

STATE OF NEW YORK
SUPREME COURT

COUNTY OF RICHMOND

VITO J. FOSSELLA, NICHOLAS A. LANGWORTHY,
JOSEPH BORRELLI, NICOLE MALLIOTAKIS,
ANDREW LANZA, MICHAEL REILLY, MICHAEL
TANNOUSIS, INNA VERNIKOV, DAVID CARR,
JOANN ARIOLA, VICKIE PALADINO, ROBERT
HOLDEN, GERARD KASSAR, VERALIA
MALLIOTAKIS, MICHAEL PETROV, WAFIK HABIB,
PHILLIP YAN HING WONG, NEW YORK
REPUBLICAN STATE COMMITTEE, and
REPUBLICAN NATIONAL COMMITTEE,

Plaintiffs,

-against-

ERIC ADAMS, in his official capacity as Mayor of New
York City, BOARD OF ELECTIONS IN THE CITY OF
NEW YORK, CITY COUNCIL OF THE CITY OF NEW
YORK,

Defendants.

SUMMONS

Index No.: _____

Purchased On: _____

Plaintiff designates Richmond
County as the place of trial.

The basis of venue is that several
Plaintiffs reside in Richmond
County and the cause of action
arose in Richmond County as to
those Plaintiffs.

To the above-named Defendants

You are hereby summoned to answer the annexed complaint in this action and to serve a copy of your answer, or, if the complaint is not served with this summons, to serve a notice of appearance, on the Plaintiffs' attorney within 20 days after the service of this summons, exclusive of the day of service (or within 30 days after the service is complete if this summons is not personally delivered to you within the State of New York); and in case of your failure to appear or answer, judgment will be taken against you by default for the relief demanded in the complaint.

Dated: January 10, 2022
Albany, New York

O'CONNELL AND ARONOWITZ, P.C.

By: 

Cornelius D. Murray, Esq.

Michael Y. Hawrylchak, Esq.

Attorneys for Plaintiff

54 State Street, 9th Floor

Albany, New York 12207-2501

(518) 462-5601

STATE OF NEW YORK
SUPREME COURT

COUNTY OF RICHMOND

VITO J. FOSSELLA, NICHOLAS A. LANGWORTHY,
JOSEPH BORRELLI, NICOLE MALLIOTAKIS,
ANDREW LANZA, MICHAEL REILLY, MICHAEL
TANNOUSIS, INNA VERNIKOV, DAVID CARR,
JOANN ARIOLA, VICKIE PALADINO, ROBERT
HOLDEN, GERARD KASSAR, VERALIA
MALLIOTAKIS, MICHAEL PETROV, WAFIK HABIB,
PHILLIP YAN HING WONG, NEW YORK
REPUBLICAN STATE COMMITTEE, and
REPUBLICAN NATIONAL COMMITTEE,

COMPLAINT

Index No.: _____

Plaintiffs,

-against-

ERIC ADAMS, in his official capacity as Mayor of New
York City, BOARD OF ELECTIONS IN THE CITY OF
NEW YORK, CITY COUNCIL OF THE CITY OF NEW
YORK,

Defendants.

The above-named Plaintiffs, Vito J. Fossella, Nicholas A. Langworthy, Joseph Borrelli, Nicole Malliotakis, Andrew Lanza, Michael Reilly, Michael Tannousis, Inna Vernikov, David Carr, Joann Ariola, Vickie Paladino, Robert Holden, Gerard Kassar, Veralia Malliotakis, Michael Petrov, Wafik Habib, Phillip Yan Hing Wong, New York Republican State Committee, and Republican National Committee, by their attorneys, O'Connell & Aronowitz, P.C., for their Complaint herein allege as follows:

NATURE OF THE CASE

1. This lawsuit challenges the validity of a local law (the "Non-Citizen Voting Law"), a copy of which is annexed here as Exhibit A, passed by the New York City Council on December

9, 2021, and deemed adopted by operation of law on January 8, 2022, which purports to give non-citizens the right to vote in local New York City elections. Plaintiffs include state and national political parties, as well as United States citizens belonging to several different political parties who are either elected officials, qualified and registered voters in the City of New York, or state party officials.

2. Plaintiffs contend that the Non-Citizen Voting Law is unconstitutional and violates Articles II and IX of the New York State Constitution as well as the State Election Law and the Municipal Home Rule Law.

3. Plaintiffs seek a declaratory judgment that the Non-Citizen Voting Law is unconstitutional, violative of New York statutory law, and invalid, as well as an injunction permanently enjoining the Defendants, the Mayor and the New York City Board of Elections, from enforcing or implementing the law in any respect.

PARTIES

4. Plaintiff Vito J. Fossella is the Staten Island Borough President-Elect, and a former member of Congress and the New York City Council. Mr. Fossella is a citizen of the United States, a resident of Richmond County, and a registered voter in Richmond County and the City of New York.

5. Plaintiff Nicholas A. Langworthy is the Chairman of the New York Republican State Committee.

6. Plaintiff Joseph Borrelli is a Member of the New York City Council from Staten Island and the Minority Leader. Mr. Borelli voted against the Non-Citizen Voting Law. Mr. Borelli is a citizen of the United States, a resident of Richmond County, and a registered voter in Richmond County and the City of New York.

