

BOARD of SUPERVISORS



City Hall
1 Dr. Carlton B. Goodlett Place, Room 244
San Francisco 94102-4689
Tel. No. 554-5184
Fax No. 554-5163
TDD/TTY No. 554-5227

MEMORANDUM

TO: Director John Arntz, Department of Elections

FROM: Victor Young, Assistant Clerk

A handwritten signature in cursive script that reads "Victor Young".

DATE: May 28, 2021

SUBJECT: LEGISLATION INTRODUCED

The Board of Supervisors' Rules Committee received the following proposed legislation:

File No. 210604

Ordinance amending the Municipal Elections Code to require the Department of Elections to expand use of vote-by-mail ballots at exclusively municipal elections and encourage further use of vote-by-mail ballots in all elections.

If you have comments or reports to be included with the file, please forward them to me at the Board of Supervisors, City Hall, Room 244, 1 Dr. Carlton B. Goodlett Place, San Francisco, CA 94102 or by email at: victor.young@sfgov.org.



City and County of San Francisco

Master Report

City Hall
1 Dr. Carlton B. Goodlett Place
San Francisco, CA 94102-4689

File Number: 210604 **File Type:** Ordinance **Status:** 30 Day Rule

Enacted: _____ **Effective:** _____

Version: 1 **In Control:** Rules Committee

File Name: Municipal Elections Code - Expanded Vote-by-Mail for Exclusively Municipal Elections **Date Introduced:** 05/25/2021

Requester: _____ **Cost:** _____ **Final Action:** _____

Comment: _____ **Title:** Ordinance amending the Municipal Elections Code to require the Department of Elections to expand use of vote-by-mail ballots at exclusively municipal elections and encourage further use of vote-by-mail ballots in all elections.

Sponsor: Safai

History of Legislative File 210604

Ver	Acting Body	Date	Action	Sent To	Due Date	Result
1	President	05/25/2021	ASSIGNED UNDER 30 DAY RULE	Rules Committee	06/24/2021	

1 [Municipal Elections Code - Expanded Vote-by-Mail for Exclusively Municipal Elections]

2

3 **Ordinance amending the Municipal Elections Code to require the Department of**
4 **Elections to expand use of vote-by-mail ballots at exclusively municipal elections and**
5 **encourage further use of vote-by-mail ballots in all elections.**

6 NOTE: **Unchanged Code text and uncodified text** are in plain Arial font.
7 **Additions to Codes** are in *single-underline italics Times New Roman font*.
8 **Deletions to Codes** are in *strikethrough italics Times New Roman font*.
9 **Board amendment additions** are in double-underlined Arial font.
10 **Board amendment deletions** are in ~~strikethrough Arial font~~.
11 **Asterisks (* * * *)** indicate the omission of unchanged Code
12 subsections or parts of tables.

13 Be it ordained by the People of the City and County of San Francisco:

14 Section 1. The Municipal Elections Code is hereby amended by adding Article XI,
15 consisting of Sections 1101 and 1102, to read as follows:

16 **ARTICLE XI: VOTE-BY-MAIL IN MUNICIPAL ELECTIONS**

17 **SEC. 1101. DEFINITIONS.**

18 *Whenever the following terms are used in this Article XI, the following definitions shall apply.*

19 *Other terms shall be defined as set forth in the California Elections Code.*

20 *“Department” means the San Francisco Department of Elections.*

21 *“Exclusively Municipal Election” shall mean any election for local officials or measures to be*
22 *held in the City and County that the City has not consolidated with a Federal Election or State*
23 *Election, including, but not limited to, municipal elections held on the Tuesday immediately following*
24 *the first Monday in November in 2023 and in every fourth year following 2023.*

25 *“Federal Election” shall mean any election for Federal officials held in the City and County.*

1 “State Election” shall mean any election for State officials or measures held in the City and
2 County.

