



Takoma Park City Council Meeting – June 5, 2019 Agenda Item 4

Presentation and Work Session

Board of Elections' Recommendations for Changes to the City Charter and Election Code

Recommended Council Action

Hear the presentation, ask questions of the Board, and discuss follow up action. If the Council desires to proceed with these and other changes to the Charter and Code related to elections, staff recommends that the changes be adopted before the end of 2019.

Context with Key Issues

Since the City Council changed the date of City elections from odd years to even years to coincide with State and Federal general elections, the Takoma Park Board of Elections took advantage of the additional time between the 2017 and 2020 elections to conduct a review of the City Charter and Election Code. The Board recommends a number of changes as outlined in the attached memo and overview.

Summary of Substantive Recommendations:

- Elimination of the 21-day residency requirement for voting in City elections;
- Expansion of the supplemental voter roll for Takoma Park elections to include U.S. citizen residents who do not wish to register to vote in elections other than those conducted by the City of Takoma Park;
- Elimination of the need to hold a runoff election in the unlikely event of a tie after all rounds of counting are completed through ranked choice voting – such ties would be resolved by lot;
- Authorization for the Board of Elections to appoint election workers (formerly called election judges) without the requirement that the City Council approve the appointments;
- Changing the period of the time during which recall petitions can be circulated from indefinite to six months;
- Setting a specific point of reference for calculating the number of registered voters required to meet various thresholds for petitions for recall and referendum, to enable petitioners to know their goal in advance.
- Setting new limits on campaign contributions and adding a requirement that campaigns report on expenditures as well as contributions;
- Payment of return postage by the City for absentee ballots; and
- Allowing for early processing (not counting) of absentee ballots.

Changes to the City Charter are accomplished through the Charter Amendment process, which requires public notice, a public hearing, two readings of a Charter Amendment Resolution, and a period of time before the Charter Amendment becomes final in order to allow residents the opportunity to petition the amendment to referendum. Amendments to the City Code require two readings of an ordinance.

Council Priority

Engaged, Responsive and Service-Oriented Government

Environmental Considerations

Staff does not believe that there are environmental impacts that would result from adoption of the Board's recommendations.

Fiscal Considerations

If the Council endorses the payment of return postage for absentee ballots, the increase in cost for postage would be less than \$100 given the current level of ballots cast by mail. As the number increases, associated costs would increase. Other election costs would not be directly impacted by the proposed amendments.

Racial Equity Considerations

The Board of Elections' recommendations continue the process of expanding opportunities to vote in City elections and eliminating barriers to voting. In preparing for 2020, staff and the Board will be focused on outreach, education, and preparation for residents to vote. For candidates running for office, there would be a new requirement to report expenditures; however, the Board is committed to ensuring that the requirement is not overly burdensome for candidates.

Attachments and Links

- Memo from the Board of Elections
- Sections of the City Charter and Code showing recommended amendments

To: Mayor and Members of the City Council, Takoma Park

From: Takoma Park Board of Elections

Date: April 20, 2019

Re: Recommendations for Changes to the City Charter and Election Code

Following the adoption of plans to synchronize city elections with state and federal elections, Takoma Park has a one-time, three year term for the mayor and council members in order to align the dates of the next elections with state elections in 2020. With an extra year available for election preparations, and recognizing that synchronization could present a number of changes to the conduct of elections, the Board of Elections undertook a comprehensive review of election-related sections of the city charter and code.

The Board's review was not limited to issues related to synchronization. After several piecemeal changes in recent years, there were some inconsistencies between sections in the charter and code and practices that have become outdated. The Board looked to correct any inconsistencies and update the charter and code to reflect actual practice. The recommended revisions focus on consistency, simplicity, and flexibility for conducting elections in Takoma Park. In addition, the Board has also suggested changes that could improve the ease of voting for residents and increase accountability for candidate financing. Overall, the Board notes that the provision of return postage on absentee ballots, the elimination of the 21-day residency requirement, and the change in city-only registration should decrease barriers to voting, especially among non-U.S. citizens, new residents, and those voting absentee. The updates to campaign finance requirements will increase transparency and accountability for candidate donations and spending for the campaigns.

As the Board prepares for elections to be concurrent with state and federal elections, the charter and code were also compared to Maryland state election codes and, if possible, aligned with the state practice. The board also consulted election codes from other municipalities in Maryland for common practices that should be incorporated into the Takoma Park charter or code.

As the 2020 elections approach and the Board confronts the many challenges that will arise, the Council's input will be a critical part of the preparations. The changes to the city charter and code are a first step, and we appreciate the Council's comments and questions on the suggested changes. The Board is available to discuss with the Council as needed.

In the attached documents, the Council will find a summary of changes to the code and charter, along with a document with revisions provided in detail. We look forward to your feedback.

Attached:

1. Overview of Recommended Changes
2. Detailed Changes to elections-related sections of the city charter and code

1. Overview of Recommended Changes

City Charter, Article III

- Section 301: In consultation with the city attorney, the text added was moved from the City Code as it is more relevant here.
- All other edits in this section and throughout the document are to remove binary gender descriptions (he/she) and minor changes for clarity.

City Charter, Article V

- Section 502: The revised text, included in all petition and referendum text in the Charter and Code, designates the registered voter list the City should use in making the calculation of 20 percent. Since the number of registered voters fluctuates, this edit will remove any question about which total registered voter number is used.
- Section 503: Similar revisions as in Section 502.

City Charter, Article VI

- Section 601: The Board of Elections recommends eliminating the 21-day residential requirement for voters. In practice, the city does not have the resources to verify this information and most people are unaware of the requirement, creating an opportunity for accidental voter fraud. Possible drawbacks of the eliminating the length of residency requirement include that someone could vote early in one city, move to Takoma Park, and then vote again. This would not be illegal since they are not voting twice in one election, but could certainly appear to be double voting.
- Section 602: The Board has removed the majority of the text in Section 602. In consultation with the City Clerk, the instructions regarding the list received from Montgomery County are not descriptive of actual practice. The city receives an updated list from the county prior to each election and any voter on that list is qualified to vote in the city.
- Section 603a-b: The Board has simplified the text in part a. In addition, the Board has changed the text regarding city-only voters, as the list could include voters who are U.S. citizens. For example, a U.S. citizen may choose to register with the city and not with the county. The change also makes the list less exclusionary or potentially a barrier to entry if voters view it as a “list of non-citizens”.
- Section 603c-e: Due to changes in Maryland law, part c is no longer required. The Board also recommends that the exact timing of registering with the county, via the city, be posted on the website and not codified in the charter. The deadlines may change as same-day registration and other practices are updated in the city and state.
- Section 604: The Board has made minor changes for clarity and flexibility.
- Section 605: The Board has made minor changes for clarity and flexibility.
- Section 606: The Board recommends simplifying this section from the lengthy and prescriptive process described for ranked choice voting. Though the revised text still clearly dictates that ranked choice voting must be used, the elimination of detailed steps allows for different ballot designs or approaches that might be needed. For example, in practice the ballot does not require the voters to write “1”, “2”, or “3” to rank their candidates, but instead check a box next to “first choice”, “second choice”, “third choice”, etc.
- Section 606, ties: In the unlikely event of a tie, rather than advancing to a runoff election, the Board recommends resolving a tie by lot.
- Section 607: The Board recommends that Board of Elections, already appointed by the council, does not need to be re-appointed as judges to conduct the elections. To simplify recruitment of election

workers outside the Board, the text now allows for the Board to recruit and appoint individuals to help with early voting and election day.

- Section 612: For all referendum and recall elections, the Board has revised the text for clarity and also made an additional note that specifies the point of reference for the number of registered voters. Since the number of registered voters fluctuates over time, the revised text now locks in an exact time for which to calculate this number, and thus the threshold for recalls and referendums.
- Section 614: In addition to the registered voter change outlined above, the Board recommends adding a time limit for petitions so that they do not exist indefinitely.

City Code, Title 5.04

- The Board has revised definitions in 5.04 to better reflect the types of electioneering to be regulated in Title 5.12.

City Code, Title 5.08

- Part A of this section has been moved to the City Charter, Article III.

City Code, Title 5.12

- Of all sections of the Charter and Code, the Board spent the most time making changes to “Fair Election Practices.” The goal was to not only create more transparent financing of Takoma Park elections, but also to make language more clear and consistent for candidates competing in the elections.
- Section 5.12.010: In this section, the Board has provided updated language on campaign materials and when authority lines are required. This section also notes where campaign signs may be displayed.
- Section 5.12.020: The Board has provided new campaign finance reporting requirements. The goal of these changes is to create more transparency around campaign contributions and also campaign spending, as previously reports of expenditures were not required. In addition, the changes do not allow anonymous donations, cap total contributions by an individual or group at \$1,000, and eliminate the exception given to family members.

City Code, Title 5.16

- Section 5.16.020: The Board has removed the restriction for ballots to be printed, in case the ballot system is electronic. After past inquiries on the use of honorifics, the Board has specified that ballot names will not include honorifics. With possible changes in ballots from election to election, the Board eliminated specific information about the instructions to include, allowing that the instructions will be appropriate to complete the ballot.
- Sections 5.16.030 to 5.16.070: In practice, election workers are often called upon to complete election assistance forms during voting. The edits now reflect this practice. The Board also recommended using business days when referring to timelines for processing challenges and appeals to results, to allow for sufficient time to process the challenge and remove uncertainty over whether holidays and weekends were included in the number of days specified.

City Code, Title 5.20

- Section 5.12.020: The city does not require excuses or reasons for absentee ballots. Application was used in the past because absentee voting required the board to approve the excuse provided.
- Section 5.12.040: To further reduce barriers to voting, the Board would recommend providing return postage on all absentee ballots.

- Section 5.20.060: Many jurisdictions allow for absentee ballots to be processed prior to the close of polls. The Board would prefer to have this option to expedite the actual counting of ballots on election day. No absentee ballots would be counted prior to the close of polls.

City Code, Title 5.22 to 5.24

- All other edits in this section are to remove binary gender descriptions (he/she) and minor changes for clarity or flexibility.

ARTICLE III
THE COUNCIL

Section 301 Number, Selection, Term, Wards

(a) All legislative powers of the City are vested in a body designated as the Council of the City of Takoma Park, consisting of seven (7) members. Six (6) of these members are elected by ward and are called Councilmembers, and one (1) is elected at large and is called the Mayor. The regular term of the Councilmembers and the Mayor is two (2) years or until their successors have been elected and duly sworn. The term of the Councilmembers and Mayor elected in the 2017 regular election is three (3) years. Newly elected Councilmembers and the Mayor take office on the second Wednesday following their election, but if this day conflicts with Veterans Day they will take office on the next day, Thursday.

(b) If no one is elected to fill any position on the Council, or if the candidate elected for any position on the Council is unable to take office, the Clerk shall declare the position to be vacant.

(c) The City of Takoma Park shall be divided into six (6) wards for municipal voting purposes. Each ward shall be compact in form, composed of adjoining territory, and have substantially equal populations. The ward boundaries shall be established by ordinance and shall be reviewed after each decennial census. The boundary descriptions of the six (6) wards shall be kept on file for public view at all times in the office of the City Clerk.

Comment [BE1]: Moved from City Code, Title 5, Chapter 5.08

(Res. No. 2017-1, § 1, 5-10-17/Res. No. 2013-1, § 1, 5-13-13)

Section 302 Qualifications and Salary of the Mayor

(a) The Mayor must have resided in the City for at least six (6) months immediately preceding his/her/their election, must be at least 18 years of age by the date of his/her/their election, and must be a qualified voter of the City. The Mayor must maintain his/her/their principal residence in the City during his/her/their term of office. If the Mayor changes his/her/their principal residence from the City, the Mayor's term shall be immediately terminated and the vacancy shall be filled as provided in Section 308 of this Charter. The Mayor is prohibited from holding other publicly elected offices during his/her/their term of office, and is prohibited from serving on any City board, commission, or other body that has authority to adjudicate or otherwise resolve disputes.

