified in the broadcast, publication or printing. *City Code Sec. 6C-15.*

B. **Sample language for inclusion on all broadcasts, publications or printings:**

This message has been authorized and paid for by (name of candidate/political committee); ***or***

This is a paid political advertisement authorized by (name of candidate/political committee).

C. **Violation:** Violation of this requirement is a municipal infraction punishable by a fine not to exceed $1,000.00. *City Code Sec. 6C-19.*

D. **Donated Ads:** If campaign materials, such as signs, ads or brochures, are donated by others or are published or distributed by a person other than by authority of a candidate or political committee, the materials must include the name and address of the person responsible for the campaign material.

E. **Electronic media**: The City recognizes that candidates and political committees may establish a social network or micro-blog account as a campaign tool. The candidate or committee should place an authority line on the landing page of any unpaid site, if possible. For any paid electronic media advertisement, a candidate is required to include the "paid for" language (above) on the ad. In the event the electronic media advertisement is too small for a "paid for" line, then:

   a. The ad must allow the viewer to click on the ad and take the viewer to a home or landing page that displays the authority line; **or**

   b. The ad must be registered with the BOSE.

IX. CAMPAIGN FINANCE

ELECTRONIC CAMPAIGN FINANCE SYSTEM: The BOSE is requiring all Campaign Finance Reports to be submitted electronically for all City Elections and Annual Reporting Requirements.

Use of the electronic Campaign Finance System will be addressed during the Mandatory Candidate Training sessions. All candidates will need to request an account online at https://filedrop.gaithersburgmd.gov/request/ to be able to submit Campaign Finance Reports. ***Please allow up to one (1) business day for account creation and access.***

For technical issues, including account access or questions related to campaign finance reporting, candidates or treasurers should email

CampaignFinancing@gaithersburgmd.gov for assistance. *Please allow up to one (1) business day for staff response.*

X. JOINT CAMPAIGN ACTIVITES

Definition: Joint campaign activities are activities that two or more candidates conduct together such that they share costs or resources for the activity, such as publishing and distributing joint campaign materials or holding joint campaign events.

Authorization: Candidates may conduct joint campaign events and activities and publish or distribute joint materials, subject to following:

a. Joint Materials – In the event two or more candidates publish or distribute joint campaign materials, an authority line must be included for each candidate that is included in the materials. The portion of costs and expenses paid by each candidate for the publication or distribution of such materials must be reported on each candidate's campaign finance report.

b. Joint Events – In the event two or more candidates jointly hold or fund a campaign event or activity, each candidate must report the portion of the costs and expenses that candidate paid for the event or activity on their campaign finance report.

c. Endorsements of Other Candidates – Candidates may individually or jointly endorse one or more other candidates. Such endorsements may not be made using official city letterhead or on any other materials that would convey to voters that the City is endorsing a candidate or group of candidates.

d. Reporting of Contributions and Expenditures – Contributions made at a joint campaign event must be made to an individual candidate. Each candidate must report any contribution made toward a joint campaign activities and all expenditures for the portion of the costs, expenses, and in-kind contributions made by the candidate for all joint campaign activities on their individual campaign finance report. The Campaign Finance system includes a joint activities category for both contributions and expenditure to accurately capture contributions and expenditures made for joint campaign activities. Actual expenses must be reported and the costs and expenses do not have to be equally divided among the candidates.

XI. WRITE-IN CANDIDATES

Certificate of Candidacy: The City allows write-in candidates in general elections, provided a certificate of candidacy is filed as required by Section 29A of the City Charter and Section 6C-3.05 of the City Code. A certificate of candidacy shall be filed with the BOSE on the Certificate of Candidacy – Write-in Candidate Form and must be received no later than the earliest of three (3) days after the write-in candidate collects or expends $250.00 in support of their candidacy or 5:00 p.m. six (6) business days prior to the first scheduled early voting session.

Financial Disclosure Statement: A write-in candidate must file a financial disclosure statement prior to or at the time the time of filing the Certificate of Candidacy. Once the Certificate of Candidacy is filed, the write-in candidate must file all financial disclosure statements required for candidates.

Write-in Votes: In order for a write-in vote to be accepted, the voter must completely fill in the oval to the left of the write-in line on the ballot, and then write the candidate's names on the blank line. Any abbreviation, misspelling, or minor variation in the form of the name of a candidate shall be disregarded in determining the validity of a write-in vote as long as the intended candidate can be determined. Writing the last name only will constitute a valid vote, unless there is more than one candidate with the same last name.