7. Plaintiff Nicole Malliotakis is a Member of Congress representing Staten Island and part of Brooklyn. Ms. Malliotakis is a citizen of the United States, a resident of Richmond County, and a registered voter in Richmond County and the City of New York.

8. Plaintiff Andrew Lanza is a State Senator representing most of Staten Island. Mr. Lanza is a citizen of the United States, a resident of Richmond County, and a registered voter in Richmond County and the City of New York.

9. Plaintiff Michael Reilly is a State Assemblymember representing part of Staten Island. Mr. Reilly is a citizen of the United States, a resident of Richmond County, and a registered voter in Richmond County and the City of New York.

10. Plaintiff Michael Tannousis is a State Assemblymember representing parts of Staten Island and Brooklyn. Mr. Tannousis is a citizen of the United States, a resident of Richmond County, and a registered voter in Richmond County and the City of New York.

11. Plaintiff Inna Vernikov is a Member of the New York City Council from Brooklyn. Ms. Vernikov voted against the Non-Citizen Voting Law. Ms. Vernikov is a naturalized citizen of the United States, a resident of Kings County, and a registered voter in Kings County and the City of New York.

12. Plaintiff David Carr is a Member of the New York City Council from Staten Island. Mr. Carr voted against the Non-Citizen Voting Law. Mr. Carr is a citizen of the United States, a resident of Richmond County, and a registered voter in Richmond County and the City of New York.

13. Plaintiff Joann Ariola is a Member-Elect of the New York City Council from Queens. Ms. Ariola is a citizen of the United States, a resident of Queens County, and a registered voter in Queens County and the City of New York.

14. Plaintiff Vickie Paladino is a Member-Elect of the New York City Council from Queens. Ms. Paladino is a citizen of the United States, a resident of Queens County, and a registered voter in Queens County and the City of New York.

15. Plaintiff Robert Holden is a Member of the New York City Council from Queens. Mr. Holden is an enrolled Democrat who voted against the Non-Citizen Voting Law. Mr. Holden is a citizen of the United States, a resident of Queens County, and a registered voter in Queens County and the City of New York.

16. Plaintiff Gerard Kassir is the Chairman of the New York State Conservative Party. Mr. Kassir is a citizen of the United States, a resident of Kings County, and a registered voter in Kings County and the City of New York.

17. Plaintiff Veralia Malliotakis is a naturalized citizen of the United States, a resident of Richmond County, and a registered voter in Richmond County and the City of New York.

18. Plaintiff Michael Petrov is a naturalized citizen of the United States, a resident of Richmond County, and a registered voter in Richmond County and the City of New York.

19. Plaintiff Wafik Habib is a naturalized citizen of the United States, a resident of Richmond County, and a registered voter in Richmond County and the City of New York.

20. Plaintiff Phillip Yan Hing Wong is a naturalized citizen of the United States, a resident of Queens County, and a registered voter in Queens County and the City of New York.

21. Plaintiff New York Republican State Committee is a New York State political committee, as defined by New York State Election Law § 2-102, that manages the New York State Republican Party's business at the state level, supports Republican candidates for public office at all levels in New York State elections, coordinates fundraising and election strategy, and develops and promotes the state Republican platform. The New York Republican State Committee engages

in various activities to help elect Republicans in New York, including to municipal office in New York City.

22. Plaintiff Republican National Committee is a national political committee, as defined by 52 U.S.C. § 30101, that manages the Republican Party's business at the national level, supports Republican candidates for public office at all levels, coordinates fundraising and election strategy, and develops and promotes the national Republican platform. The Republican National Committee engages in various activities to help elect Republicans in New York, including to municipal office in New York City.

23. Defendant Eric Adams is the Mayor of New York City and is sued in his official capacity.

24. Defendant Board of Elections in the City of New York is a public agency of the City of New York responsible for voter registration and election administration.

25. Defendant City Council of the City of New York is the legislative body of the City of New York, which enacted the Non-Citizen Voting Law.

VENUE

26. Venue is proper in this Court under CPLR § 503(a) because several of the Plaintiffs reside in Richmond County and under CPLR § 504(3) because the cause of action arose in Richmond County for those Plaintiffs.

FACTUAL ALLEGATIONS

A. State Constitutional Background

27. Article II, Section 1 of the New York State Constitution provides that “[e]very citizen shall be entitled to vote at every election for all officers elected by the people and upon all questions submitted to the vote of the people provided that such citizen is eighteen years of age or

over and shall have been a resident of this state, and of the county, city, or village for thirty days next preceding an election.”

28. Article II, Section 1 establishes the basic qualifications for voters in the State of New York and expressly connects the right to vote with citizenship.

29. Article II, Section 5 of the New York State Constitution provides, in relevant part, that “[l]aws shall be made for ascertaining, by proper proofs, the citizens who shall be entitled to the right of suffrage hereby established, and for the registration of voters.”