Comment [BE2]: All instances of his/her and she/he have been removed for non-binarity

(b) The Mayor, who during his/her/their term of office is convicted of or enters a plea of nolo contendere to any crime which is a felony or which is a misdemeanor related to the Mayor's public duties and responsibilities and involves moral turpitude for which the penalty may be incarceration in any penal institution, shall be removed from office pursuant to Section 2 of Article XV of the Constitution of Maryland.

(c) The Mayor may receive an annual salary as set from time to time by an ordinance passed by the Council in regular course of business; provided, however, that no change other than cost-of-living adjustments may be made in the salary of the Mayor, either by increase or decrease during the term for which he/she/they were was elected. The ordinance making any change in the salary paid to the Mayor, either by way or increase or decrease, shall be adopted prior to the next municipal election and shall take effect only as to the next succeeding Mayor.

(Res. No. 2013-1, § 1, 5-13-13)

Section 303 Powers and Duties of the Mayor.

(a) **General.** As the chief elected official of the City, the Mayor shall be recognized as head of the City government for all intergovernmental affairs and ceremonial purposes, by the Courts for service and receipt of civil process, and by the governor for purpose of military law.

(b) **Council meetings.** The Mayor shall be a member of the Council and shall set an agenda in accordance with the Council rules and preside at all meetings of the Council.

(c) **Mayor Pro Tempore.** The Mayor shall appoint a member of the Council as the Mayor Pro Tempore who shall serve as the Mayor in the absence of the Mayor.

(Res. No. 2013-1, § 1, 5-13-13)

Section 304 Qualifications and Salary of Councilmembers

(a) Councilmembers must have resided in the City (and the ward from which they are elected) for at least six (6) months immediately preceding their election, must be at least 18 years of age by the date of their election, and must be qualified voters of the City. Councilmembers must maintain their principal residence in the City and in their ward during their term of office. If a Councilmember changes ~~his, her, or their~~ principal residence from the City or from the ward from which the Councilmember was elected, the Councilmember's term shall be immediately terminated and the vacancy shall be filled as provided in Section 308 of this Charter. Councilmembers are prohibited from holding other publicly elected offices during their term of office, and are prohibited from serving on any City board, commission, or other body that has authority to adjudicate or otherwise resolve disputes.

(b) Any Councilmember, who during ~~his, her, or their~~ term of office is convicted of or enters a plea of nolo contendere to any crime which is a felony or which is a misdemeanor related to the Councilmember's public duties and responsibilities and involves moral turpitude for which the penalty may be incarceration in any penal institution, shall be removed from office pursuant to Section 2 of Article XV of the Constitution of Maryland.

(c) Each Councilmember may receive an annual salary which shall be equal for all Councilmembers and may be as specified from time to time by an ordinance passed by the Council in the regular course of its business; provided, however, that the salary specified at the time any Council takes office may not be changed during the period for which the Council was elected. The ordinance making any change in the salary paid to the Councilmembers either by way of increase or decrease shall be adopted prior to the next municipal election, and shall take effect only as to the members of the next succeeding Council.

(Res. No. 2013-1, § 1, 5-13-13)

Section 305 Meeting of the Council

The newly elected Council shall meet on the second ~~Wednesday~~ Monday following its election for the purpose of organization, after which the Council shall meet regularly at such times as may be prescribed by its rules, but generally not less frequently than once each calendar month. However, the Council may recess as it deems necessary.

Comment [BE3]: Reflects new council meeting day

Special meetings may be called by the Mayor, or a majority of the members of the Council. All meetings of the Council shall be open to the public unless the meeting is closed by the Council in accordance with the provisions of the Open Meetings Act, Subtitle 5 of Title 10 of the State Government Article, Annotated Code of Maryland, as amended. The rules of the Council shall provide that residents of the City shall have a reasonable opportunity to be heard at any regular public meeting in regard to any municipal question.

Section 306 Quorum

A majority of the Council shall constitute a quorum for the purpose of transacting business except as otherwise provided in this Charter.

Section 307 Procedure of the Council

The Council shall determine its own rules and order of business. It shall keep written minutes of its meetings. The minutes shall reflect each item that the council considered; the action that the Council took on each item; and each vote that was recorded. The minutes of regular public meetings shall be open to public inspection. If the council meets in closed session, then, in accordance with the provisions of the Open Meetings Act, Subtitle 5 of Title 10 of the State Government Article, Annotated Code of Maryland, as amended, the minutes for its next regular public meeting shall include: (1) a statement of the time, place, and purpose of the closed meeting; (2) a record of the vote of each member of the council as to closing the meeting; (3) a citation of the authority under the Open Meetings Act for closing the meeting; and (4) a listing of the topics of discussion, persons present, and each action taken during the closed meeting.

Section 308 Vacancies on the Council

(a) Method of Filling Vacancies. Should a vacancy on the Council occur more than two hundred and forty (240) days before the next regularly scheduled City election, a special election shall be held to fill the vacancy. If the vacancy occurs less than two hundred and forty (240) days before the next regularly scheduled City election, the

remaining members of the Council by a majority vote shall, within sixty (60) days, appoint a person who is qualified in accordance with Section 302 or Section 304, as applicable, to fill such vacancy for the remainder of the unexpired term.

(b) Special Election. If a vacancy is to be filled by special election, the remaining members of the Council shall, by resolution, establish a date for the special election which shall be not less than forty-five (45) days nor more than sixty (60) days from the date of the vacancy.

(c) Ballot. If the requirements of Section 302 or Section 304, as applicable, are met, a person may have his/her/their name listed on the special election ballot as a candidate to fill a vacancy on the Council by submitting a petition to the City Clerk with a sufficient number of valid signatures at least twenty (20) days prior to the date scheduled for the special election.

(d) Petition. The petition must clearly state that its purpose is to place a specific person's name on the ballot at a special election to fill a vacancy on the Council of the City of Takoma Park, the office and/or ward that the election is being held to fill, and the date of the special election.

(1) For a Mayoral vacancy, a person must have the signatures of at least 30 qualified voters of the City in order to be listed on the special election ballot as a candidate.

(2) For a Councilmember vacancy, a person must have the signatures of at least 10 qualified voters of the ward in which there is a vacancy in order to be listed on the special election ballot as a candidate.

(3) A qualified voter may sign the petition of more than one person to fill a vacancy on the Council. Each qualified voter shall print his/her/their name under the signature and shall include his/her/their address and the date of his/her/their signature on the petition.

(4) Before listing a person's name on a special election ballot as a candidate to fill a vacancy on the Council, the City Clerk shall verify that sufficient signatures on a petition are from qualified voters of the City and for a Councilmember vacancy of the ward in which there is a vacancy. The invalidation of one signature on a petition shall not serve to invalidate any other signatures on a petition.

(e) Voting. For a Mayoral vacancy, all qualified voters of the City may vote in the special election to fill a vacancy on the Council. For a Councilmember vacancy, only qualified voters of the ward in which there is a vacancy may vote in the special election to fill a vacancy on the Council.

(f) Write-Ins Permitted. A qualified voter also may write in the name of a candidate on the special election ballot to fill a vacancy on the Council.

(g) Results of Special Election. The candidate who meets the qualifications for office as specified in Section 302 or Section 304, as applicable, and who wins/receives a majority of votes in accordance with Section 606 in the special election to fill a vacancy on the Council ~~shall be the winner and~~ shall serve on the Council for the remainder of the unexpired term for which his/her/their predecessor was elected.

Comment [BE4]: Clarifies that someone wins according to 606. Section 606 defines the method of winning

Section 309 Ordinances

(a) In order to enable the Council to exercise fully the power conferred upon them by this Charter and to enable them to better promote and preserve the public health, safety and welfare, the Council may pass all ordinances, resolutions, or by-laws that are from time to time necessary.

(b) An ordinance may be passed, amended, rejected or have its consideration deferred at any regular or special Council meeting held not less than five (5) days after the meeting at which it was introduced.

(c) Any ordinance introduced but upon which no final action is taken shall expire at the end of the Council's term as defined by Section 301.

(d) Every ordinance passed shall become effective at the expiration of twenty (20) calendar days following approval of the Council unless otherwise stated in the ordinance.

(e) Upon a finding that an emergency exists, the provision that an ordinance may not be passed at the meeting at which it is introduced may be suspended by the affirmative votes of four members of the Council. An emergency ordinance shall become effective on the date specified in the ordinance.

Section 310 Appointments

The Council shall make appointments to such standing committees, ad hoc committees, and boards and commissions as are necessary from time to time.

Section 311 Files of Ordinances

Ordinances shall be permanently filed and shall be kept available for public inspection.

ARTICLE V

AMENDMENT PROCEDURES

Section 501 Initiation

An amendment to this Charter may be initiated by the Council or by a petition of qualified voters of the City of Takoma Park.

Section 502 Initiation by the Council

- (a) The Council may initiate a proposed amendment or amendments to the Charter by a resolution which, except as otherwise specified in this section, is passed by a majority of the Council. The Council shall hold a public hearing on any such proposed amendment or amendments and shall not take final action on a resolution less than fourteen (14) days following the hearing.
- (b) In conformity with a requirement imposed upon the General Assembly by Article 3, Section 29 of the Constitution of Maryland, the resolution shall contain the complete and exact wording of the proposed amendment or amendments, prepared so that the section or sections are set forth as they would read when amended or enacted. This Charter or any section thereof may not be revised or amended by reference to its title or section only.
- (c) In conformity with a requirement imposed on the General Assembly by Article 3, Section 29 of the Constitution of Maryland, every Charter amendment adopted by the Council shall embrace but one subject, and that shall be described in its title. Prior to the passage of any resolution which proposes an amendment or amendments to the charter, a public hearing thereon shall be held by the Council, public notice of which shall be given in a newspaper of general circulation in the City of Takoma Park once a week for two successive weeks, the last such notice to appear at least ten (10) days prior to the public hearing. Such public notice shall state the title of the Charter amendment and shall specify the time and place of the public hearing to be held thereon. The public hearings shall be conducted by the Council under such procedures as it shall, in its discretion establish.
- (d) The City Clerk shall give notice by posting and publication of any resolution which proposes an amendment or amendments to this Charter. A complete and exact copy of the resolution containing the proposed amendment or amendments shall be posted at City Hall or another main municipal building or public place for a period of at least forty (40) days following its adoption.
- (e) A fair summary of the proposed amendment or amendments shall be published in a newspaper of general circulation in the City of Takoma Park not less than four (4) times, at weekly intervals within a period of at least forty (40) days after the adoption of the resolution containing the proposed amendment or amendments.
- (f) The amendment or amendments so proposed by the Council shall become and be considered a part of the Charter, according to the terms of the amendment or amendments, in all respects to be effective and observed as such, upon the fiftieth (50) day after being so ordained or passed, unless on or before the fortieth (40) day after being so ordained or passed there shall be presented to the Council, or mailed to it by registered mail, a petition meeting the requirements of this section.

