



## Takoma Park City Council Meeting – March 4, 2020 Agenda Item 3

### **Work Session**

Continued Discussion of Board of Elections' Recommendations for Changes to the Election Code.

### **Recommended Council Action**

Review and discuss the proposed revisions to Title 5, Elections.

### **Context with Key Issues**

The Takoma Park Board of Elections (BOE) presented to the City Council recommended revisions to the City's Elections Code on June 5, 2019. The City Council held work session discussions on September 18 and November 6, 2019. At a work session on January 29, 2020, the BOE and new City Attorney received comments and questions from the Council. The City Attorney, City Clerk, Chair of the BOE, and Vice Chair collaborated after the work session, revisions were made, and the full BOE reviewed the same at its meeting on February 13. Minor revisions were suggested by the BOE and, for the most part, were made. The text has been further refined since that time. Substantive changes have been highlighted in the text of the ordinance. A summary of revisions discussed and actions taken is attached.

First reading of the ordinance amending Title 5 is tentatively scheduled for March 18. Second reading is tentatively scheduled for March 25.

### **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**

- Summary of revisions discussed and actions taken
- Title 5, Elections showing recommended revisions.

**City Council Meeting – March 4, 2020**

**Continued Discussion of Board of Elections' Recommendations for Changes to the Elections Code**

**Summary of Code Revisions Discussed and Actions Taken**

**I. Code Revisions Discussed.**

A. January 29th Discussion Regarding Previously Identified Issues.

1. Item 1. Definition of Campaign.

Action - Revisit definition of campaign in the context of questions raised regarding enforcement as it relates to Political Committee.

*Update: Leave undefined. State does not have a definition in its code.*

2. Item 5. Enforcement of violations related to Campaign Material.

Action—Add language to the Code allowing BOE to direct that violation be corrected.

*Update: Language added to 5.24.040. See p. 25, L. 1088-89.*

3. Item 15. Surplus Campaign Funds.

Action – Determine if it is appropriate to donate surplus funds to the City.

Action – Indicate preference for donation to Greater Takoma Park area organizations.

*Update: Language added to 5.12.030. See p. 11, L. 470-77.*

Action – Address context of "City office" in 5.12.030A.

*2/12 Update: Language added to make clear that it is for the same candidate running for City office or another elected office. See p. 11, L. 460-61.*

B. January 29th Discussion Regarding Code Sections.

1. Political Committees.

*2/12 Update: New recommended definition for political committee inserted. See p. 4, L. 159-62.*

2. Contributions.

a. Campaign Events in Homes/Community Centers. But how is it tracked?

*2/12 Update: After further discussion with the BOE Chair and Vice Chair, it was agreed this could be addressed by a general reporting category in the forms separate from contributions. I altered the definition of contribution by moving language from that term and placing it in a new definition for the term "safe harbor event." See p. 4-5, L. 176-197. I then added language to 5.12.022C6 requiring that safe harbor events be reported. See p. 10, L. 413-14.*

- b. Drafting revisions needed for clarity in definitions related to contributions.

*2/12 Update: Mostly in Safe Harbor Definition. See p. 4-5, L. 176-197.*

- 3. Remove option not to report \$25 contributions.

*2/12 Update: Completed.*

- 4. Anonymous Contributions – Confirmed that they are prohibited.

*2/12 Update: None.*

- 5. Authority Lines.

- a. Clarify language regarding small items.

*2/12 Update: Language addressed. See p. 6, Lines 241-66.*

- b. Clarify requirements for social media.

*2/12 Update: Language addressed. Relied on COMAR 33.13.07.02. See p. 6, Lines 241-66.*

- 6. Should the City add one more report prior to election?

*2/12 Update: Report timing adjusted to three weeks from caucus and to fourteen days before early voting. See p. 9, L 383-89.*

## **II. Not discussed with Council on 1/29 but for consideration by BOE.**

### **A. Changes Made Post-1/29**

- 1. The City may want to consider including language that allows the BOE to adopt state code provisions and local government provisions regarding elections in the event an issue is not covered by the City Code (what happens if there is a tie vote and a recount and/or runoff is needed?).