3
4 **SEC. 1102. EXPANSION OF VOTE-BY-MAIL FOR EXCLUSIVELY MUNICIPAL**
5 **ELECTIONS.**

6 (a) **Purpose.** The Department shall seek to expand the use of vote-by-mail by San Francisco
7 voters to the extent permitted by State law. If any subsequent State or federal law (including, but not
8 limited to, statutes and executive orders) that requires the Department to provide vote-by-mail ballots
9 to all registered voters for all municipal elections is approved, enacted, or issued prior to or after the
10 effective date of the ordinance in Board of Supervisors File No. _____, this Article XI shall be
11 inoperative and the City Attorney shall cause it to be removed from the Municipal Elections Code.

12 (b) **Implementation.**

13 (1) To the extent not otherwise rendered inoperative by subsection (a), in Exclusively
14 Municipal Elections, the Department shall begin distributing vote-by-mail ballots to all registered
15 voters, including to voters who have not applied to become vote-by-mail voters, by no later than 29
16 days before the date of the election.

17 (2) The Department shall attempt to inform every San Francisco household regarding
18 the opportunity to register as a vote-by-mail voter, as authorized under the California Elections Code,
19 for all municipal elections held in the City and County. Such attempts to inform San Francisco
20 households may include: mail or postcards sent to San Francisco addresses; advertisements on radio
21 or television; posts on the Department’s social media accounts; signs in public locations or on public
22 transit; or flyers distributed through storefronts or at public events and gatherings.

23
24 Section 2. Effective Date. This ordinance shall become effective 30 days after
25 enactment. Enactment occurs when the Mayor signs the ordinance, the Mayor returns the

1 ordinance unsigned or does not sign the ordinance within ten days of receiving it, or the Board
2 of Supervisors overrides the Mayor's veto of the ordinance.
3

4 Section 3. Severability. If any section, subsection, sentence, clause, phrase, or word
5 of this ordinance, or any application thereof to any person or circumstance, is held to be
6 invalid or unconstitutional by a decision of a court of competent jurisdiction, such decision
7 shall not affect the validity of the remaining portions or applications of the ordinance. The
8 Board of Supervisors hereby declares that it would have passed this ordinance and each and
9 every section, subsection, sentence, clause, phrase, and word not declared invalid or
10 unconstitutional without regard to whether any other portion of this ordinance or application
11 thereof would be subsequently declared invalid or unconstitutional.
12

13 APPROVED AS TO FORM:
14 DENNIS J. HERRERA, City Attorney

15 By: /s/ Andrew Shen
16 ANDREW SHEN
17 Deputy City Attorney

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LEGISLATIVE DIGEST

[Municipal Elections Code - Expanded Vote-by-Mail for Exclusively Municipal Elections]

Ordinance amending the Municipal Elections Code to require the Department of Elections to expand use of vote-by-mail ballots at exclusively municipal elections and encourage further use of vote-by-mail ballots in all elections.

Existing Law

The Municipal Elections Code (“MEC”) currently does not address the use of vote-by-mail ballots in municipal elections. The MEC generally incorporates the California Elections Code, except as otherwise provided. MEC § 100.

Under State law, for any election held prior to January 1, 2022, all registered voters will be automatically sent a vote-by-mail ballot. Cal. Elec. Code § 3000.5. Under this provision, the Department of Elections (“Department”) would have five days to mail a ballot to each person who is registered to vote on or before the 29th day before an election and five days to mail a ballot to each person who subsequently registers to vote.

In future elections, after January 1, 2022, registered voters would need to apply to receive a vote-by-mail ballot or for permanent vote-by-mail status, if they have not done so already. Cal Elec. Code §§ 3001, 3201.

Amendments to Current Law

For exclusively municipal elections, the proposed ordinance would require Department to begin distributing vote-by-mail ballots to all registered voters, including to voters who have not applied to become vote-by-mail voters, by no later than 29 days before the date of the election. The ordinance defines an exclusively municipal election as any local election that is not consolidated with a State or federal election, including local elections held in November 2023 and in every fourth year following 2023.

In the event a subsequent State or federal law requires the Department to automatically distribute vote-by-mail ballots to registered voters in all elections, these provisions would become inoperative and be removed from the MEC.

In addition, for all elections, the Department would attempt to inform every San Francisco household regarding the opportunity to register as a vote-by-mail voter, such as through mailed notices, advertisements or flyers.