(g) The petition shall be signed by twenty (20) percent or more of ~~the persons who are~~ the number of registered voters at the time of the most recent city election. Registered voters are qualified to vote as set forth in this charter in the municipal general elections in the City of Takoma Park, ~~as defined in this charter and~~ The petition shall request that the proposed amendment or amendments be submitted on referendum to the voters of the City. Each person signing the petition shall indicate thereon such person's name and residence address. Upon receiving the petition for a referendum, the City Clerk is directed to verify that any person who signed it is qualified to vote in its municipal general elections and shall consider the petition ~~to have no effect if it has too few valid signatures, as of no effect if it is signed by fewer than twenty (20) percent of the persons who are qualified to vote in municipal general elections.~~

(h) If the petition for a referendum complies with the requirements of this section, the Council shall by resolution, passed as in its normal legislative procedure, specify the day and the hours for the election at which the question shall be submitted to the voters of the City of Takoma Park. This may be at either the next regular general election or at a special election at the discretion of the Council. In the event a special election is designated, it shall be held

Comment [BE5]: This more clearly defines the benchmark for the 20 percent calculation

Comment [BE6]: Simplified, too few reflects the 20 percent threshold as already stated

within a period of not less than forty (40) days nor more than sixty (60) days after the final passage of the resolution providing for the referendum. The resolution providing for the referendum shall specify the exact wording which is to be placed on the ballots or voting machines when the question is submitted to the voters in the City.

Section 503 Initiation by Petition

(a) ~~Qualified city voters at least equal in number to twenty percent (20%) of registered voters at the time of the most recent general city election may initiate a proposed amendment or amendments to the Charter, by a petition presented to the Council. Twenty (20) percent or more of the persons who are qualified to vote in municipal general elections in the City of Takoma Park may initiate a proposed amendment or amendments to the Charter, by a petition presented to the Council.~~ The petition shall contain the complete and exact wording of the proposed amendment or amendments, and the proposed amendment or amendments shall be prepared in conformity with the several requirements contained in subsections (b) and (c) of Section 502 of this Article. Each person signing it shall indicate thereon such person's name and residence address. ~~Upon receiving the petition, the City Clerk is directed to verify that any person who signed it is qualified to vote in city elections and that the petition contains the required number of signatures.~~ ~~Upon receiving the petition, the City Clerk is directed to verify that any person who signed it is qualified to vote in municipal general elections, and shall consider the petition as of no effect if it is signed by fewer than twenty (20) percent of the persons who are qualified to vote in municipal general elections.~~ If the petition complied with the requirements of this section the Council shall by resolution, passed as in its normal legislative procedure, and not later than sixty (60) days after the petition shall have been presented to it, specify the day and the hours for the election at which the question shall be submitted to the voters of the City of Takoma Park. This may be at either the next regular municipal election or at a special election, in the discretion of the Council. In the event a special election is designated, it shall be within a period of not less than forty (40) days nor more than sixty (60) days after the final passage of the resolution. In the resolution, the exact wording shall be specified which is to be placed on the ballots or voting systems when the question is submitted to the voters of the City.

Comment [BE7]: Adds context for what the 20 percent is calculated from.

Comment [BE8]: Simplified text.

(b) Provided, however, that if the Council shall approve the amendment or amendments provided for in the petition presented to it under subsection (a) above, it shall have the right by resolution to adopt the amendment or amendments thereby proposed and to proceed thereafter in the same manner as if the amendment or amendments had been initiated by the Council and in compliance with the provisions of Section 502 of this Article.

Section 504 Posting and Publication

The Clerk shall give notice by posting and publication of any submission of a proposed Charter amendment to the voters thereof. For four (4) weeks immediately preceding the election, at which the question is to be submitted, a complete and exact copy of the wording of the proposed Charter amendment or amendments shall be posted at City Hall or other main municipal building or in a public place. On the day of the election, a similar copy shall be posted at the place or places for voting. Notice of the election, together with a fair summary of the proposed amendment or amendments, shall be published in a newspaper of general circulation of the City of Takoma Park, not less than once in each of the four (4) weeks immediately preceding the election.

Section 505 Referendum

(a) On the day and during the hours specified for any referendum, the proposed Charter amendment or amendments shall be submitted to the qualified voters of the City. The official or officials thereof whose duty it is to arrange for and conduct the regular municipal elections shall perform the same duties so far as relevant to the referendum election on the proposed Charter amendment or amendments. It is the intent of this section that the referendum election shall be conducted generally according to the procedures and practices observed for regular City elections, except as specifically or necessarily modified by the provisions of the section. The wording specified by the Council in the resolution providing for a referendum on the charter amendment or amendments, shall be placed on the ballots or voting systems used at the referendum election. The expenses of the election shall be defrayed by the City.

(b) The official or officials charged with the duty to arrange for and conduct the referendum, promptly following the closing of the polls, shall tally the results thereof, and shall forthwith certify the results of the referendum to the Council.

(c) If a majority of those who vote on any question so submitted to the voters of the City shall cast their votes in favor of the proposed Charter amendment or amendments, the Mayor shall so proclaim publicly within ten (10) days

after receiving a certification of the votes from the officials conducting the referendum; and on the thirtieth (30) day following the public proclamation the proposed charter amendment or amendments shall become a part of the Charter of the City of Takoma Park, according to its terms, in all respects to be effective and observed as such. If less than a majority of those who vote on any such questions shall cast their votes in favor of the proposed Charter amendment or amendments, the Mayor shall so proclaim, adding to the proclamation the statement that the proposed Charter amendment or amendments contained in said question are null and void and of no effect whatsoever.

Section 506 Form and Registration of Amendment

(a) In any proposal to amend an existing charter of the City, the new matter, if any, to be added to the Charter shall be indicated by being underscored or in italics and all matters to be eliminated from the existing Charter, if any, shall be indicated in its proper place by enclosing such matter in double parentheses or in boldface brackets. Where the subject matter consists of an entirely new section or sections the words of such new section or sections shall also be underscored or in italics or contain some marginal or other notation to that effect. When the purpose of any proposal is to repeal in its entirety any section or sections of the existing Charter, the matter intended to be repealed need not be written out in full and enclosed in either double parentheses or boldface brackets.

(b) The resolution to amend the Charter shall identify the source of the existing section or sections, citing the code or other publication or amendments in which appears the most recent text of the section or sections to be amended.

(c) Amendments to the Charter shall be in a consecutively numbered series.

(d) The resolution to amend the Charter shall provide specifically (and not simply by implication) for the repeal of any section or sections of the existing Charter which are inconsistent with the amended section or sections.

(e) A proposal to amend the Charter, whether initiated by the Council or by a petition of qualified voters of the City, may not be rescinded after its adoption by the Council or after its formal submission in a petition, in any manner other than that of another Charter amendment.

(f) At the time a Charter amendment or amendments become effective by reason of having been ordained or passed by the Council, or at the time of making a public proclamation as to the vote on any question containing a proposed Charter amendment or amendments which have been adopted, the Mayor shall send separately by registered mail to the Secretary of State of Maryland and to the Department of Legislative Services the following information concerning the Charter amendment or amendments: (1) The complete text thereof, (2) the date of the referendum election, if any, (3) the number of votes cast for and against each question containing the Charter amendment or amendments, whether in the Council or in a referendum, and (4) the effective date of the Charter amendment or amendments.

(g) The Charter amendment or amendments are not effective and shall not be applied or considered as if effective, unless and until it or they have been registered as required in subsection (f) of this section.

Section 507 Codification of Amendments

The exact text of any amendment or amendments to the Charter adopted as in this Article specified, shall thereafter be included in any subsequent edition or codification of the Charter of the City, until altered, modified or repealed by a subsequent amendment or amendments to the Charter.

ARTICLE VI

REGISTRATION, NOMINATIONS, AND ELECTIONS

Section 601 Qualifications of Voters

(a) Every person who (1) is a resident of the City of Takoma Park, (2) is at least sixteen (16) years of age or will be sixteen (16) years of age on or before the date of the next City election, ~~(3) has resided within the corporate limits of the City for 21 days immediately preceding the City election,~~ (4) does not claim voting residence or the right to vote in another jurisdiction, and (5) is registered to vote in accordance with the provisions of this charter, is a qualified voter of the City except as provided in subsection (b) of this section. Every qualified voter of the City is entitled to vote in all City elections, to participate in the nominating meeting, and to sign nominating, referendum, recall and other petitions authorized by this charter.

(b) An individual is not eligible to be a registered voter of the City if the individual: (1) has been convicted of a felony and is ~~currently actually~~ serving a court-ordered sentence of imprisonment for the conviction; (2) is under guardianship for mental disability and a court of competent jurisdiction has specifically found by clear and convincing evidence that the individual cannot communicate, with or without accommodations, a desire to participate in the voting process; or (3) has been convicted of buying or selling votes.

(Res. No. 2013-1, § 1, 5-13-13/Res. No. 2009-1, § 1, 3-9-09)

Section 602 Lists of ~~Registered Voters for Statewide Elections- Certification by Montgomery County Board of Elections~~

(a) ~~A voter residing in the City who is included on the statewide voter registration list at an address within the City is registered to vote in City elections. Prior to each City election, the City Clerk shall request from the Montgomery County Board of Elections a certified list of the names and addresses of those people residing in the City and registered to vote.~~

~~(b) On or before one week before each City election, the Montgomery County Board of Elections shall provide the City with any revisions to the list of registered voters in the City previously provided to the City.~~

~~(c) Names of persons added by such revisions shall be deemed to have been certified originally, and those persons shall be entitled to vote in the next succeeding City election; and names of persons removed by such revisions shall be deemed not to have been certified originally, and those persons shall not be entitled to vote in the next succeeding City election.~~

~~(d) A person who feels aggrieved by an action of the Montgomery County Board of Elections regarding voter registration for a City election may file an administrative complaint with the Montgomery County Board of Elections under the procedures established by the State Board of Elections.~~

(Res. No. 2013-1, § 1, 5-13-13/Res. No. 2009-1, § 1, 3-9-09)

Section 603 City-Only Voter Registration

(a) ~~All residents of the City who meet the voter qualifications set forth in Section 601 may register with the City Clerk to vote in City elections. Except as set forth in subsection (e), any resident of the City who is a United States citizen, is at least 16 years of age, and is eligible to register to vote in the State of Maryland must be properly registered to vote with the Montgomery County Board of Elections or with the City in accordance with state law in order to vote in City elections. The City Clerk shall promptly send a notice to any jurisdiction in the United States where the new registrant was formerly registered to vote, requesting the cancellation of said voter's prior registration.~~

(b) ~~Any resident of the City who is not a United States citizen, but who meets the voter qualifications set forth in Section 601 may register with the City Clerk to vote in City elections. The City Clerk shall maintain a supplemental voter registry, separate from the list of registered voters for statewide elections in the City generated by the Montgomery County Board of Elections, which shall include the names of those non-United States citizens who are persons who registered with the City Clerk to vote in City elections. The City Clerk shall promptly send notice to~~

Comment [BE9]: Would make it so that anyone who is a resident (as specified in 1) at the time of voting qualifies to vote. In practice the city does not verify this information and people could accidentally commit voter fraud by not realizing this issue.

However, eliminating the provision does provide for an opportunity for voting twice in different municipal elections (for instance, by voting early in Rockville and then moving to Takoma Park and voting again).

Comment [BE10]: Mirrors state law and is more accurate.

Comment [BE11]: In practice, the Montgomery County Board of Elections provides the voters list ahead of the elections, but not at a specific time period. Anyone included in the MoCo Board of Elections list as a registered voter in Takoma Park is automatically qualified as a registered voter in the city. The final list from the County is the final list for Takoma Park – there is not a review or change of 'certified originally' as written here.

Due to Takoma Park's same-day registration, anyone not included in the list from Montgomery County can still register and vote in the election, also removing concerns over the timing of changes to the MoCo voter list.

Comment [BE12]: The Board recommends this simplified text for this section.

Comment [BE13]: Any qualified Takoma Park voter may choose to register as a 'City only' voter. By modifying this section, a city only voter could include U.S. citizens who do not want to register with the county. It has the added benefit of not specifically identifying the City only voters as non-citizens. The perception that the city has a specific non-citizen list may be a barrier to registration.

Note: 16-17 year olds who are U.S. citizens can register with the County and don't need to be on the City only list. Due to changes in Maryland law, convicted felons can also register at the county.