30. Article IX, Section 1 of the New York State Constitution provides that “[e]very local government, except a county wholly included within a city, shall have a legislative body elective by the people thereof,” and “[a]ll officers of every local government whose election or appointment is not provided for by this constitution shall be elected by the people of the local government, or of some division thereof, or appointed by such officers of the local government as may be provided by law.”

31. Under these provisions, officers and city council members of New York City must be elected by “the people” of the City of New York.

32. Article IX, Section 3(d)(3) of the New York State Constitution defines the term “People” to mean “Persons entitled to vote as provided in section one of article two of this constitution.”

33. As a result, under the New York State Constitution, the people of the City of New York, consists of those citizens eighteen years of age or over who have resided in the City for thirty days preceding the election.

B. State Election Law

34. Section 5-102(1) of Chapter 17 of the Laws of New York, the Election Law, states: “No person shall be qualified to register for and vote at any election unless he is a citizen of the United States.”

35. Section 1-102 states that the chapter applies to “all elections at which voters of the state of New York may cast a ballot for the purpose of electing an individual to any party position or nominating or electing an individual to any federal, state, county, city, town, or village office.” *See also Castine v. Zurlo*, 4 N.Y.S.3d 469, 473 (N.Y. Sup. Ct. 2014) (cities cannot pass election measures that conflict with Section 1-102).

C. Municipal Home Rule Law

36. Section 23(2)(e) of Chapter 36-a of the Laws of New York, the Municipal Home Rule Law, states that a public referendum is required to pass any law that “changes the method of nominating, electing, or removing an elective officer.”

D. Enactment of the Non-Citizen Voting Law

37. On December 9, 2021, the New York City Council, the legislative body for the City of New York, passed a bill, referred to as Intro 1867-A and entitled “A Local Law to amend the New York city charter, in relation to allowing lawful permanent residents and persons authorized to work in the United States in New York city to participate in municipal elections.” The bill was sent to the Mayor the same day.

38. Pursuant to the New York City Charter § 37, because the law was neither approved nor returned within thirty days of its presentation to the Mayor it was “deemed to have been adopted in like manner as if the mayor had signed it”.

39. This law creates a new class of persons called “municipal voters” who are non-citizens who are either lawful permanent residents or persons authorized to work in the United States, who except for their lack of United States citizenship would be qualified to register to vote.

40. Under the law, “eligible municipal voters shall have the right to vote in municipal elections and shall be entitled to the same rights and privileges as U.S. citizen voters with regard to municipal elections.”

E. Impact of the Non-Citizen Voting Law

41. Approximately 1 million adult noncitizens live in New York City. Estimates place the number of newly eligible non-citizen voters at approximately 800,000.

42. New York City has approximately 5 million active registered voters. Noncitizens could potentially make up 15 percent or more of the electorate in future New York City elections.

43. This is greater than the margin of victory in many municipal elections.

44. By dramatically increasing the pool of eligible voters, the Non-Citizen Voting Law will dilute the votes of United States citizens, including the Plaintiffs in this action.

45. The Non-Citizen Voting Law is intended to, and will, cause an abrupt and sizeable change to the makeup of the electorate, which will force the elective-officeholder Plaintiffs to change the way that they campaign for office and will materially affect their likelihood of future electoral victory. It will also cause the political party Plaintiffs to adjust their strategies and how they allocate their resources to help elect Republicans in New York.

**AS AND FOR A FIRST CAUSE OF ACTION
Violation of the New York State Constitution**

46. Plaintiffs repeat and reallege the allegations set forth above as if more fully set forth herein.

47. The New York State Constitution expressly provides that local government officers and legislative representatives must be elected by “the People,” which is in turn defined to consist only of citizens.

48. Specifically, Article IX, Section 3(d)(3) provides that, as used throughout Article IX, the word “People” means “Persons entitled to vote as provided in section one of article two of this constitution.”

49. Section 1 of Article II, in turn, says that someone is entitled to vote only if he or she is eighteen years of age, a resident of the relevant jurisdiction for thirty days, and a “citizen.” N.Y. Const., Art. II, §1. “The qualifications of voters are prescribed by section 1 of article 2 of the Constitution, and those qualifications are exclusive.” *Hopper v. Britt*, 203 N.Y. 144, 150 (1911).

50. Article IX further provides that every “local government” shall have a legislature elected “by the *people* thereof.” N.Y. Const., Art. IX, §1 (emphasis added). Unless their appointment or election is not governed by the State Constitution itself, “[a]ll officers of every local government” must “be elected by *the people* of the local government, or of some division thereof, or appointed by such officers of the local government as may be provided by law.” *Id.* (emphasis added).

51. By purporting to allow non-citizens to vote in municipal elections on the same basis as United States Citizens, the Non-Citizen Voting Law directly conflicts with the voting qualifications enshrined in the New York State Constitution.

52. The Non-Citizen Voting Law is therefore void as unconstitutional under the New York State Constitution.

AS AND FOR A SECOND CAUSE OF ACTION
Violation of State Election Law

53. Plaintiffs repeat and reallege the allegations set forth above as if more fully set for the herein.

54. State Election Law Sections 1-102 & 5-102(1) provide that no person shall be qualified to register for and vote in an election for any federal, state, county, city, town, or village office unless that person is a citizen of the United States.