*2/12 Update: Added. See p. 25, L. 1093-96.*

- 2. The BOE should have authority to investigate election violations. The Code says the BOE has authority to investigate election challenges.

*2/12 Update: Added. See p. 25, 1088-89.*

3. I understand concerns about the campaign signs and where that information is located in the code, but who has the authority to enforce violations related to campaign signs? Is it the BOE or some other City entity? It could get confusing as to the precise nature of the violation (improper placement? or campaign violation?).

*2/12 Update: See p. 7, L. 274-75.*

4. The BOE likely has inherent authority to adopt regulations, but it is better to address it directly in the Code, making regulations subject to Council review and approval.

*2/12 Update: Added. See 5 p. 24, L. 1061-62.*

5. Identify the City Attorney as the legal advisor to the BOE.

*2/12 Update: Added. See p. 24, 1065.*

6. Who is going to review the Campaign Finance Reports? City Clerk with BOE?

*2/12 Update: Language satisfactory with respect to City Clerk.*

7. Will campaign finance reports be posted online? Need to consider forms and authority to redact for PID/financial information (inherent authority to redact, but often better if expressed). Should a modified format be utilized for online posting? May depend on what data is in the forms.

*2/12 Update: Will address administratively with Clerk's Office.*

8. Discuss with BOE status of funds raised in one election and utilized in subsequent election. Reference was made to such funds being treated as a candidate's donation. Need to know basis for that conclusion.

*2/12 Update: Understand and agree with Board's position that funds carried over are exempt from reporting requirements in subsequent election.*

9. Consider adding language to the Code that would make Maryland State Code controlling with respect to election signs. This would be especially helpful now that the City is on general cycle and using at least one County location.

*2/12 Update: Addressed. See p. 7, L. 274-75.*

10. What is the purpose of having "disbursements" defined in the Code? Is it advisable to distinguish between disbursements and expenditures?

*2/12 Update: I now understand the Board's position on including the definition of disbursements and that it may be a more accurate way to track expenditures.*

B. Discussed and Tabled for After 2019 Election.

1. Has any consideration been given to having the Council removed from deciding election challenges and replacing the Council with the BOE?

*2/12 Update: Table for post-2019 election.*

2. Why is there a provision in the Code for a "voter" to challenge the election results, generally? Consider outlining bases for voter and/or candidate to challenge election?

*2/12 Update: Table for post-2019 election.*

1 Introduced By: \_\_\_\_\_

First Reading: \_\_\_\_\_

2 Second Reading: \_\_\_\_\_

3 Effective Date: \_\_\_\_\_

4  
5 **CITY OF TAKOMA PARK, MARYLAND**  
6 **ORDINANCE 2020-\_\_**  
7

8 **AMENDING THE CITY OF TAKOMA PARK CODE, TITLE 5,**  
9 **ELECTIONS: CH. 5.04 GENERAL PROVISIONS, CH. 5.08 WARDS, CH.**  
10 **5.12 FAIR ELECTION PRACTICES, CH. 5.16 VOTING, CH. 5.20**  
11 **ABSENTEE VOTING, CH. 5.22 PROVISIONAL BALLOTS, AND CH. 5.24**  
12 **BOARD OF ELECTIONS**  
13

14 **WHEREAS,** Article XI-E of the Constitution of Maryland grants the City the authority to hold  
15 municipal elections; and

16  
17 **WHEREAS,** the Maryland Code, Local Government Article, Section 5-202, as amended,  
18 authorizes the legislative body of each municipal corporation in the State of  
19 Maryland to pass ordinances that such legislative body deems necessary to assure  
20 the good government of the municipality, to protect and preserve the  
21 municipality’s rights, property and privileges, to preserve peace and good order,  
22 to secure persons and property from danger and destruction, and to protect the  
23 health, comfort, and convenience of the citizens of the municipality; and  
24

25 **WHEREAS,** Section 607 of the City Charter states that the Council has the power to provide  
26 by Ordinance for the conduct of City elections generally and shall designate a  
27 convenient polling place, the manner of holding City elections, and the voting  
28 system to be used for the City election; and  
29