~~any jurisdiction in the United States where the new registrant was formerly registered to vote, requesting the cancellation of said voter's prior registration.~~

~~(e) Any United States citizen or non United States citizen resident of the City who has been convicted of a felony and is serving a term of parole or probation for the conviction but who meets the voter qualifications set forth in Section 601 may register with the City Clerk to vote in City elections. The City Clerk shall maintain a supplemental voter registry, separate from the list of registered voters in the City generated by the Montgomery County Board of Elections, which shall include the names of those registered under this subsection. The City Clerk shall promptly send notice to any jurisdiction in the United States where the new registrant was formerly registered to vote, requesting the cancellation of said voter's prior registration.~~

~~(d) Voter registration through Montgomery County Board of Elections. Voter registration for City elections with the Montgomery County Board of Elections shall close at 5:00 p.m. on the 21st day preceding a City election.~~

(e) Late registration; same day voter registration. City residents who are eligible to register to vote pursuant to this Charter, but who are not registered to vote, may register to vote in a City election by completing a voter registration application and registering to vote with the City Clerk, or a representative designated by the City Clerk, ~~from the 20th day before a City election until the close of voting on the day of the City election.~~

(Res. No. 2013-1, § 1, 5-13-13/Res. No. 2009-1, § 1, 3-9-09)

Section 604 Nominations

(a) Nominations for Mayor and Councilmembers shall be made at a meeting of ~~Takoma Park residents~~ ~~citizens~~ called by the City Clerk at the direction of the Council. Such meeting shall be held at a convenient place within the City to be designated by the Council and notice thereof shall be given through a newspaper or newspapers of general circulation within the City and/or by handbills generally distributed and posted throughout the City. The meeting shall be held on the second Tuesday evening after Labor Day in the year of the election, but if this date conflicts with Rosh Hashanah (Jewish New Year) or with Yom Kippur (Jewish Day of Atonement), then the meeting shall be scheduled for the next weekday evening after the end of the second day of Rosh Hashanah or after the end of Yom Kippur. The City Clerk, ~~or a representative designated by the City Clerk,~~ shall preside at the meeting; a qualified voter of the City shall be chosen as secretary of the meeting by the qualified voters of the City present; the secretary shall keep a record of the proceedings of the meeting and file the same in the office of the City Clerk.

(b) Nominations of candidates for Mayor shall be made on motion by any qualified voter of the City, and if such nomination is seconded by a qualified voter of the City, the persons so nominated shall be considered a candidate. Nomination of each candidate for Councilmember shall be made on motion of any qualified voter of ~~her/his/their~~ ward, and if such nomination is seconded by a qualified voter of ~~his/her/their~~ ward, the person so nominated shall be considered a candidate. ~~A candidate may nominate themselves or second their nomination.~~ Any nominated candidate may decline a nomination during the nomination meeting. A person may only accept a nomination of one City office. The name of each person nominated for the office of Mayor and Councilmember shall be placed upon the official ballot unless ~~he/she/the nominated person shall~~ files a declination with the City Clerk within three (3) days after ~~his/her/the nomination or fails to file a timely candidate's financial disclosure statement.~~

(c) The Council ~~may shall~~ ~~develop~~ ~~adopt~~ such rules and procedures as are necessary relating to nomination proceedings consistent with the provisions of this Charter.

(d) Any person nominated as a candidate must meet the qualifications of the office for which ~~she/he is/they are~~ nominated.

(e) City residents who are eligible to vote in the next City election pursuant to this Charter, but who are ~~not yet~~ registered ~~to vote~~, may participate in the nominating meeting by completing a voter registration application and registering to vote with the City Clerk, or a representative designated by the City Clerk, ~~on the day of the nominating meeting,~~ before the start of the meeting.

(Res. No. 2017-1, § 1, 5-10-17/Res. No. 2013-1, § 1, 5-13-13)

Comment [14]: Now eligible under section (a) to register

Comment [15]: Suggest removing. Information is not essential for the Charter and could change based upon Montgomery County registration deadlines. It could be posted on city website.

Comment [BE16]: This timeframe is not required. With same day registration anyone can register with the city at any time, though they may not be included in the County list.

Comment [BE17]: Clarifies that the meeting is intended for residents of the city, not just citizens.

Comment [BE18]: Allows flexibility if the clerk cannot preside.

Comment [BE19]: Allow for non-binarity

Comment [BE20]: Clarifies that self-nomination is possible.

Comment [BE21]: Allow for non-binarity

Comment [BE22]: Edit clarifies that the council can, but is not required to enact rules.

Comment [BE23]: Edited for clarity.

Comment [BE24]: "Before the start of the meeting" sufficiently captures the timeframe for when residents must register.

Section 605 Write-In Candidates

(a) Any write-in candidate for Mayor or Councilmember who wishes to be pre-registered as a write-in candidate and to have ~~their/her/his~~ name posted in the voting booth for the purpose of identifying ~~her/him~~ as a candidate for office, must file ~~their intent in the manner prescribed by her/his name with~~ the City Clerk by 5:00 p.m. ~~three business days prior to the start of voting on the Friday prior to the election.~~

Comment [BE25]: Allows for non-binarity

(b) A voter in a City election may write ~~-~~ in the name of any person for the office of Mayor or Councilmember in the method ~~indicated on the ballot provided by the Board of Elections?City Clerk on election day.~~

Comment [BE26]: This addition identifies that there is a process for registering as a write-in.

(c) A voter may only write-in one candidate for each office.

Comment [BE27]: Updated to take into account changing dates for early voting. The previous text could potentially allow for a registered write-in to register after early voting has begun.

(d) Only those write-in candidates who are qualified to serve for the office for which they are written-in as Mayor or Councilmember as provided by this Charter shall be eligible to hold said office.

Comment [BE28]: Allows for the ballot instructions to provide this information.

(Res. No. 2013-1, § 1, 5-13-13)

Section 606 Election of Mayor and Councilmembers

(a) On the first Tuesday after the first Monday ~~in November in November 2017, and~~ in every even-numbered year ~~commencing in 2020,~~ the qualified voters of the City shall elect its governing body of seven (7) members. Six (6) of these members are elected by ward and are called Councilmembers, and one (1) is elected at large and is called Mayor. Each of those elected shall reside in the City and be voters of the City, and in the case of the Councilmembers, be residents of the areas from which they are so elected consistent with the provisions of Section 304, Article III of this Charter.

Comment [BE29]: These dates are now outdated.

(b) ~~Officials shall be elected using a ranked choice (sometimes called instant runoff) voting system allowing voters to rank in order of their preference the candidates for each office appearing on the ballot. If, after counting all voters' first choice listed on their ballots for an office, no candidate receives a majority of votes cast, the candidate with the fewest votes shall be eliminated. Each ballot shall be tallied again for that office counting the vote from each ballot for the highest ranked candidate who has not been eliminated. If still no candidate for that office receives a majority, the process shall be repeated until a candidate receives a majority of the votes for that office. The candidate receiving a majority of votes for Mayor shall be declared elected. The candidate for Council receiving a majority of votes in each ward shall be declared elected.~~

Comment [BE30]: A more concise and clear detail of the voting system that also reflects the practice of the board.

~~The candidate receiving a majority of votes for Mayor shall be declared elected. The candidate for Council receiving a majority of votes in each ward shall be declared elected.~~

(c) ~~A ranked choice voting~~ instant runoff voting system shall be used in order to elect the Mayor and Councilmembers with a majority of votes by allowing voters to rank candidates in order of choice. Instructions on instant runoff voting provided to voters shall conform substantially to the following specifications, although subject to modification based on ballot design and voting system: "Vote for candidates by indicating your first choice candidate, your second choice candidate, and so on. Indicate your first choice by marking the number '1' beside a candidate's name, your second choice by marking the number '2' beside that candidate's name, your third choice by marking the number '3,' and so on, for as many choices as you wish. You are free to rank only one candidate, but ranking additional candidates cannot help defeat your first choice candidate. Do not mark the same number beside more than one candidate. Do not skip numbers."

(d) The first choice marked on each ballot shall be counted initially by the judges of election as one vote. If any candidate receives a majority of the first choices, that candidate shall be declared elected.

(e) If no candidate receives a majority of first choices, the judges of election shall conduct an instant runoff consisting of additional rounds of ballot counting. In every round of counting, each ballot is counted as one vote for that ballot's highest ranked advancing candidate. "Advancing candidate" means a candidate for that office who has not been eliminated. A candidate receiving a majority of valid votes in a round shall be declared elected. If no candidate receives a majority of valid votes in a round, the candidate with the fewest votes shall be eliminated, and

~~all ballots shall be recounted. This process of eliminating the candidate with the fewest votes and recounting all ballots shall continue until one candidate receives a majority of the valid votes in a round.~~

~~(f)~~ (c) To facilitate ballot counting by hand in any round, the judges of election may eliminate all candidates with no mathematical chance of winning. A candidate has no mathematical chance of winning if the sum total of all votes credited to that candidate and all candidates with the same or fewer votes is less than the number of votes credited to the candidate with the next greatest number of votes.

Comment [BE31]: No chance of winning is de facto determined by mathematical calculations.

~~(g)~~ If a ballot has no more available choices ranked on it, that ballot shall be declared “exhausted” and not counted in that round or any subsequent round. Ballots skipping one number shall be counted for that voter’s next clearly indicated choice, but ballots skipping more than one number shall be declared exhausted when this skipping of numbers is reached. Ballots with two or more of the same number shall be declared exhausted when such duplicate rankings are reached unless only one of the candidates with the duplicate ranking is an advancing candidate.

Comment [BE32]: Edited for clarity

~~(h)~~ (d) In the event of a tie that affects the outcome of the election, the tie shall be broken by comparing the votes of the tied candidates in the previous rounds of counting, starting with the count immediately preceding the round in which the tie occurs. If one of the tied candidates had more votes than the remaining tied candidates in the preceding round or an earlier round of counting, then that candidate shall advance and the others shall be eliminated. If the candidates were tied in each preceding round, then the tie shall be resolved by lot. In the event that this tie occurs between or among all remaining candidates, then a runoff election between or among the tied candidates shall be held within forty five (45) days after the date of the election.

Comment [BE33]: This level of detail may not be necessary.

~~(i)~~ (e) The Council may modify the form of the ballots, the instructions to voters, and the details with respect to the method of marking, sorting, counting, invalidating, and retaining ballots and the tabulating and recounting of votes pursuant to this section, provided that no change shall be made that will alter the intent or principles of ranked choice voting ~~instant runoff voting~~ as set forth in this section.

Comment [BE34]: The board would recommend that ties to be resolved by lot to avoid a runoff election.

(Res. No. 2017-1, § 1, 5-10-17/Res. No. 2013-1, § 1, 5-13-13)

Section 607 Conduct of Elections Generally

(a) The Council, by ordinance, shall provide for said elections; shall designate in said ordinance a convenient polling place or places; ~~shall appoint judges of election~~; shall designate the manner of holding said election; shall designate and provide the voting system to be used; and shall conduct said elections in accordance with the provisions of this section.

Comment [BE35]: Consistency change to refer to election system as ranked choice rather than instant runoff

(b) Elections shall be conducted by the Takoma Park Board of Elections, who the members of which serve as judges of elections. ~~the judges appointed by the Council under the supervision of the City Clerk, and Elections~~ shall be held at some convenient place or places to be designated by the Council; ~~any vacancy in the list of judges occurring between their appointment and the election shall may only be filled by the Mayor.~~ On election day, The polls shall be opened at 7:00 a.m.A.M. and closed at 8:00 p.m.P.M.

Comment [BE36]: For consistency with changes in 607(b), removing council need to appoint judges.

Comment [BE37]: Eliminates the need for the council to appoint all judges and allows vacancies to be filled by the BOE and clerk, not only the mayor. This reduces the need for special mayoral visits to swear-in poll workers.