55. By purporting to allow non-citizens to vote in municipal elections on the same basis as United States Citizens, the Non-Citizen Voting Law directly conflicts with State Election Law.

56. The Non-Citizen Voting Law is therefore invalid to the extent that it conflicts with State Law.

AS AND FOR A THIRD CAUSE OF ACTION
Violation of Municipal Home Rule Law

57. Plaintiffs repeat and reallege the allegations set forth above as if more fully set for the herein.

58. Section 23(2)(e) of the Municipal Home Rule Law requires a public referendum to pass any law that changes the method of nominating, electing, or removing an elective officer.

59. By purporting to expand the electorate to a large class of non-citizen voters, the Non-Citizen Voting Law significantly changes the method of electing officers of the City of New York.

60. Because the Non-Citizen Voting Law was not enacted or approved via a public referendum, it is invalid under the Municipal Home Rule Law.

PRAYER FOR RELIEF

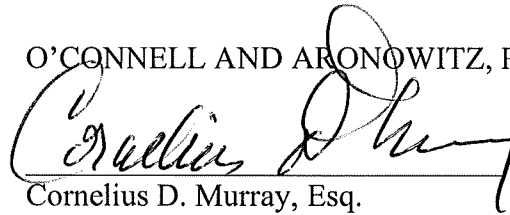
WHEREFORE, Plaintiffs respectfully request:

- a. A declaratory judgment pursuant to CPLR 3001 declaring that the Non-Citizen Voting Law is void as violative of the New York State Constitution, State Election Law, and the Municipal Home Rule Law; and
- b. A permanent injunction pursuant to Article 63 of the CPLR prohibiting Defendants from registering non-citizens to vote and prohibiting Defendants from counting votes cast by non-citizens; and
- c. A judgment awarding Plaintiffs such other and further relief that the Court deems just, proper, and equitable, including but not limited to reasonable attorneys' fees and other relief pursuant to Article 86 of the CPLR, and costs, disbursements, and other allowances of this proceeding.

Dated: January 10, 2022
Albany, New York

O'CONNELL AND ARONOWITZ, P.C.

By:



Cornelius D. Murray, Esq.

Michael Y. Hawrylchak, Esq.

Attorneys for Plaintiff

54 State Street, 9th Floor

Albany, New York 12207-2501

(518) 462-5601

Exhibit A

Int. No. 1867-A

By Council Members Rodriguez, Menchaca, Dromm, Cabrera, Chin, Kallos, Miller, Van Bramer, Levin, Reynoso, Rivera, Ayala, Lander, Cornegy, Adams, Ampy-Samuel, Levine, Louis, Powers, Rosenthal, Cumbo, Eugene, the Public Advocate (Mr. Williams), Perkins, Koo, Salamanca, Riley, Barron, Dinowitz, Gibson, Brooks-Powers, Feliz, Moya, D. Diaz, Brannan and Cabán

A Local Law to amend the New York city charter, in relation to allowing lawful permanent residents and persons authorized to work in the United States in New York city to participate in municipal elections

Be it enacted by the Council as follows:

Section 1. The New York city charter is amended by adding a new chapter forty-six-a, to read as follows:

Chapter 46-A. VOTING BY LAWFUL PERMANENT RESIDENTS AND PERSONS
AUTHORIZED TO WORK IN THE UNITED STATES

§ 1057-aa Definitions and applicability of the election law.

§ 1057-bb Municipal voter qualifications and registration.

§ 1057-cc The role of the board of elections in the city of New York.

§ 1057-dd Poll administration.

§ 1057-ee Municipal voter registration application forms.

§ 1057-ff Party affiliations.

§ 1057-gg Availability and accessibility of municipal voter registration application forms.

§ 1057-hh Absentee ballot procedures.

§ 1057-ii Registration and enrollment deadlines.

§ 1057-jj Municipal voter notification.

§ 1057-kk Notification of ability to cancel registration.

§ 1057-ll Notification for individuals applying for citizenship.

§ 1057-mm Change of address procedures.

1 § 1057-nn Confidentiality.

2 § 1057-oo Community participation.

3 § 1057-pp Transitioning to citizenship.

4 § 1057-qq Challenges.

5 § 1057-rr State and federal elections.

6 § 1057-ss Violations.

7 § 1057-tt Advisory group.

8 § 1057-uu Petitioning.

9 § 1057-vv Registration confirmation letters.

10 § 1057-aa Definitions and applicability of the election law.

11 a. For purposes of this chapter, the following terms have the following meanings:

12 Municipal election. The term "municipal election" means any general, primary, or run-off
13 election for a municipal office, any special election for a municipal office including but not limited
14 to any election in which all candidates are nominated by independent nominating petition pursuant
15 to the charter, and any municipal referendum.

16 Municipal office. The term "municipal office" means the offices of mayor, public advocate,
17 comptroller, borough president, and council member.

18 Municipal referendum. The term "municipal referendum" means an election for the
19 approval of a local law, as defined in section 2 of the municipal home role law, submitted to the
20 voters of the city of New York.