Background Information

The State Legislature is currently considering legislation (AB 37) that would continue the automatic distribution of vote-by-mail ballots to all registered voters beyond January 1, 2022.

For the November 3, 2020 Consolidated General Election, pursuant to State law, the Department distributed vote-by-mail ballots to all registered voters. At that election, approximately 79% of San Francisco registered voters cast their votes through vote-by-mail ballots.

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Print Form

Introduction Form

By a Member of the Board of Supervisors or Mayor

Time stamp
or meeting date

I hereby submit the following item for introduction (select only one):

- 1. For reference to Committee. (An Ordinance, Resolution, Motion or Charter Amendment).
- 2. Request for next printed agenda Without Reference to Committee.
- 3. Request for hearing on a subject matter at Committee.
- 4. Request for letter beginning : "Supervisor [] inquiries"
- 5. City Attorney Request.
- 6. Call File No. [] from Committee.
- 7. Budget Analyst request (attached written motion).
- 8. Substitute Legislation File No. []
- 9. Reactivate File No. []
- 10. Topic submitted for Mayoral Appearance before the BOS on []

Please check the appropriate boxes. The proposed legislation should be forwarded to the following:

- Small Business Commission
- Youth Commission
- Ethics Commission
- Planning Commission
- Building Inspection Commission

Note: For the Imperative Agenda (a resolution not on the printed agenda), use the Imperative Form.

Sponsor(s):

Safai

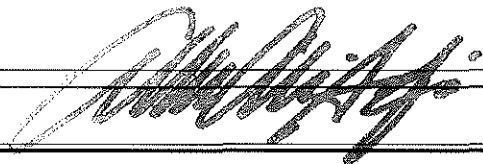
Subject:

Municipal Elections Code - Expanded Vote-by-Mail for Exclusively Municipal Elections

The text is listed:

Ordinance amending the Municipal Elections Code to require the Department of Elections to expand use of vote-by-mail ballots at exclusively municipal elections and encourage further use of vote-by-mail ballots in all elections.

Signature of Sponsoring Supervisor:



For Clerk's Use Only

From: [Shen, Andrew \(CAT\)](#)
To: [Morris, Geoffrea \(BOS\)](#); [BOS Legislation, \(BOS\)](#)
Cc: [Chung, Lauren \(BOS\)](#); [Jones, Ernest \(BOS\)](#)
Subject: RE: 5/25- Roll Call - Ordinance -Municipal Vote by Mail
Date: Tuesday, May 25, 2021 5:00:10 PM

Dear Clerk's Office staff,

Confirming that I've approved this legislation as to form.

Thanks.

Andrew Shen

Deputy City Attorney
Office of City Attorney Dennis Herrera
(415) 554-4780

www.sfcityattorney.org

DURING COVID, PLEASE CONTACT ME THROUGH EMAIL.

From: Morris, Geoffrea (BOS) <geoffrea.morris@sfgov.org>
Sent: Tuesday, May 25, 2021 2:51 PM
To: BOS Legislation, (BOS) <bos.legislation@sfgov.org>
Cc: Shen, Andrew (CAT) <Andrew.Shen@sfcityatty.org>; Chung, Lauren (BOS) <lauren.l.chung@sfgov.org>; Jones, Ernest (BOS) <ernest.e.jones@sfgov.org>
Subject: 5/25- Roll Call - Ordinance -Municipal Vote by Mail

Please see attached.

Geoffrea (Jah-free-ah) Morris | Legislative Aide
Supervisor Ahsha Safaí, District 11
San Francisco City Hall
1 Dr. Carlton B Goodlett Place, Room 256
San Francisco, CA 94102
t: 415.554.7896 | f: 415.554.6979

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Please note: This is a public email address and any messages sent to or from this address may be subject to a public records request.

1 [Municipal Elections Code - Expanded Vote-by-Mail for Exclusively Municipal Elections]

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13 APPROVED AS TO FORM:
14 DENNIS J. HERRERA, City Attorney

15 By: /s/ Andrew Shen
16 ANDREW SHEN
17 Deputy City Attorney

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