(Res. No. 2013-1, § 1, 5-13-13)

Section 608 Absentee Voting

Any qualified voter may vote by absentee ballot in a City election.

(Res. No. 2013-1, § 1, 5-13-13/Res. No. 2009-1, § 1, 3-9-09)

Section 609 Early Voting

The Council shall, by ordinance, establish locations, days, hours, and mechanisms for early voting in all City elections.

(Res. No. 2013-1, § 1, 5-13-13)

Section 610 Provisional Voting

A person may cast a provisional ballot in a City election if the person’s name does not appear on the lists of qualified voters of the City or if the person’s eligibility to register to vote and/or to vote, City residency, identification, or identity is challenged.

Comment [BE38]: Should match the times set by the State

Comment [BE39]: Redundant. It is sufficient to note that if their eligibility is challenged it would be on one of these criteria

(Res. No. 2013-1, § 1, 5-13-13/Res. No. 2009-1, § 1, 3-9-09. Formerly 609)

Section 611 Special Elections

All special City elections shall be conducted by the Council Board of Elections in the same manner, as far as practicable, as set forth in this Charter.

(Res. No. 2013-1, § 1, 5-13-13/Res. No. 2009-1, § 1, 3-9-09. Formerly 610)

Section 612 Advisory Referendums

(a) A question for referendum or a legislative initiative, not otherwise provided for in this Charter and regarding a matter over which the Council has authority, may be placed on the ballot in any regular or special City election. All such referendum questions or initiatives, unless they are made binding on the Council by any other section of this Charter or by other applicable city, county, state or federal law, shall be advisory only and shall not bind or obligate the Council or the City to enact any ordinance or resolution or to perform any act or function.

(b) Advisory referendum questions or legislative initiatives may be placed on the ballot in any City election in the following manner:

(1) The Council may, by resolution passed by a majority of the Council, provide for an advisory referendum question or legislative initiative to be placed on the ballot at any regular municipal election or at a special election.

(2) Qualified City voters at least equal in number to twenty percent (20%) of registered voters at the time of the most recent general City election may sign a petition~~FiveTwenty percent (520%) or more of the qualified voters of the City may sign a petition~~ to the Council to place an advisory referendum question or legislative initiative on the ballot. The petition shall contain the language to be placed on the ballot. Each qualified voter signing the petition shall indicate on the petition the person's name and residence address. Within thirty (30) days after receiving the petition, the City Clerk shall verify that any person who signed the petition is a qualified voter of the City and that the petition contains the required number of signatures.

Comment [BE40]: Cleans language and specifies the time of which the 20 percent is determined.

(3) Provided the City Clerk has certified that the petition contains the required number of signatures, the Council shall, by resolution passed by a majority of the Council, order the advisory referendum question or legislative initiative to be placed on the ballot and specify the day and hours for the election at which the advisory referendum question or legislative initiative shall be voted on. This may be either at the next regular municipal election or at a special election, ~~at~~ the discretion of the Council.

(4) In the event a special election is designated, the special election shall be held within a period of not less than forty (40) days nor more than sixty (60) days after the final passage of the resolution providing for the advisory referendum question or legislative initiative.

(5) Any resolution providing for the placement of an advisory referendum question or initiative on a ballot shall specify the exact wording which is to be submitted to the voters of the City.

(Res. No. 2013-1, § 1, 5-13-13/Res. No. 2009-1, § 1, 3-9-09. Formerly 611)

Section 613 Vote Count

(a) Within forty-eight (48) hours after the closing of the polls, the judges of the election shall canvass the voting machines or other voting system, and count any paper ballots, regular and absentee, to determine the vote cast for each candidate or any questions on the ballot.

(b) The judges of the election shall meet within two days following the election, and shall therefore determine and declare what persons have been elected, ~~issue certificates of election to such persons,~~ and certify the results to the Council.

Comment [BE41]: The BOE does not issue certificates

(Res. No. 2017-1, § 1, 5-10-17/Res. No. 2013-1, § 1, 5-13-13/Res. No. 2009-1, § 1, 3-9-09. Formerly 612)

Section 614 Recall Elections

(a) **Removal of Elected Officials.** The Mayor and any Councilmember of the City of Takoma Park may be removed from office by the affirmative vote of a majority of those voting in a special recall election.

(b) **Recall Petition.** A petition for the removal of the Mayor or any Councilmember from office (a “recall petition”) shall state the name, office, and/or ward of the elected official whose recall is sought and that its purpose is to require a special recall election to vote on whether that elected official should be removed from office. A recall petition may, but does not have to, state a reason or reasons for the recall.

(1) A recall petition for the Mayor must have the signatures of qualified City voters at least equal in number to twenty percent (20%) of the registered City voters at the time of the most recent general City election. A recall petition for the Mayor must have the signatures of at least 1,500 qualified voters of the City of Takoma Park or at least 20% of the qualified voters of the City, whichever is greater.

(2) A recall petition for a Councilmember must have the signatures of qualified voters of the ward the Councilmember represents at least equal in number to twenty percent (20%) of the ward's registered voters at the time of the most recent general City election.

A recall petition for a Councilmember must have the signatures of at least 100 qualified voters of the ward the Councilmember represents or at least 20% of the qualified voters of that ward, whichever is greater.

(3) A qualified voter of the City may sign a recall petition for the removal of more than one elected official. Each qualified voter shall print his/her/their name under the signature and shall include his/her/their address and the date of his/her signature on the recall petition.

(4) All signatures on a recall petition must be obtained within a period of 180 days during the current term of the elected official whose recall is sought.

(c) **Recall Election.** A special recall election shall be held not less than thirty (30) days and not more than forty-five (45) days from the date the City Clerk determines that a valid recall petition containing a sufficient number of signatures from qualified voters has been submitted. The Council shall establish the date for the recall election by resolution. If the elected official who is sought to be removed is a Councilmember, then only qualified voters of that Councilmember’s ward may vote in the recall election.

(d) **Form of Question on Ballot.** The ballot for a special recall election shall have the following question: “Should [name of elected official] be removed from the office of [name of office]? Vote ‘yes’ or ‘no’.”

(e) **Results of Recall Election.** If a majority of those voting in the special recall election vote “yes,” the elected official shall be removed from office immediately without the necessity of further Council action and the office shall be considered vacant. The resulting vacancy on the Council shall be filled in accordance with Section 308. An elected official who has been removed from the Council in a recall election shall not be eligible for reappointment by the Council but may apply for reappointment to the Council or may petition to be listed as a candidate on a special election ballot to fill a vacancy on the Council. In the event the number of “yes” and “no” votes in the special recall election are the same or a majority of those voting in the recall election vote “no,” then the recall shall fail and the elected official shall remain in office.

(Res. No. 2013-1, § 1, 5-13-13/Res. No. 2009-1, § 1, 3-9-09. Formerly 613)

Section 615 Regulation and Control by Council

The Council has the power to provide by ordinance in every respect not covered by the provisions of this charter for the conduct of registration, nomination, and City elections and for the prevention of fraud in connection therewith, and for a recount of ballots in case of doubt or fraud. The Council further has the power to create and appoint an Board of Elections/Elections Board and to specify the functions and duties of the an Board of Elections/Elections Board. The Board of Elections’ Election Board’s functions may include enforcing the City’s elections laws and resolving complaints, disputes, and challenges on election matters. Ordinances heretofore adopted by the Council pertaining to election matters shall remain in force and effect until repealed or amended by the Council but only as to such provisions as are not inconsistent with the provisions of this Article.

Comment [BE42]: 1,500 will always be lowest threshold unless the city loses 5,000 voters. For simplicity, BOE recommends eliminating the 1,500 threshold

Comment [BE43]: Changed for non-binariness

Comment [BE44]: The Board recommends adding a time limit for petitions so that they may not continue indefinitely.

Comment [BE45]: BOE recommends: Recalled councilmembers may run for re-election but re-appointment is counter to purpose of the recall

Comment [BE46]: Edited for consistency in the naming convention for the Board of Elections

(Res. No. 2013-1, § 1, 5-13-13/Res. No. 2009-1, § 1, 3-9-09. Formerly 614)

Section 616 Penalties

| Any person who (1) fails to perform any duty required of ~~him~~her/hem under the provisions of this subheading or any ordinances passed thereunder, (2) in any manner willfully or corruptly violates any of the provisions of this subheading or any ordinances passed thereunder, or (3) willfully or corruptly does anything which will or will tend to affect fraudulently any registration, nomination, or City election, is guilty of a misdemeanor. Any official, officer or employee of the City government who is convicted of a misdemeanor under the provisions of this section shall immediately upon conviction thereof cease to hold office or employment.

(Res. No. 2013-1, § 1, 5-13-13/Res. No. 2009-1, § 1, 3-9-09. Formerly 615)

Title 5

ELECTIONS

Chapters:

- 5.04 General Provisions**
- 5.08 Wards**
- 5.12 Fair Election Practices**
- 5.16 Voting**
- 5.20 Absentee Voting**
- 5.22 Provisional Ballots**
- 5.24 Board of Elections**

Chapter 5.04
GENERAL PROVISIONS

Sections:

5.04.010 Purpose.

5.04.020 Definitions.

5.04.010 Purpose.

The purpose of the election procedures contained in this title is to provide for the conduct of City elections administered pursuant to the powers granted to the Council to provide for the conduct of registration, nominations and voting in City elections and for the prevention of fraud in connection with such elections. (Ord. 2015-28, 2015/prior code § 4D-1)

5.04.020 Definitions.

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

“Agent” means any person who represents and acts for another.

“Authorized representative” means any person appointed or designated by a candidate or a political committee to file campaign reports or to be responsible for ~~political matter~~ campaign material published or distributed.

“Ballot” is the means by which a vote is cast. “Ballot” or “ballots” include paper ballots, absentee ballots, provisional ballots, or a voting machine ballot, whichever in context is appropriate.

~~“Campaign material” means any printed or electronic statement or advertisement that contains text, graphics, or other images; relates to or concerns any candidate or prospective candidate or any matter or issue which has been submitted to a vote at an election or is in the process of being petitioned to referendum; and is published or distributed to anyone by, at the request of, or under the authority of, a candidate or political committee.~~

“Campaign report” means a report of contributions received by any candidate or political committee.

“Candidate” means any person who seeks election as Mayor or Councilmember.

“Contributions” means a gift, loan, transfer of money or other thing of value to any candidate, ~~the candidate’s his or her~~ representative or to a political committee to promote the success or defeat of a candidate or of any matter or issue which has been submitted to a vote at an election or is in the process of being petitioned to referendum.

“Election” means the process by which the voters of the City vote for Mayor or Councilmember, any Charter amendment, proposition or question and, unless otherwise indicated, shall include all elections, general, special, runoff and referendum.

“Political committee” means any combination of two or more persons which has as one of its purposes to promote the success or defeat of a candidate or of any matter or issue which has been submitted to a vote at an election or is in the process of being petitioned to referendum.

~~“Political matter” means any pamphlet, circular, card, sample ballot, poster, billboard, advertisement, button or any other printed, photographed, typewritten, or written material or statement relating to or concerning any candidate or prospective candidate or any matter or issue which has been submitted to a vote at an election or is in the process of being petitioned to referendum.~~

“Provisional ballot” means a ballot that is cast by an individual but not counted until the individual’s qualifications to vote have been confirmed by the Takoma Park Board of Elections.

“Registration” means the act by which a person becomes qualified to vote in any election in the City.

Comment [BE47]: BOE has changed “political matter” to “campaign material” to more accurately reflect the type of electioneering to be regulated.

Comment [BE48]: Definition drawn from other MD municipalities.

“Surplus campaign funds” means funds left in a candidate’s campaign account after the election is over and all campaign debts (including all loans) have been paid.