30 **WHEREAS,** Section 5.24.040(D) of the City Code charges the Takoma Park Board of  
31 Elections with recommending to the Council amendments to the City’s election  
32 laws and regulations when it deems such amendments are necessary and will  
33 provide for the improved conduct of elections; and  
34

35 **WHEREAS,** the Takoma Park Board of Elections has recommended adoption of certain  
36 amendments prior to the November 3, 2020 City Election; and  
37

38 **WHEREAS,** the Council last amended *Takoma Park Code*, Title 5, Elections on July 13, 2015,  
39 by Ordinance No. 2015-28; and  
40

41 **WHEREAS,** the Council, after having reviewed the proposed revisions and upon making  
42 further modifications, desires to amend Title 5 of the City Code.  
43

44 **NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF**  
45 **TAKOMA PARK, MARYLAND,** that Title 5, Elections, of the *City of Takoma Park Code* is  
46 hereby amended as follows:

**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, including social media; 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

92 is in the process of being petitioned to referendum; and is published or distributed to anyone by,  
93 at the request of, or under the authority of, a candidate or political committee.  
94

95 “Campaign report” means a report of all contributions received by ~~any~~ candidate and all  
96 distributions made by a candidate ~~or political committee.~~  
97

98 “Candidate” means any ~~person~~ individual who seeks nomination or election as to the office of  
99 Mayor or Councilmember.  
100

101 “Contributions” means any gift, subscription, loan, advance, deposit of money, transfer of money,  
102 or transfer of ~~other~~ anything of value made by any person to any candidate for the purpose of  
103 influencing any election for City office ~~his or her representative or to a political committee to~~  
104 promote the success or defeat of a candidate for elected City office or of any matter or issue which  
105 has been submitted to a vote at an election or is in the process of being petitioned to referendum.  
106 The term “contribution” does not include the value of services provided without compensation by  
107 an individual who volunteers on behalf of a candidate **as a campaign worker.**  
108

109 “Disbursement” means any purchase or payment made by a candidate that is subject to this title.  
110 This term includes expenditures and all other kinds of payments by a candidate not made to  
111 influence an election.  
112

113 “Election” means the process by which the voters of the City vote for Mayor or Councilmember,  
114 any Charter amendment, proposition or question and, unless otherwise indicated, shall include all  
115 elections, general, special, runoff, and referendum.  
116

117 “Expenditure” means any purchase, payment, distribution, loan, advance, deposit, or gift of money  
118 or transfer of anything of value, made by any person for the purpose of influencing any election  
119 for City office, including any promise or agreement to make an expenditure.  
120

121 The term “expenditure” does not include:  
122

123 1. Any news story, commentary, or editorial distributed through the facilities of any  
124 broadcasting station, newspaper, magazine, or other periodical publication, unless such facilities  
125 are owned or controlled by any political party, political committee, or candidate;  
126

127 2. Nonpartisan activity designed to encourage individuals to vote or to register to vote; or  
128

129 3. Any communication by any membership organization or corporation to its members,  
130 stockholders, or executive or administrative personnel, if such membership organization or  
131 corporation is not organized primarily for the purpose of influencing the nomination for election,  
132 or election, of any individual to City office.  
133

134 “In-kind contribution” means any non-monetary contribution, such as goods or services offered  
135 free or at less than the usual and normal charge, including expenditures made by any person or  
136 entity in cooperation, consultation, or concert with, or at the request or suggestion of, a candidate  
137 or an agent of a candidate.



138  
139 ~~“In-kind contribution” means the fair market value for goods or services for which the contributor~~  
140 ~~normally charges, and payments made on behalf of a candidate, except that volunteering the~~  
141 ~~contributor’s own time or use of a personal vehicle or residence to a campaign shall not constitute~~  
142 ~~an in-kind contribution. The fair market value shall be the usual and normal charge for a good or~~  
143 ~~service.~~

144  
145 “Person” means an individual, partnership, committee, association, corporation, labor  
146 organization, or any other organization or group of persons, but such term does not include the  
147 City of Takoma Park or any authority of the City.