XII. EARLY VOTING SESSIONS AND ELECTION DAY ACTIVITIES

Poll Watchers: Candidates have the right to designate one individual at each polling site to serve as a poll watcher. Each watcher has the right to enter the polling site one-half hour before the opening of the polls and be present at the polling site at any time the polls are open and until the returns are completed.

A majority of the election judges at a polling site may direct all watchers to leave a polling site prior to the opening of the polls if they find that the presence of the watchers will prevent the timely opening of the polls. Watchers may not interfere with or obstruct the elections judges in the performance of their duties and may not inquire for which candidate any voter intends to vote, has voted, or to converse in the polling site with any voter or to assist any voter in the preparation of his or her ballot or in the operation of the voting machine.

For each watcher, the candidate must complete a Poll Watcher's Certificate and file said Certificate with the City's Elections Clerk no later than 5:00 p.m. three (3) business days preceding a scheduled Early Voting Session or Election Day. Identification badges for each watcher shall be prepared and they must be picked up from the City's Elections Clerk by 5:00 p.m. one (1) business day preceding a scheduled Early Voting Session or Election Day. Watchers shall not be admitted to any polling site without a City-issued identification badge.

Electioneering: Electioneering activities are prohibited within twenty-five (25) feet of the main entrance of a polling site. This area will be marked at each polling site by 5:00 p.m. on one (1) business day immediately preceding a scheduled Early Voting Session or Election Day. The chief election judge at each polling site may modify this distance if, in his or her sole discretion, it is required to protect the safety or welfare of individuals electioneering or voting.

Election signs may be placed at polling sites outside of the No Electioneering area after 5:00 p.m. on one (1) business day immediately preceding a scheduled Early Voting Session or Election Day and must be removed by noon the following business day immediately following a scheduled Early Voting Session or Election Day. Candidates must place their signs in such a manner that all other candidate signs are provided equal opportunity for viewing by the public. The chief election judge at each polling site, in his or her sole discretion, may move or remove candidate signs in order to provide all candidates with the opportunity to place signs.

Presence in polling site: The only individuals authorized in a polling site are the assigned election judges, elections support staff, poll watchers, and the registered voters for that particular polling site. An individual who enters or remains in a polling site without cause may be deemed to be engaging in illegal electioneering. All authorized individuals will have a City-issued identification badge.

Campaign apparel in polling site: The visible display a badge, button, hat, t-shirt, insignia, emblem, or other similar communicative device that advocates for or against any candidate or measure on the ballot in that particular election, including the display of candidate's name, likeness, or logo is prohibited in polling sites during voting.

XIII. ELECTION CYCLE INFORMATION

Authority	Election Event	Notes
BOSE	**Available:** Candidate Packets	180 days (prior)
§29	**Deadline:** File for Candidates	75 days
6C-5	**Due:** First Pre-General Campaign Finance Report	75 days
6C-21	**Available:** Absentee Ballots	60 days
6C-5	**Due:** Second Pre-General Campaign Finance Report	43 days
6C-3.05	**Deadline**: Write-In Candidates **Six (6) business days before first scheduled Early Voting Session*	*
6C-5	**Due:** Third Pre-General Campaign Finance Report	22 days
§27(b)	**Deadline:** Register to Vote	Same Day
BOSE	**Deadline**: File Poll Watcher Certificates **Three (3) business days before Early Voting Session or Election Day*	*
BOSE	**Deadline:** Pick-Up Poll Watcher ID Badges **One (1) business day before Early Voting Session or Election Day*	*
6C-5	**Due:** Fourth Pre-General Campaign Finance Report	8 days
6C-22(d)	**Deadline:** Mail Absentee Ballots **Six (6) days before Election Day*	*
§31	**Election Day** **First Tuesday after the first Monday in November*	*
6C-22(a)	**Due:** Absentee Ballots	TBD
§33	Election Results Certification	7 days (post)

BOSE	Candidate Swearing-In Ceremony	TBD
6C-5	**Due:** First Post-General Campaign Finance Report	14 days
§33	Run-Off Election Day	14 days
6C-5	**Due:** Final Post-General Campaign Finance Report	Annually

The information below is meant to provide guidance on important Election Cycle events, as provided in the City Code and Charter. At the beginning of each Election Cycle, the BOSE will release an official Election Cycle Calendar with Candidate Packets.