“Voting system” means a method of casting and tabulating ballots or votes. (Ord. 2015-28, 2015/Ord. No. 2009-22, 5-18-09/prior code § 4D-2)

Chapter 5.08

WARDS

Sections:

5.08.010 Description of ward boundaries.

5.08.010 Description of ward boundaries.

~~A. The City is divided into six wards for purposes of City elections. Each ward shall be compact in form and composed of adjoining territory. The populations of the wards shall be substantially equal.~~

~~B.~~ The boundary lines of the six wards shall be as they are shown on the map and accompanying street directory designated "2013 District Plan and Street Directory," dated December 3, 2012, incorporated herein, on file and available for inspection in the office of the City Clerk. (Ord. 2015-28, 2015/Ord. 2013-3 § 1, 2013/Ord. 2003-17 § 1, 2003/prior code § 4D-5)

Comment [BE49]: This has been moved to the city charter, Article III

Chapter 5.12

FAIR ELECTION PRACTICES

Sections:

- 5.12.010 ~~Campaign material~~~~Political matter~~ published or distributed.
- 5.12.020 Campaign reports.
- 5.12.030 Surplus campaign funds.

5.12.040 Financial disclosure statements.

5.12.010 ~~Campaign material~~~~Political matter~~ published or distributed.

~~A. Each item of campaign material shall contain, set apart from any other message, an authority line that states the name and title of the person, treasurer, or campaign manager responsible for the publication or distribution of the same.~~

~~B. The authority line need state only the name and title of the responsible person if ~~unless~~:~~

~~1. The name and address of the responsible person has been filed with the City Clerk; or~~

~~2. The campaign material item is too small to include all the information specified in paragraph (A) of this section in a legible form.~~

~~C. Any material that is published or distributed in support of or in opposition to a campaign without being directly or indirectly authorized by the campaign should include the following statement: "This message has been authorized and paid for by (name of payer or any organization affiliated with the payer). This message has not been authorized or approved by any candidate or ~~campaign~~."~~

~~D. A violation of this section is a Class B offense. (Ord. 2015-28, 2015/prior code § 4D-6)~~

~~A. No person, candidate or political committee shall print, publish, distribute or broadcast or cause to be printed, published, distributed or broadcast any political matter unless such political matter includes the name of the person who authorized the publication or distribution of the same.~~

~~B. No person, candidate or political committee shall expend any money for printing, publication or broadcasting of any political matter unless such matter states that it is a paid political advertisement and is printed, published or broadcast by the authority of the person, candidate, political committee or an authorized representative for a candidate or political committee.~~

~~C. A violation of this section is a Class B offense. (Ord. 2015-28, 2015/prior code § 4D-6)~~

~~E. Campaign signs for city elections shall only be displayed on private property with the permission of the property owner and shall not be displayed in the public right of way. Campaign signs may be displayed on the premises of polling stations outside the limits on electioneering as follows:~~

~~1. At early voting polling places, from 5:00 p.m. the day before early voting begins through 8:00 a.m. on the day after the early voting period ends.~~

~~2. At election day polling places, from 5:00 p.m. the day before election day through 8:00 a.m. on the day after election day.~~

~~3. Signs displayed at polling places shall not interfere with access to polling places or pose a safety hazard to vehicles or pedestrians.~~

5.12.020 Campaign contributions, expenditures, and reports.

~~A. Any individual, association, unincorporated association, corporation, or any other entity, either directly or indirectly, may not contribute any money or thing of value greater than one thousand dollars (\$1,000.00) to any~~

Comment [BE50]: Recommended from other MD municipalities.

Comment [51]: To take into account referendum campaigns

Comment [JC52]: Regulates where campaign signs may be placed (similar to MD Code).

single candidate or ~~campaign~~ political committee during a single election cycle. Candidates may donate unlimited amounts to their own campaign.

Comment [BE53]: BOE recommends a limit of \$1,000 for contributions to a candidate during a single election cycle.

B. Candidates or political committees may not retain anonymous donations of any amount for campaign purposes. If a candidate or political committee receives an anonymous donation, the amount shall be declared in financial reports and contributed to the city general fund.

Comment [BE54]: BOE recommends candidates cannot receive anonymous donations of any amount. BOE notes that anonymous donations should be given to city general fund.

A.C. Each candidate or ~~his or her~~ their authorized representative and each authorized representative of any political committee shall file a report with the City Clerk disclosing the ~~total monetary contributions, as well as the~~ names and addresses of all persons, ~~other than the candidate or members of his or her immediate family members,~~ who contribute anything of value, other than volunteer services, of \$25.00~~4~~ or more in an election. All campaign reports filed shall be available for public review during the normal office hours of the City Clerk.

Comment [BE55]: Allows for non-binarity.

1. An initial report listing contributions received ~~and expenditures~~ since the date of the last preceding election to fill the office for which the candidate ~~or political committee~~ is running shall be filed with the City Clerk no later than the Monday at least seven days preceding the ~~start of voting~~ election.

Comment [BE56]: With a \$1,000 limit on total contributions, then candidate reports will need to show total contributions

2. A final report of campaign contributions ~~received and expenditures~~ not previously reported shall be filed with the City Clerk no later than 4:00 p.m. of the Monday following the election.

Comment [BE57]: BOE recommends that family members not be exempt from reporting

3. Even if no contributions have been received ~~or expenditures made~~ since the end of the period for which the last preceding report was filed or due, a statement to that effect must be filed with the City Clerk.

Comment [BE58]: BOE recommends the 25.00 amount as an easier standard to follow and slightly more restrictive.

B. All campaign reports shall be made on the forms designated by the City Clerk. The campaign reports shall contain a certification by the person responsible for filing the report that the contents of the report are true and complete to the best of ~~the reporter's~~ his or her knowledge, information and belief.

Comment [BE59]: BOE would recommend reporting on expenditures in addition to contributions.

C. There is a late filing fee for each campaign report which is not filed within the time prescribed in this section. The fee is \$10.00 for each day or part of a day, excluding Saturdays, Sundays and holidays, that a report is overdue. The maximum late fee payable with respect to any single report is \$250.00.

Comment [BE60]: In case of any date changes to early voting, ensures that reports are filed prior to start of voting.

1. The City Clerk shall receive an overdue campaign report even if any late filing fee has not been paid, but the report shall not be considered officially filed until all fees have been paid.

Comment [BE61]: Allows for non-binarity

2. Upon receipt by the City Clerk of an overdue campaign report, no further late filing fees shall be incurred, notwithstanding the fact that the report is not considered officially filed.

3. It is the personal responsibility of the candidate, if it is the report of a candidate, and of the authorized representative of a political committee to file all reports in complete and accurate detail and to pay all late filing fees. A late filing fee may not be paid, directly or indirectly, from contributions to the candidate or political committee.

D. A campaign report must be attested to as complete and accurate to be deemed "filed." If there is a deficiency in a campaign report, the City Clerk will notify the candidate or political committee, in writing, of the deficiency. The candidate or political committee then has two weeks from the date of that notice to file a corrected report. If a corrected report is not filed within two weeks or if a corrected report is not attested to as complete and accurate, then daily late filing fees will be assessed.

E. If the City Clerk determines that there is a deficiency in a corrected report, then the candidate or political committee must continue to correct and resubmit the campaign report to the City Clerk until such campaign report is accepted. In this case, daily late filing fees will continue to be assessed.

F. A person may not receive any salary or benefits from the office of the Mayor or Councilmember until all required campaign reports have been attested to as complete and accurate, accepted as filed, and all late filing fees have been paid.

G. A violation of this section is a Class B offense. (Ord. 2015-28, 2015/prior code § 4D-7)

5.12.030 Surplus campaign funds.

A. Surplus campaign funds may be used at the discretion of the candidate for any community or political purpose, except:

1. The personal use of the candidate, the treasurer or any member of the candidate's campaign staff, or the immediate family members of those individuals (however, use of surplus funds to hold a party for campaign supporters is a permitted political purpose); or
2. A transfer to a political committee or a candidate other than the individual for whom the funds were raised.

B. A violation of this section is a Class B offense. (Ord. 2015-28, 2015/prior code § 4D-8)

5.12.040 Financial disclosure statements.

A. Candidates must have timely filed financial disclosure statements in proper form as required by Section 3.04.080 of the ethics title of the Takoma Park Code to be eligible to assume office.

B. If a candidate elected to a position is unable to ~~serve due to failure to take office because he or she has failed~~ to file a financial disclosure statement as required by Section 3.04.080, then the Clerk shall declare the position to be vacant in accordance with Section 301(b) of the Takoma Park Municipal Charter. (Ord. 2015-28, 2015)

Comment [BE62]: Allow for non-binarity

Chapter 5.16

VOTING

Sections:

- 5.16.010 Voting systems.
- 5.16.020 Ballots.
- 5.16.030 Instruction and assistance in voting.
- 5.16.040 Time allowed for voting.
- 5.16.050 Closing of polls.
- 5.16.060 Tabulation of votes.
- 5.16.070 Election challenges and appeals.
- 5.16.080 Inspection of ballots in the event of an election challenge or appeal.

5.16.090 Penalties.

5.16.010 Voting systems.

A. Only one voting system may be used in any City election.

B. The City Council may purchase, rent, lease or otherwise acquire such voting systems and related equipment as may be required for an election. (Ord. 2015-28, 2015/Ord. No. 2009-22, 5-18-09/prior code § 4D-10)

5.16.020 Ballots.

A. The City Clerk shall provide ballots for all elections which shall contain:

1. The name of every candidate who has been nominated in accordance with the provisions of the Charter and with this title;
2. A description of every question which is to be submitted to a vote.

B. All ballots shall be ~~printed~~ in plain clear type ~~suitable for in black ink upon material of such size and shape to fit the construction of the voting system.~~

C. The form and arrangement of all ballots shall be determined by the City Clerk in accordance with the following requirements:

1. In all elections, the names of candidates shall be arranged alphabetically on the ballots according to their surname, under the designation of office. The names of the candidates for Mayor shall appear first on the ballots, followed by the names of the candidates for Councilmember according to the numeric designation of the ward. ~~Names of candidates shall not include honorifics, such as Dr., or Esq.~~
2. No ballot shall contain a party designation of a candidate.
3. Each ballot shall contain ~~an~~ appropriate instruction to the voter ~~informing him or her the voter of the offices for which he or she the voter may vote and the number of persons for whom he or she they may lawfully vote for each office.~~
4. All ballots shall contain a statement in understandable language of every question to be submitted to a vote at any election.
5. The City Clerk shall prepare and certify the form in which a question shall appear, and each question may be captioned with a descriptive title containing not more than five words.
6. Each ballot question shall ~~be printed~~ appear on the ballots following the name of the candidates and shall be accompanied by the words "For" and "Against."

Comment [BE63]: Allows for ballots types other than printed ballots, if the voting system uses a different format

Comment [BE64]: Though this has been the case in practice, BOE would like to codify the exclusion of honorifics on the ballot

Comment [BE65]: Each ballot shall contain appropriate instructions, but the exact details on what is included does not seem necessary as BOE will adapt to the voting system and best practice

Comment [BE66]: Allows for non-printed ballots

D. If, because of an error in printing or a change in circumstances, the City Clerk at any time finds it necessary to make a change in a ballot, the City Clerk shall promptly change the ballots by taking the following actions:

1. If there is sufficient time for printing or reprinting of the ballot, make the appropriate changes or corrections on the printed ballots;
2. If there is insufficient time for reprinting, and if it is appropriate to the voting system in use, cause to be printed a sufficient number of stickers incorporating the appropriate changes or corrections. The stickers shall be as consistent as possible with the printed ballots and be affixed to the ballots in the appropriate places;
3. If time does not permit the process provided in subsection (D)(2) of this section or if such a process is inappropriate, take all appropriate measures to notify voters of the change and the procedure to be used by each voter to record a vote;
4. After any change on a ballot, the City Clerk shall take all reasonable steps to notify all candidates for the office involved of the change or correction in the ballots.