148  
149 “Personal funds” mean any assets which the candidate has a legal right of access to or control over,  
150 and which they have legal title to or an equitable interest in, at the time of candidacy; income from  
151 employment; dividends and interest from, and proceeds from sale or liquidation of, stocks and  
152 other investments; income from trusts, if established before the election cycle; income from trusts  
153 established by bequests (even after candidacy); bequests to the candidate; personal gifts  
154 customarily received by the candidate prior to the beginning of the election cycle; and proceeds  
155 from lotteries and similar games of chance.

156 ~~“Political committee” means any combination of two or more persons which has as one of its~~  
157 ~~purposes to promote the success or defeat of a candidate or of any matter or issue which has been~~  
158 ~~submitted to a vote at an election or is in the process of being petitioned to referendum. any~~  
159 ~~combination of two (2) or more persons formed in any manner which independently collects or~~  
160 ~~expends a cumulative amount of one hundred dollars (\$100.00) or more to assist in the promotion~~  
161 ~~of the success or defeat of any candidate for City elective office or any cause to be submitted to~~  
162 ~~the voters.~~

163  
164 ~~“Political matter” means any pamphlet, circular, card, sample ballot, poster, billboard,~~  
165 ~~advertisement, button or any other printed, photographed, typewritten or written material or~~  
166 ~~statement relating to or concerning any candidate or prospective candidate or any matter or issue~~  
167 ~~which has been submitted to a vote at an election or is in the process of being petitioned to~~  
168 ~~referendum.~~

169  
170 “Provisional ballot” means a ballot that is cast by an individual but not counted until the  
171 individual’s qualifications to vote have been confirmed by the Takoma Park Board of Elections.

172  
173 “Registration” means the act by which a person becomes qualified to vote in any election in the  
174 City.

175  
176 “Safe harbor events” mean:

- 177  
178 1. The use of real or personal property, including a church or community room used on a  
179 regular basis by members of a community for noncommercial purposes, when said real or personal  
180 property is used for a candidate-related or political committee-related activity, and the cost of  
181 invitations, food, and beverages, voluntarily provided by an individual to any candidate or any  
182 political committee of a political party in rendering voluntary personal services on the individual’s

183 residential premises or in the church or community room for candidate-related or political party-  
184 related activities, to the extent that the cumulative value of such invitations, food, and beverages  
185 provided by such individual on behalf of any single candidate does not exceed \$200 with respect  
186 to any single election; or

187  
188 2. The sale of any food or beverage by a vendor for use in any candidate’s campaign or for  
189 use by or on behalf of any political committee of a political party at a charge less than the normal  
190 comparable charge, if such charge is at least equal to the cost of such food or beverage to the  
191 vendor, to the extent that the cumulative value of such activity by such vendor on behalf of any  
192 single candidate does not exceed \$200 with respect to any single election; or

193  
194 3. Any unreimbursed payment for travel expenses made by any individual on behalf of any  
195 candidate or any political committee of a political party, to the extent that the cumulative value of  
196 such activity by such individual on behalf of any single candidate does not exceed \$200 with  
197 respect to any single election.

198  
199 “Surplus campaign funds” means funds left in a candidate’s campaign account after the election is  
200 over and all campaign debts (including all loans) have been paid.

201  
202 “Voting system” means a method of casting and tabulating ballots or votes. (Ord. 2015-28,  
203 2015/Ord. No. 2009-22, 5-18-09/prior code § 4D-2)

## Chapter 5.08

### WARDS

204  
205  
206  
207  
208  
209 Sections:

210 5.08.010 Description of ward boundaries.