21 Municipal voter. The term "municipal voter" means a person who is not a United States
22 citizen on the date of the election on which he or she is voting, who is either a lawful permanent
23 resident or authorized to work in the United States, who is a resident of New York city and will

1 have been such a resident for 30 consecutive days or longer by the date of such election, who meets
2 all qualifications for registering or pre-registering to vote under the election law, except for
3 possessing United States citizenship, and who has registered or pre-registered to vote with the
4 board of elections in the city of New York under this chapter.

5 Municipal voter registration. The term "municipal voter registration" means the method by
6 which the board of elections in the city of New York registers or pre-registers new municipal voters
7 pursuant to the provisions of this chapter.

8 Municipal voting. The term "municipal voting" means the processes required under this
9 chapter that facilitate municipal voter registration and voting by municipal voters in municipal
10 elections.

11 New York state board of elections voter registration application. The term "New York state
12 board of elections voter registration application" means the application used by the New York state
13 board of elections to register or pre-register voters under title two of article five of the New York
14 state election law.

15 Resident of New York city. The term "resident of New York city" means a person who
16 resides within the city of New York.

17 U.S. citizen voter. The term "U.S. citizen voter" means a person who meets all
18 qualifications for registering or pre-registering to vote under the election law including possessing
19 United States citizenship.

20 b. Municipal voting, as set forth in this chapter, shall be governed by applicable provisions
21 of the election law, except that the provisions of the election law set forth in this chapter, as
22 amended from time to time, and any successor provisions, shall apply as modified herein.
23 References to the sections modified in this chapter shall be deemed to refer to such sections as they

1 are so modified when and to the extent that they apply to municipal voting. References to
2 provisions of the election law in this chapter shall be deemed to refer to any successor provisions.
3 Provisions of the election law not specified in this chapter shall apply to municipal voting, provided
4 however that such provisions shall not be construed to prevent or impede the application of this
5 chapter.

6 §1057-bb Municipal voter qualifications and registration.

7 a. Consistent with the provisions of this chapter, eligible municipal voters shall have the
8 right to vote in municipal elections and shall be entitled to the same rights and privileges as U.S.
9 citizen voters with regard to municipal elections. All registered municipal voters shall have their
10 names entered in the registration records maintained by the board of elections in the city of New
11 York under article 5 of the election law for the purposes of registering and voting in municipal
12 elections and may thereafter vote in any such election. Registrations for municipal voters entered
13 in such records shall not contain United States citizenship data as required under 5-500 of the
14 election law and shall be designated with an “M”. Municipal voter registration records shall be
15 filed with the state board of elections with such designation, to be included in any appropriate list
16 or database in accordance with law.

17 b. Section 5-102 of the election law shall apply to municipal elections, except that the
18 qualification of United States citizenship shall not apply to municipal voters registering to vote in
19 municipal elections and the municipal voting processes implemented pursuant to this chapter.

20 c. References to voter qualification or voter eligibility in the election law shall be construed
21 to include municipal voter qualifications with respect to the municipal voting processes
22 implemented pursuant to this chapter.

1 §1057-cc The role of the board of elections in the city of New York. The board of elections
2 in the city of New York shall adopt all necessary rules and carry out all necessary staff training to
3 carry out the provisions of this chapter.

4 §1057-dd Poll administration.

5 a. For each municipal election, the board of elections in the city of New York shall produce
6 a poll ledger or computer generated registration list that combines municipal voters and other U.S.
7 citizen voters for each election district or poll site. Municipal voters shall not be required to form
8 a separate line or vote in a separate location from U.S. citizen voters. The poll ledger or computer
9 generated registration list entries for municipal voters shall be marked with an "M".

10 b. Whenever a municipal election occurs on the same date and in the same district as an
11 election in which a municipal voter is not eligible to vote, the board of elections in the city of New
12 York shall produce separate municipal ballots to be distributed only to municipal voters appearing
13 to vote on such date and in such district. Such municipal ballots shall be, as nearly as practicable,
14 in the same form as those to be voted in the district by U.S. citizen voters during early voting or
15 on election day as provided in title 1 of article 7 of the election law, except that such ballots shall
16 be limited to municipal elections. Such municipal ballot shall contain the words "Municipal
17 Ballot", endorsed thereon and any other markings or unique coloration the board of elections in
18 the city of New York deems appropriate.

19 §1057-ee Municipal voter registration application form.

20 a. The board of elections in the city of New York shall design and distribute a municipal
21 voter registration application form that will allow municipal voters to apply for registration, pre-
22 registration, and change of enrollment in the manner that U.S. citizen voters may so apply to such
23 board. Such form shall include, but need not be limited to, the following:

1 1. Notice that individuals registering or pre-registering using municipal voter forms will be
2 registered or pre-registered to vote in municipal elections only, and expressly stating that
3 municipal voters are not qualified to vote in state or federal elections.

4 2. Information on the qualifications to vote at the state and federal levels according to the
5 election law, and information on how individuals who meet such qualifications can register or pre-
6 register.

7 3. Notice that individuals who have been residents of New York city for less than 30
8 consecutive days by the time of the next election do not qualify to register to vote as municipal
9 voters.