E. The City Clerk may cause to be printed copies of the form of the ballot to be used for an election, to be in type of suitable size and designated as "specimen-example ballots." Any such specimen-example ballots shall be conspicuously posted at each polling place and may be distributed to voters. (Ord. 2015-28, 2015/prior code § 4D-11)

Comment [BE67]: Example is more commonly understood than 'specimen ballot'.

5.16.030 Instruction and assistance in voting.

A. Upon request, election judges or election workers shall instruct a voter regarding the operation of the particular voting system.

B. Any voter who requires assistance in voting by reason of disability, inability to write, or inability to read the ballot may be given assistance by an individual of the voter's choice. A voter may not choose a candidate or an agent of any candidate in that City election, the voter's employer or agent of the employer, or an officer or agent of the voter's union. In the event a voter chooses no one, an election judge may assist the voter. Any person giving assistance to a voter pursuant to this subsection shall complete an affidavit of assistance to be filed with the Chief Judge.

Comment [BE68]: Affidavits are not filed only with chief judge, but any election worker.

1. After such an affidavit has been made and filed, the voter may enter into a voting machine, booth or other place set aside for voting with the person of the voter's choice. The person whom the voter has selected or, in the case the voter has selected no one, the election judge shall mark the ballot or operate the voting machine as the voter shall direct.

2. The only assistance which will be lawful for the person whom the voter has selected or for the election judge to give the voter is to mark the ballot or operate the voting machine as the voter shall direct, without prompting or suggestion.

3. A voter may not be accompanied into a voting machine, booth or other place set aside for voting by any person over the age of 15 under the age of 16 years, unless the affidavit required by subsection (B) of this section has been accepted by an election judge filed. (Ord. 2015-28, 2015/Ord. No. 2009-22, 5-19-09/Ord. 2005-34, 2005/prior code § 4D-12)

Comment [BE69]: Previous language could have meant that those older than 15 (but not yet 16) were not allowed in the voting booth.

5.16.040 Time allowed for voting.

Each voter is expected to mark the ballot or operate the voting machine expeditiously and may be required to leave the voting machine, booth or other place set aside for voting after five minutes. (Ord. 2015-28, 2015/Ord. No. 2009-22, 5-19-09/prior code § 4D-13)

Comment [BE70]: Makes language consistent with previous 'filed'

Comment [BE71]: The board notes that this time limit seems arbitrary and is not common practice.

5.16.050 Closing of polls.

A. All qualified voters who are in the process of voting or waiting in line to vote at the time of the scheduled closing of polls shall be permitted to vote.

B. When the last voter in the polling place has voted, the polls shall be officially closed and the election judges shall immediately lock and seal the voting system so that it will be prevented from operating.

C. The election judges shall then record the number of votes cast, and compare the number of votes cast with the number of voters who have checked in to vote. (Ord. 2015-28, 2015/Ord. No. 2009-22, 5-19-09/prior code § 4D-14)

5.16.060 Tabulation of votes.

A. After the polls have officially closed, the election judges then shall proceed to tabulate the votes cast.

B. The election judges shall tabulate the votes cast as provided in Section 606 of the City Charter, using procedures to ensure the following:

1. The secrecy of the ballot;
2. Correct counting of votes on ballots on which the proper number of votes has been indicated;
3. If the intent of the voter with respect to a particular contest or question is not clearly demonstrated, then only the vote for that contest or question shall be rejected;
4. The tabulating and recording of votes by ward for or against any candidate, candidates or question;
5. Prompt reporting of election returns after the official closing of the polls.

C. The tabulation, release or announcement of election results prior to the official closing of the polls is prohibited.

~~D. All paper ballots and any printed or electronic record from voting machines shall be safely kept by the City Clerk for three months after the date of the election at which the ballots were cast and may then be destroyed, unless prior to that time the City Clerk is ordered by a court of competent jurisdiction to keep the same for any longer period.~~

E. A violation of subsection (B) or (C) of this section is a Class B offense. (Ord. 2015-28, 2015/Ord. No. 2009-22, 5-19-09/prior code § 4D-15)

5.16.070 Election challenges and appeals.

A. Any candidate or voter who wishes to challenge the results of an election or any matter relating to the validity of a ballot shall give written notice to the City Clerk within two business days after the date the results of the election are certified to the Council.

1. The written notice of election challenge shall be made under penalty of perjury and include a complete statement of all facts on which the candidate or voter relies to support ~~his or her~~ their election challenge.
2. The City Clerk shall immediately refer the notice of election challenge to the Takoma Park Board of Elections, which shall investigate the facts of the challenge.
3. Within four business days after the City Clerk receives the written notice of election challenge, the Takoma Park Board of Elections shall issue a report of its factual investigation, together with a recommendation for action to the Council.

B. Within 10 business days after an election, the Council shall convene a special meeting to determine all election challenges.

C. The candidate or voter who submitted the election challenge shall be given a reasonable opportunity to be heard at the special meeting of the Council in regard to ~~his or her~~ their election challenge.

D. Any candidate or voter aggrieved by any decision or action of the Council on an election challenge shall have the right to appeal to the Circuit Court for Montgomery County.

E. Appeals shall be taken by way of petition filed with the Circuit Court for Montgomery County within five days from the date of the decision of the Council on an election challenge. Appeals shall be heard de novo and without a jury by the Circuit Court as soon as possible. (Ord. 2015-28, 2015/Ord. No. 2009-22, 5-19-09/prior code § 4D-16)

Comment [BE72]: This document retention policy is already provided under 5.16.080 and is duplicative here.

Comment [BE73]: The board has added business days to ensure timeliness and appropriate expectations on how many days to resolve issues if there is a weekend

5.16.080 Inspection of ballots in the event of an election challenge or appeal.

A. All ballots cast in any election shall remain locked and sealed for three months after the certification of election results or for as long as may be necessary or advisable because of any challenge to a result of an election or the validity of a ballot.

B. As part of the investigation and report of an election challenge or appeal, the ballot storage box or voting machine may be opened and the data and figures examined in order to count or recount the votes cast in the race, referendum question, or election being challenged or to determine any matter related to the validity of a ballot. Such ballot count or examination shall be conducted in response to an order of any court of competent jurisdiction or at the direction of the Takoma Park Board of Elections and in the presence of the principals involved in the election challenge or appeal or their authorized representatives. The Takoma Park Board of Elections or an individual appointed by a court of competent jurisdiction shall make a record of the votes for such challenged office or other matter relating to the validity of ballots or votes cast. (Ord. 2015-28, 2015/Ord. No. 2009-22, 5-19-09/prior code § 4D-17)

5.16.090 Penalties.

The following are Class A misdemeanor offenses or Class A municipal infractions:

- A. A person who is not a qualified voter of the City voting in a City election.
- B. Intentionally allowing a person who is not a qualified voter to vote in a City election.
- C. Tampering with, damaging, breaking or attempting to tamper with, damage or break any voting machine, ballot or other voting system or equipment used or to be used in any City election.
- D. Any other violation of this title, unless the violation has been designated as a Class B offense. (Ord. 2015-28, 2015/Ord. No. 2009-22, 5-19-09/prior code § 4D-18)

Chapter 5.20
ABSENTEE VOTING

Sections:

- 5.20.010 Who may vote.
- 5.20.020 ~~Applications~~ **Requests** for absentee ballots.
- 5.20.030 Late ~~applications-requests~~ for absentee ballots.
- 5.20.035 Instruction and assistance in absentee voting.
- 5.20.040 Determination of absentee voters' eligibility and delivery of ballots.
- 5.20.050 Absentee ballots.
- 5.20.060 Tabulation of absentee ballots.
- 5.20.070 Absentee ballot challenges and appeals.

5.20.080 Penalties.

5.20.010 Who may vote.

Any person who is qualified to vote may vote by absentee ballot in City elections. (Ord. 2015-28, 2015/Ord. No. 2009-22, 5-19-09/prior code § 4D-20)

5.20.020 ~~Applications~~ **Requests for absentee ballots.**

A. ~~An request~~ **application** for an absentee ballot, signed by the voter under penalty of perjury, may be made:

1. On a form provided by the City Clerk to the voter upon request; or
2. In a signed, written request that includes:
 - a. The voter's name and home address;
 - b. A certification that the voter is registered to vote and has been or will be a resident of the City ~~for at least 21 days immediately preceding the~~ **at the** date of the City election; and
 - c. The address to which the absentee ballot is to be mailed or delivered, if different from the voter's home address.

B. ~~Applications-Requests~~ for absentee ballots must be received by the City Clerk no later than 4:00 p.m. on the seventh calendar day preceding the election. (Ord. 2015-28, 2015/Ord. No. 2009-22, 5-18-09/prior code § 4D-21)

5.20.030 Late ~~applications-requests~~ for absentee ballots.

A. After the seventh calendar day preceding an election, through the official closing of the polls on election day, a qualified voter or the voter's authorized agent may apply in person to the City Clerk for an absentee ballot.

B. Late ~~applications-requests~~ for absentee ballots must be delivered to the City Clerk by the applicant, or ~~his or her~~ **their** authorized agent, in writing and include the voter's certification made under penalty of perjury setting forth the following:

1. The voter's name and home address;
2. That the voter is registered to vote and has been or will be a resident of the City ~~for at least 21 days~~ immediately preceding the date of the City election.

C. Upon receiving a late ~~application-request~~ for an absentee ballot, the City Clerk, if satisfied that the applicant is a qualified City voter and entitled to vote by absentee ballot, shall give the applicant, or ~~his or her~~ **their** authorized agent, an absentee ballot to be marked by the voter, placed in a sealed envelope and returned to the City Clerk. (Ord. 2015-28, 2015/Ord. No. 2009-22, 5-18-09/prior code § 4D-22)

Comment [BE74]: Since no excuse is required, absentee ballots are not 'applied for' but requested. Additional edits are throughout the text for consistency with this change.

5.20.035 Instruction and assistance in absentee voting.

- A. A voter may authorize an agent to pick up and deliver an absentee ballot.
- B. An agent of a voter:
 - 1. Must be at least 16 years of age;
 - 2. Must not be a candidate or an agent of any candidate in that City election;
 - 3. Must not be the voter’s employer or an agent of the employer;
 - 4. Must not be an officer or agent of the voter’s union;
 - 5. Shall be designated as the agent of the voter in writing signed by the voter under penalty of perjury; and
 - 6. Shall execute a certification under penalty of perjury that the ballot was delivered to the voter who submitted the application request, was marked and placed in a sealed envelope by the voter, or with permitted assistance, in the agent’s presence, and was returned to the City Clerk by the agent.
- C. Any voter who requires assistance in casting an absentee ballot by reason of disability, inability to write, or inability to read the ballot may be given assistance by an agent of the voter. An agent giving assistance to a voter pursuant to this subsection shall include a certification of assistance to be included with the absentee ballot. (Ord. 2015-28, 2015/Ord. No. 2009-22, 5-18-09)

5.20.040 Determination of absentee voters’ eligibility and delivery of ballots.

- A. Upon receipt of a request ~~application~~ for an absentee ballot containing a voter’s certification, the City Clerk shall determine if the applicant ~~requestor~~ is qualified to vote in the City election for which the absentee ballot is requested.
- B. If the applicant ~~requestor~~ is a qualified voter in the City, the City Clerk shall promptly deliver or mail the absentee ballot to the applicant ~~requestor~~.
 - 1. Postage for transmitting the absentee ballot material to the applicant shall be paid by the City and postage for the return of the ballot and related material shall be paid by the voter.
 - 2. The City Clerk shall endeavor to send the absentee ballots (except in the case of late applications ~~requests~~ for absentee ballot) to applicants not later than five days before the election date.
- C. The City Clerk shall keep a full record of absentee voting, including for each absentee voter:
 - 1. The date and time of receipt of an application ~~a request~~ for an absentee ballot;
 - 2. The name and home address of the applicant ~~requestor~~;
 - 3. The action taken with regard to the application ~~request~~;
 - 4. The date of issuance of an absentee ballot;
 - 5. If mailed, the address to which the ballot is sent;
 - 6. The date and time of the receipt of a voted absentee ballot; and
 - 7. Any other information deemed necessary.