#### 211 **5.08.010 Description of ward boundaries.**

212  
213  
214 ~~A. The City is divided into six wards for purposes of City elections. Each ward shall be compact~~  
215 ~~in form and composed of adjoining territory. The populations of the wards shall be substantially~~  
216 ~~equal.~~

217  
218 ~~B. The City is divided into six wards for the purposes of City elections. The boundary lines of~~  
219 ~~the six wards shall be as they are shown on the map and accompanying street directory designated~~  
220 ~~“2013 District Plan and Street Directory,” dated December 3, 2012, including any corrections~~  
221 ~~made since that time, incorporated herein, on file and available for inspection in the office of the~~  
222 ~~City Clerk. (Ord. 2015-28, 2015/Ord. 2013-3 § 1, 2013/Ord. 2003-17 § 1, 2003/prior code § 4D-~~  
223 ~~5)~~

Chapter 5.12

FAIR ELECTION PRACTICES

Sections:

- 5.12.010 ~~Political matter~~ Campaign material published or distributed.
- 5.12.020 ~~Campaign reports~~ contributions and expenditures.
- 5.12.021 Use of contributed amounts for certain purposes
- 5.12.022 Campaign finance reports
- 5.12.030 Surplus campaign funds.
- 5.12.040 Financial disclosure statements.

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

~~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.~~

A. Unless otherwise stated in this Chapter, each item of campaign material shall contain, set apart from any other message, an authority line that states the name, title, and address of the person, treasurer, or campaign manager responsible for 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.~~

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

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. With respect to campaign material utilizing electronic media, compliance with section 5.12.010A is achieved if the display page or information or opinion contains an internet address of the political committee responsible for the publication or distribution and allows the receiver of the display page or information or opinion to click on the internet address or hyperlink address and be taken to a landing or home page that prominently displays the authority line information.

D. If campaign material is too small to contain an authority line, the candidate, committee, or individual distributing the campaign material, shall notify the City Clerk in writing within twenty-four hours of the campaign material's posting or distribution. The City Clerk shall than make the information available to the public.

E. 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

270 statement: “This message has been authorized and paid for by (name of payer or any organization  
271 affiliated with the payer). This message has not been authorized or approved by any candidate or  
272 campaign.”

274 F. Campaign signs for City elections shall only be displayed in compliance with applicable federal,  
275 state, and local laws.

277 € G. A violation of this section is a Class B offense. (Ord. 2015-28, 2015/prior code § 4D-6)

279 **5.12.020 Campaign reports contributions and expenditures.**

281 A. Except as provided in subsection (B), no person shall make contributions, either directly  
282 or indirectly, including in-kind contributions, to any candidate with respect to any election for City  
283 office which, in the aggregate, exceed one thousand dollars (\$1,000.00) during a single election  
284 cycle. Any individual, association, unincorporated association, corporation, or any other entity,  
285 either directly or indirectly, may not contribute any money or thing of value greater than one  
286 thousand dollars (\$1,000.00) to any single candidate or political committee during a single election  
287 cycle. Candidates and their spouse or domestic partner may donate unlimited amounts to their  
288 own campaign.

290 B. Contributions made by a candidate from their personal funds, or from assets jointly owned  
291 with their spouse or domestic partner, are not subject to any limits on the amount contributed.

293 C. For purposes of this section—

295 1. Contributions to a named candidate made to any person authorized by such candidate to  
296 accept contributions on the candidates behalf shall be considered to be contributions made to such  
297 candidate;

299 2. Expenditures made by any person in cooperation, consultation, or concert, with, or at the  
300 request or suggestion of, a candidate or their agents, shall be considered to be a contribution to  
301 such candidate; and

303 3. All contributions made by a person, either directly or indirectly, on behalf of a particular  
304 candidate, including contributions which are in any way earmarked or otherwise directed through  
305 an intermediary or conduit to said candidate, shall be treated as contributions from such person to  
306 said candidate, and the intermediary or conduit shall report the original source and the amount  
307 contributed to said candidate.

309 D. Candidates shall not utilize or retain anonymous contributions of any amount. If a candidate  
310 receives an anonymous contribution, the amount shall be declared in campaign reports and  
311 contributed to the City’s general fund no later than 4:00pm on the Monday following the election.

313 E. An expenditure is made on behalf of a candidate if it is made by—

314 1. Any other agent of the candidate for purposes of making any expenditure; or  
315

316 2. Any person authorized or requested by the candidate or an agent of the candidate to make  
317 the expenditure.