10 4. Notice that registration and enrollment is not complete until the municipal voter
11 registration application form is received and accepted by the board of elections in the city of New
12 York.

13 5. Notice that it is a crime, along with the attendant penalties and possible immigration
14 consequences, to procure a false registration or to furnish false information to the board of
15 elections.

16 6. The following notice in conspicuous type that contrasts in typography, layout or color
17 with all other words on such form: "IMPORTANT NOTICE FOR NON-UNITED STATES
18 CITIZENS. Any information you provide to the Board of Elections, including your name and
19 address, may be obtained by Immigration and Customs Enforcement (ICE) and other agencies,
20 organizations, and individuals. In addition, if you apply for naturalization, you will be asked
21 whether you have ever registered or voted in a federal, state, or local election in the United States.
22 You may wish to consult with an immigration attorney, an organization that protects immigrant
23 rights, or other knowledgeable source before providing any personal information to the Board of

Elections and before registering to vote in New York City. You can find a list of nonprofit organizations that specialize in protecting the rights of immigrants on the website of the New York City Campaign Finance Board. Individuals in New York City applying for United States citizenship through naturalization may request notice of their eligibility to register and to vote in New York City.”

7. The following spaces to be filled in by the applicant:

(a). Space to indicate whether the applicant is a lawful permanent resident or is authorized to work in the United states and the statement “If you checked “no” in response to this question, do not complete this form.”

(b). Space for the applicant to indicate whether or not he or she has ever voted or registered to vote as a municipal voter before and, if so, the approximate year in which such applicant last voted or registered as such and his or her name and address at the time.

(c). Space for the applicant to execute the form on a line which is clearly labeled "signature of applicant" preceded by the following form of affirmation: “AFFIDAVIT: I swear or affirm that I am a resident of New York City and will have been a resident of New York City for a minimum of 30 consecutive days by the time of the next election, am either a lawful permanent resident or authorized to work in the United States and will only vote at an election at which I maintain such status, and, to the best of my knowledge, I meet all of the requirements to register to vote in New York State except for United States citizenship. This is my signature or mark on the line below. All the information contained on this application is true. I understand that if it is not true I can be convicted and fined up to \$5,000 and/or jailed for up to four years.”

b. Such form shall contain all information required to be included on the statewide application form for U.S. citizen voters under subdivision 5 of section 5-210 of the election law,

1 except as modified in this section. Such form shall not contain the notice concerning citizenship
2 required pursuant to paragraph (g) of such subdivision or the information required to be included
3 under subparagraphs (i), (vi) and (xii) of paragraph (k) of such subdivision.

4 c. Titles eight and nine of article five of the election law shall not apply to municipal voter
5 registration.

6 §1057-ff Party affiliations.

7 a. Individuals who enroll in a political party using a municipal voter registration form shall
8 be considered qualified members of that party only for the purposes of municipal elections.

9 b. References to political party member qualifications in the election law shall be construed
10 to include municipal voter qualifications with respect to voting in municipal elections as set forth
11 in this chapter.

12 §1057-gg Availability and accessibility of municipal voter registration application forms.

13 a. The board of elections in the city of New York and the campaign finance board shall
14 coordinate efforts to ensure that municipal voter registration application forms are available at
15 every location where New York state board of elections voter registration application forms are
16 made available pursuant to programs of city agencies, including but not limited to programs
17 implemented pursuant to section 5-211 of the election law and section 1057-a of the charter.

18 b. The board of elections in the city of New York shall translate the municipal voter
19 registration application form into languages served by such board pursuant to state and federal law
20 in a manner that is consistent with translations of the statewide application form.

21 §1057-hh Absentee ballot procedures.

22 a. The board of elections in the city of New York shall prescribe a standard municipal voter
23 absentee ballot application form that will allow a registered municipal voter to cast an absentee

1 ballot for municipal elections. The use of any application form which substantially complies with
2 the provisions of this section shall be acceptable and any application filed on such a form shall be
3 accepted for filing. Such application form shall contain all information required to be included on
4 the absentee ballot application form for U.S. citizen voters under section 8-400 of the election law,
5 except as modified herein. Such form shall contain the following modifications to section 8-400
6 of the election law with respect to municipal voting:

7 1. Paragraph (b) of subdivision 3 of such section shall apply to municipal voting, except
8 that the statement required in such paragraph shall be deemed to be a statement that the applicant
9 is a qualified and registered municipal voter.

10 2. Paragraph (d) of subdivision 3 of such section shall apply to municipal voting, except
11 that the application requirements in such paragraph shall be deemed to only permit application for
12 an absentee ballot for municipal elections.

13 3. Subdivision 4 of such section shall apply to municipal voting, except that the application
14 requirements in such paragraph shall be deemed to only permit application for an absentee ballot
15 for municipal elections.

16 b. Upon receipt of a municipal voter absentee ballot application form, the board of elections
17 shall forthwith determine upon such inquiry as it deems proper whether the applicant is qualified
18 to vote and receive an absentee ballot under the election law as modified by this chapter, and if it
19 finds the applicant is not so qualified it shall reject the application after investigation as provided
20 in section 8-402 of the election law as further modified by this chapter.