Such absentee voting record shall be available for public review during the normal office hours of the City Clerk.

- D. Only one absentee ballot shall be issued to a voter unless the City Clerk has reasonable grounds to believe that the absentee ballot previously issued to the voter has been lost, destroyed or spoiled. (Ord. 2015-28, 2015/Ord. No. 2009-22, 5-18-09/prior code § 4D-23)

Comment [BE75]: Recommend that the city pay for return postage.

Comment [BE76]: In practice, the exact time is not recorded for when a request is received for a ballot.

5.20.050 Absentee ballots.

- A. Prior to any City election, the City Clerk shall print or cause to be printed an adequate number of applications requests for absentee ballots, absentee ballots, envelopes and instructions for absentee voters.
- B. The form and arrangement of all absentee ballot applications requests, certification forms, absentee ballots, ballot instructions, covering envelopes, ballot envelopes, and return envelopes shall be as determined by the Takoma Park Board of Elections. (Ord. 2015-28, 2015/Ord. No. 2009-22, 5-18-09/prior code § 4D-24)

5.20.060 Tabulation of absentee ballots.

- ~~A. No absentee ballots shall be opened before the official closing of the polls on election day.~~
- ~~B. Following the official closing of the polls on election day, the election judges shall proceed to open the absentee ballot envelopes and count the absentee ballots.~~

~~A.~~ Only absentee ballots received by the City Clerk prior to the official closing of the polls on election day shall be tabulated. An absentee ballot that is received after the official closing of the polls on election day shall not be counted.

~~B.~~ An absentee ballot shall be rejected if:

1. The election judges determine the voter died before election day;
2. The voter failed to sign the oath on the ballot envelope;
3. More than one absentee ballot was received from the same voter for the same City election in the same ballot envelope; or
4. The election judges determine that an absentee ballot is intentionally marked with an identifying mark that is clearly evident and placed on the ballot for the purpose of identifying the ballot.

~~C.~~ If more than one legally sufficient absentee ballot is received, in separate envelopes from the same voter, then the election judges shall count only the ballot with the latest properly signed oath and shall reject any other absentee ballot received from the voter.

~~D.~~ All absentee voters' applications requests, ballot envelopes and ballots shall be retained by the City Clerk for three months after the date of the election and may then be destroyed, unless prior to that time the City Clerk is ordered by a court of competent jurisdiction to keep the same for any longer period. (Ord. 2015-28, 2015/Ord. No. 2009-22, 5-18-09/prior code § 4D-25)

5.20.070 Absentee ballot challenges and appeals.

Election challenges and appeals relating to absentee ballots shall be determined as set forth in Section 5.16.070. (Ord. 2015-28, 2015/Ord. No. 2009-22, 5-18-09/prior code § 4D-26)

5.20.080 Penalties.

A violation of this chapter is a Class B municipal infraction offense. (Ord. 2015-28, 2015/Ord. No. 2009-22, 5-18-09/prior code § 4D-27)

Comment [BE77]: Many jurisdictions allow for processing (but not counting) of absentee ballots in advance of election day. This allows for faster counting of ballots as soon as polls close.

Chapter 5.22

PROVISIONAL BALLOTS

Sections:

- 5.22.010 Casting provisional ballots.
- 5.22.020 Provisional ballot application.
- 5.22.030 Assistance casting provisional ballot.
- 5.22.040 Provisional ballots.

5.22.050 Tabulation of provisional ballots.

5.22.010 Casting provisional ballots.

An individual is eligible to cast a provisional ballot in a City election if:

- A. The individual declares in a written affirmation submitted with the provisional ballot that the individual is a qualified voter of the City and is otherwise eligible to vote in that election; and
- B.
 - 1. The individual's name does not appear on either the list of registered voters in the City provided by the Montgomery County Board of Elections or the supplemental list of non-United States citizens who are registered to vote in City elections; or
 - 2. A City election official asserts that the individual is not eligible to vote; or
 - 3. The individual does not have the necessary identification, if any. (Ord. 2015-28, 2015/Ord. No. 2009-22, 5-18-09)

5.22.020 Provisional ballot application.

A. Before an individual casts a provisional ballot, the individual shall complete and sign the provisional ballot application prescribed by the Takoma Park Board of Elections.

B. At the time the provisional ballot is issued, the election official shall give the individual written information advising the individual that, and describing how, the individual will be able to ascertain whether the vote was counted and, if the vote was not counted, the reason it was not. (Ord. 2015-28, 2015/Ord. No. 2009-22, 5-18-09)

5.22.030 Assistance casting provisional ballot.

Any voter who requires assistance in casting a provisional ballot by reason of disability, inability to write, or inability to read the ballot may be given assistance by an individual of the voter's choice, not to include any candidate or an agent of any candidate in that City election, the voter's employer or agent of the employer, or an officer or agent of the voter's union. Any person giving assistance to a voter pursuant to this section shall include an affidavit of assistance to be included with the provisional ballot. (Ord. 2015-28, 2015/Ord. No. 2009-22, 5-18-09)

5.22.040 Provisional ballots.

A. Prior to any City election, the City Clerk shall print or cause to be printed an adequate number of applications for provisional ballots, provisional ballots, envelopes and instructions for provisional voters.

B. The form and arrangement of all provisional ballot applications, provisional ballots, instructions, and ballot envelopes shall be as determined by the Takoma Park Board of Elections. (Ord. 2015-28, 2015/Ord. No. 2009-22, 5-18-09)

5.22.050 Tabulation of provisional ballots.

A. The Takoma Park Board of Elections shall evaluate provisional ballot applications and include accepted provisional ballot votes in the certified election results presented to the Council.

B. Evaluation of provisional ballot applications shall be conducted by the Takoma Park Board of Elections.

C. The Takoma Park Board of Elections shall open an envelope containing a provisional ballot only after the Board has approved the provisional ballot application.

D. The Takoma Park Board of Elections may not reject a provisional ballot except by majority vote of ~~a panel appointed by the Chairperson of the Board~~ the Takoma Park Board of Elections. Grounds for rejection of a provisional ballot include, but are not limited to:

1. The individual who cast the provisional ballot is not a qualified voter in the City.
2. The individual returned a voted absentee ballot in that City election.
3. The individual cast more than one ballot in that City election.
4. The individual failed to sign the oath on the provisional ballot application.
5. The provisional ballot is intentionally marked with an identifying mark that is clearly evident and placed on the ballot for the purpose of identifying the ballot.
6. The individual failed to provide required identification or the identification submitted did not satisfy the identification requirements.
7. The individual provided incomplete or inaccurate information on the provisional ballot application.
8. An identity or residency challenge of the individual was upheld.

~~9. The individual was not eligible to receive a provisional ballot.~~

~~E. If the intent of the provisional voter with respect to a particular contest or question is not clearly demonstrated, then only the vote for that contest or question shall be rejected.~~

~~EE.~~ The Takoma Park Board of Elections, in coordination with the City Clerk, shall establish a system that any individual who casts a provisional ballot may access without cost to discover whether the ballot was counted and, if not counted, the reason it was not. The system shall ensure the confidentiality of the individual who accesses the system and the secrecy of each ballot. (Ord. 2015-28, 2015/Ord. No. 2009-22, 5-18-09)

Comment [BE78]: The BOE should be the voting body on this, not an ad-hoc panel appointed by the chair.

Comment [BE79]: Items 1-8 spell out if an individual was not eligible.

Comment [BE80]: Section 5.16.060(B)(3) would still apply to provisional voters, it does not seem necessary to restate it here.

Chapter 5.24

BOARD OF ELECTIONS

Sections:

- 5.24.010 Establishment of Board of Elections.
- 5.24.020 Membership and term of office.
- 5.24.030 Administration.

5.24.040 Duties of the Board of Elections.

5.24.010 Establishment of Board of Elections.

The City of Takoma Park Board of Elections is established. The Board of Elections shall be composed of up to seven members who shall be appointed by the Council. The Council shall make every effort to ensure that the Board of Elections includes representatives from each Council ward. (Ord. 2015-28, 2015/Ord. 2007-36 § 1, 2007: Ord. 2006-36 (part), 2006)

5.24.020 Membership and term of office.

A. Qualifications. Members of the Board of Elections shall be qualified voters of the City and shall not hold or be a candidate for any elective office in government (Federal, State, County, or local) during their term on the Board. Members of the Board of Elections also shall not serve as the treasurer or campaign manager for any candidate for City elective office or be an advocate for or against any campaign or ballot referendum question in a regular or special City election. Any member who ceases to meet the qualifications for membership on the Board of Elections shall automatically forfeit ~~his or her~~their membership on the Board and the Council may act to fill the vacancy.

B. Term. Members of the Board of Elections shall serve staggered three-year terms. ~~Initial appointments to the Board shall be for one, two or three years.~~ ^{Initial appointments to the} All terms shall begin on July 1st and end on June 30th. Midterm vacancies on the Board of Elections shall be filled by the Council for the remainder of the unexpired term.

Comment [BE81]: In practice it has always been for 3 years

C. Removal. Any member of the Board of Elections may be removed by the Council before the member's term has expired if the Council determines that the member has become incapacitated, has failed to reasonably perform ~~his or her~~their duties as a member of the Board of Elections, or for other good cause. Before removal, the member of the Board of Elections who is proposed to be removed shall be given written notice of the proposed removal and the reasons for such action. If the Board member requests a public hearing on the proposed removal within 10 days after receipt of the written notice, then the Council shall conduct a hearing before acting on the proposed removal. Any member who fails to attend, without being properly excused by the Chairperson, three or more consecutive meetings of the Board, or a majority of five consecutive meetings, shall be deemed to have provided good cause for removal by the Council. (Ord. 2015-28, 2015/Ord. 2006-36 (part), 2006)

5.24.030 Administration.

A. Officers. The Board of Elections shall elect a Chairperson and Vice Chairperson for a one-year term or until a successor is elected.

B. Quorum. A majority of the members of the Board of Elections shall constitute a quorum for the transaction of business.

C. Meetings. The Board of Elections shall meet as required to perform its duties, but at least once a year. Regular or special meetings shall be convened by the Chairperson or by a majority of the members of the Board of Elections.

D. Adoption of Bylaws and Rules of Procedure. The Board of Elections may adopt bylaws and rules of procedure to further regulate the activities of the Board. (Ord. 2015-28, 2015/Ord. 2006-36 (part), 2006)

5.24.040 Duties of the Board of Elections.

The Board of Elections shall:

- A. Plan and conduct regular and special City elections in coordination with the City Clerk;

- B. Encourage voter registration in the City;
- C. Conduct voter education programs and prepare and distribute voter outreach materials;
- D. Recommend to the Council amendments to the City's elections law and regulations when it deems such amendments are necessary and will provide for the improved conduct of elections;
- E. Periodically review City elections procedures;
- F. Serve as election judges in City elections;
- G. ~~Recommend-Identify~~ additional qualified individuals ~~to the Council for appointment~~ as election judges and workers during a regular or special City election;
- H. Perform such other duties as may be assigned to the Board of Elections by Charter, ordinances and resolutions, and by the direction of the Council. (Ord. 2015-28, 2015/Ord. 2006-36 (part), 2006)

Comment [BE82]: Allows the BOE to find and approve election judges and workers without council action.