318  
319 F. A candidate may make unlimited expenditures from the candidate's personal funds, or from  
320 assets jointly owned with their spouse or domestic partner.

321  
322 G. No candidate shall knowingly accept any contribution or make any expenditure in violation  
323 of the provisions of this section. No officer, agent or employee of a candidate shall knowingly  
324 accept a contribution made for the benefit or use of a candidate, or knowingly make any  
325 expenditure on behalf of a candidate, in violation of any limitation imposed on contributions and  
326 expenditures under this section.

327  
328 H. A violation of this section is a Class B offense. (Ord. 2015-28, 2015/prior code § 4D-7)

329  
330 **5.12.021 Use of contributed amounts for certain purposes.**

331  
332 A. A contribution accepted by a candidate and any other donation received by an individual as  
333 support for activities of the holder of City office, may be used by the candidate or individual as  
334 follows:

335  
336 1. For otherwise authorized expenditures in connection with the candidate's campaign for  
337 City office;

338  
339 2. For ordinary and necessary expenses incurred in connection with duties of the individual  
340 as a holder of City office;

341  
342 3. For donations to an organization that is classified as a 501(c)(3) nonprofit organization  
343 under 26 U.S. Code § 501, or to an organization which has received City grant funding within the  
344 last 2 years; or

345  
346 4. For transfer to another authorized political committee for the purpose of nominating or  
347 electing said candidate to any local, State, or Federal office;

348  
349 5. For any other lawful purpose unless prohibited by any subsection of this section.

350  
351 B. A contribution or donation described in subsection (A) shall not be converted by any person  
352 to personal use.

353  
354 C. For the purposes of subsection (B), a contribution shall be considered to be converted to  
355 personal use if the contribution or amount is used to fulfill any commitment, obligation, or expense  
356 of a person that would exist irrespective of the candidate's election campaign or individual's duties  
357 as a holder of City office.

358  
359 D. A contribution shall not be transferred from a candidate's campaign account to another  
360 candidate or to another national, State, or local committee of a political party.

361  
362 E. A violation of this section is a Class B offense. (Ord. 2015-28, 2015/prior code § 4D-7)  
363

364 **5.12.022 Campaign finance reports.**  
365

366 A. ~~Each candidate or his or her~~ their authorized representative ~~and each authorized representative~~  
367 ~~of any political committee shall file a reports with the City Clerk disclosing the total monetary~~  
368 ~~contributions, as well as the names and addresses of all persons, other than the candidate or~~  
369 ~~members of his or her immediate family, who contribute anything of value, other than volunteer~~  
370 ~~services, of \$25.01 or more in an election. All campaign reports filed shall be available for public~~  
371 ~~review during the normal office hours of the City Clerk~~ all contributions and all disbursements in  
372 accordance with this section.  
373

374 1. ~~An initial report listing contributions received since the date of the last preceding election~~  
375 ~~to fill the office for which the candidate is running shall be filed with the City Clerk no later than~~  
376 ~~the Monday at least seven days preceding the election.~~

377  
378 2. ~~A final report of campaign contributions not previously reported shall be filed with the~~  
379 ~~City Clerk no later than 4:00 p.m. of the Monday following the election.~~

380  
381 3. ~~Even if no contributions have been received since the end of the period for which the last~~  
382 ~~preceding report was filed or due, a statement to that effect must be filed with the City Clerk.~~  
383

384 **B. The candidate or their authorized representative shall file the following reports:**  
385

386 1. A post-nomination report, which shall be filed no later than 4:00pm of the second third  
387 Monday after the City Nominating Caucus;  
388

389 2. A pre-election report, which shall be filed no later than 4:00pm of the Monday at least  
390 seven fourteen days preceding the start of early voting;  
391

392 3. Post-election report no later than 4:00pm of the Monday following the election.  
393

394 4. An annual report, no later than January 31 of each year, on the retention or disposition of  
395 surplus campaign funds until all such funds are used or distributed  
396

397 **C. Each report under this section shall disclose:**  
398

399 1. The amount of cash on hand at the beginning of the reporting period;  
400