21 c. The board of elections in the city of New York shall translate the municipal voter
22 absentee ballot application form into languages served by such board pursuant to state and federal
23 law in a manner that is consistent with translations of municipal voter registration application form.

1 d. Whenever a municipal election occurs on the same date and in the same district as an
2 election in which a municipal voter is not eligible to vote, the board of elections in the city of New
3 York shall produce separate municipal absentee ballots containing only municipal elections to be
4 distributed only to municipal absentee voters on such date and in such district. Such municipal
5 absentee ballots shall be, as nearly as practicable, in the same form as the municipal ballot to be
6 voted in the district during early voting and election day as required by section 1057-dd, except
7 that such municipal absentee ballot need not have a stub, and shall have the words “Municipal
8 Absentee Ballot”, endorsed thereon.

9 e. Section 7-122 of the election law shall apply to absentee ballots and municipal absentee
10 ballots mailed to municipal voters, except that the affirmation of United States citizenship in
11 subdivision six of such section shall not apply to an inner affirmation envelope included with an
12 absentee ballot or municipal absentee ballot distributed to a municipal voter and shall be replaced
13 with an affirmation stating that the undersigned is qualified to vote under this chapter.

14 f. The board of elections in the city of New York may prescribe a separate absentee ballot
15 for military voters who are municipal voters consistent with section 7-123 of the election law, but
16 omitting the otherwise required affirmation of United States citizenship and replacing it with an
17 affirmation that the military voter meets the qualifications of a municipal voter under this chapter.

18 §1057-ii Registration and enrollment.

19 a. Registration and enrollment deadlines for municipal voters in each municipal election
20 shall be the same as the deadlines in the election law for U.S. citizen voters in such elections.

21 b. Section 5-214 of the election law shall apply to registered municipal voters, except that
22 with respect to municipal voters, the registration card under such section shall be marked with an
23 “M” and contain a statement that it is for municipal voting only.

1 §1057-jj Municipal voter notification. The board of elections in the city of New York shall
2 create and implement a notification system for municipal voters that is consistent with the
3 requirements of section 5-210 of the election law and section 1057-d of the charter with respect to
4 U.S. citizen voters.

5 §1057-kk Notification of ability to cancel registration. The board of elections in the city of
6 New York shall, simultaneously with providing written confirmation of registration to vote as part
7 of the notification system created and implemented under section 1057-jj, provide written notice
8 of municipal voter qualifications and a form with the name and address of the registrant which
9 may be returned to the board by the registrant to cancel the registration.

10 §1057-ll Notification for individuals applying for citizenship. Any city agency that has
11 entered into a contract with an organization that includes, as part of such contract, provision of
12 assistance to individuals in New York city regarding applying for United States citizenship through
13 naturalization, shall request any such organization to provide notice to such individuals of their
14 eligibility register and to vote in New York city pursuant to this chapter.

15 §1057-mm Change of address procedures. The board of elections in the city of New York
16 shall, consistent with section 5-208 of the election law as modified by this section, transfer the
17 registration and enrollment of a municipal voter for whom it receives a notice of change of address
18 to another address in New York city, or for any municipal voter who submits a municipal ballot in
19 an affidavit ballot envelope which sets forth such a new address.

20 §1057-nn Confidentiality.

21 a. No inquiry shall be made as to the immigration status of a potential municipal voter or
22 municipal voter, other than to verify the identity of the municipal voter and ascertain whether he
23 or she is qualified to vote under the election law as modified by this chapter. If such information

1 is volunteered to any city employee, it shall not be recorded or shared with any other federal, state,
2 or local agency, or with the public, except as otherwise required by law.

3 b. All federal, state, and local confidentiality laws and policies that pertain to U.S. citizen
4 voters shall also apply to municipal voters.

5 c. No municipal voter shall be asked to produce photographic identification or proof of
6 address as a prerequisite for voter registration, except as otherwise required by this chapter or state
7 or federal law.

8 d. Lists of municipal voters shall not be published, distributed or otherwise provided to the
9 public by the board of elections in the city of New York or any other governmental agency
10 separately or distinctly from a complete voter registration list of voters qualified to vote in a
11 municipal election in New York city or a political subdivision thereof.

12 §1057-oo Community participation.

13 a. The board of elections in the city of New York and the campaign finance board shall
14 consult regularly with appropriate organizations, including advocacy groups and community
15 associations, in the implementation of this chapter. Such boards shall work with such organizations
16 to carry out community education programs regarding requirements for eligibility to vote pursuant
17 to this chapter, including such eligibility of individuals who have applied for United States
18 citizenship.

19 b. The campaign finance board shall maintain on its website a list of nonprofit
20 organizations that specialize in protecting the rights of immigrants and are able to provide potential
21 municipal voters with information about the immigration and other consequences of registering to
22 vote as a municipal voter under this chapter.

1 §1057-pp Transitioning to citizenship. Municipal voters who are registered to vote under
2 this chapter and who subsequently become United States citizens shall remain qualified to vote
3 under this provision until such time as they no longer meet the qualifications set forth in this
4 chapter or until they register to vote on a New York state board of elections voter registration form.
5 Upon filing of an individual's New York state voter registration form, such individual's existing
6 municipal voter registration shall become invalid.

7 §1057-qq Challenges. Any municipal voter's qualifications to register to vote under this
8 chapter may be challenged according to the terms of the election law, except that "The
9 Qualification Oath" in section 8-504 of the election law shall not be administered to municipal
10 voters, and shall be replaced with the following "Municipal Voter Qualification Oath" to read:
11 "You do swear (or affirm) that you are eighteen years of age or older, that you are a lawful
12 permanent resident or authorized to work in the United States, that you are a resident of New York
13 city, that you still reside at the same address from which you have been duly registered in this
14 election district, that you have not voted at this election, and that you do not know of any reason
15 why you are not qualified to vote at this election. You do further declare that you are aware that it
16 is a crime to make any false statement and that all the statements you have made to the board have
17 been true and that you understand that a false statement is perjury and, if you make such a false
18 statement, you will be guilty of a misdemeanor."

19 §1057-rr State and federal elections. Nothing in this chapter shall be construed so as to
20 confer upon municipal voters the right to vote for any state or federal office or political party
21 position or on any state or federal ballot question.

22 §1057-ss Violations.

1 a. Any person who knowingly and willfully violates any provision of this section of the
2 charter which violation is not specifically covered by section 17-168 or any other provision of
3 article seventeen of the election law is guilty of a misdemeanor.

4 b. A public officer or employee who knowingly and willfully omits, refuses or neglects to
5 perform any act required of such public officer or employee by this chapter, who knowingly and
6 willfully refuses to permit the doing of any act authorized by this chapter, or who knowingly and
7 willfully hinders, or delays or attempts to hinder or delay the performance of such an act is, if not
8 otherwise subject to section 17-128 of the election law or any other law, guilty of a misdemeanor.

9 c. Any person convicted of a misdemeanor under this section shall be punished by
10 imprisonment for not more than one year, or by a fine of not less than one hundred dollars nor
11 more than five hundred dollars, or by both such fine and imprisonment.

12 §1057-tt Advisory group.

13 a. There shall be an advisory group to provide recommendations regarding any problems
14 or potential improvements with respect to municipal voting.

15 b. The advisory group shall consist of five members appointed for a term of two years as
16 follows:

17 1. The public advocate, who shall be the chairperson of the advisory group;

18 2. Two members appointed by the mayor, chosen from among individuals representing
19 community based organizations; and

20 3. Two members appointed by the speaker of the council, chosen from among individuals
21 representing community based organizations.

22 c. Membership in the advisory group shall not constitute the holding of a public office, and
23 members of the advisory group shall not be required to take or file oaths of office before serving

1 on the advisory group. No person shall receive compensation for service on the advisory group,
2 except that each member shall be allowed actual and necessary expenses to be audited in the same
3 manner as other city charges.

4 d. Members of the advisory group shall be appointed within 60 days after the effective date
5 of this local law. No member shall be removed except for cause by the appointing authority. In the
6 event of a vacancy during the term of an appointed member, a successor shall be selected in the
7 same manner as the original appointment.

8 e. The mayor may designate one or more agencies to provide staffing and other
9 administrative support to the advisory group.

10 f. The advisory group shall be required to meet no less than semiannually and shall create
11 a dedicated website to enable ongoing solicitation of public feedback.

12 g. No later than December 1, 2023, and annually thereafter, the advisory group shall
13 prepare a report of its findings and recommendations with respect to the voting process carried out
14 under this chapter and submit such report to the mayor and speaker of the council.

15 § 1057-uu. Petitioning. Municipal voters shall be deemed qualified or registered voters,
16 and enrolled voters where they have chosen to enroll in a political party, for purposes of signing
17 and witnessing petitions in relation to designation and nomination for municipal offices and in
18 relation to municipal referenda but shall not be otherwise be so deemed pursuant to applicable
19 provisions of the election law or any other law.

20 § 1057-vv Registration confirmation letters. The board of elections in the city of New York
21 shall, upon request, provide any pre-registered municipal voter, registered municipal voter or
22 formerly-registered municipal voter with a letter confirming the dates during which such

1 individual was registered or pre-registered as a municipal voter, and explaining the rights and
2 privileges afforded to municipal voters pursuant to this chapter.

3 § 2. No later than July 1, 2022, the board of elections in the city of New York shall submit
4 to the mayor and speaker of the council a report containing a plan for achieving timely
5 implementation of this local law for applicable elections held on or after January 9, 2023. Failure
6 by such board to submit such a report within 30 days of July 1, 2022 shall create a rebuttable
7 presumption that such board is declining to implement this local law.

8 § 3. Section one of this local law takes effect on December 9, 2022 and shall apply to
9 municipal elections held on or after January 9, 2023, provided that before such date, the board of
10 elections in the city of New York and any other governmental agency may take such actions as are
11 necessary or appropriate to implement this local law. Section two of this local law takes effect
12 immediately.

JB
LS 5290
12/01/2021 11:23PM