401 2. The total amount of all contributions for the reporting period and the election cycle;  
402

403 3. The identification of each person who makes a contribution to the candidate during the  
404 reporting period;  
405

406 4. The total amount of all disbursements, including all expenditures, for the reporting period  
407 and the election cycle; and  
408

409 5. The name and address of each person to whom a disbursement or expenditure in an  
410 aggregate amount or value in excess of fifty dollars (\$50.00) within the election cycle is made by  
411 the reporting candidate, together with the date, amount, and nature or purpose of such operating  
412 expenditure.  
413

414 6. The date, location, and nature of any safe harbor events and a certification by the candidate  
415 that all reported safe harbor events comply with the City's election code.  
416

417 **BD.** All campaign reports shall be made on the forms designated by the City Clerk. The  
418 campaign reports shall contain a certification by the ~~person responsible for filing the report~~  
419 candidate or authorized representative of the candidate that the contents of the report are true and  
420 complete to the best of the certifying person's knowledge, information, and belief.  
421

422 **CE.** There is a late filing fee for each campaign report which is not filed within the time prescribed  
423 in this section. The fee is \$10.00 for each day or part of a day, excluding Saturdays, Sundays and  
424 holidays, that a report is overdue. The maximum late fee payable with respect to any single report  
425 is \$250.00.  
426

427 1. The City Clerk shall receive an overdue campaign report even if any late filing fee has not  
428 been paid, but the report shall not be considered officially filed until all fees have been paid.  
429

430 2. Upon receipt by the City Clerk of an overdue campaign report, no further late filing fees  
431 shall be incurred, notwithstanding the fact that the report is not considered officially filed.  
432

433 3. It is the personal responsibility of the candidate, ~~if it is the report of a candidate, and~~ or of  
434 the authorized representative of a political committee to file all reports in complete and accurate  
435 detail and to pay all late filing fees. A late filing fee ~~may~~ shall not be paid, directly or indirectly,  
436 from contributions to the candidate or political committee.  
437

438 **DE.** A campaign report must be attested to as complete and accurate to be deemed "filed." If  
439 there is a material or significant deficiency in a campaign report, the City Clerk ~~shall will~~ notify  
440 the candidate or political committee, in writing, of the deficiency. The candidate or political  
441 committee ~~then has~~ shall file a corrected report within two weeks from the date of that ~~notice to~~  
442 ~~file a corrected report~~. If a corrected report is not filed within two weeks or if a corrected report is  
443 not attested to as complete and accurate, then daily late filing fees will be assessed.  
444

445 **EG.** If the City Clerk determines that there is a material or significant deficiency in a corrected  
446 report, then the candidate or political committee must continue to correct and resubmit the  
447 campaign report to the City Clerk until such campaign report is accepted. In ~~this~~ such case, daily  
448 late filing fees will continue to be assessed.  
449

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

453  
454 I. All campaign reports filed, and all notifications of deficiencies and late filing fees, shall be  
455 available for public review during the normal office hours of the City Clerk.  
456

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

458 **5.12.030 Surplus campaign funds, dispositions, and reports.**  
459

460 ~~A. Surplus campaign funds may be used at the discretion of the candidate for any community or~~  
461 ~~political purpose, except:~~ retained after an election and used by the candidate to support that same  
462 candidate's election or reelection to any City office or any other elected office.  
463

464 B. Surplus campaign funds of a candidate, which are not retained in accordance with this section,  
465 shall be disposed of in accordance with subsection (C) of this section.  
466

467 C. A candidate may dispose of surplus campaign funds by:  
468

469 1. Returning the funds, pro rata, to the contributors; or  
470

471 2. Donating the funds to the City's general fund; or  
472

473 3. Donating the funds to an organization that is classified as a 501(c)(3) nonprofit  
474 organization under 26 U.S. Code § 501 or to an organization which has received City grant funding  
475 within the last 2 years. In the event a candidate determines to donate surplus funds to an  
476 organization meeting the criteria in section 5.12.021(c)(3), preference for the donation should be  
477 given to organization providing services in the City of Takoma Park or to an organization  
478 providing services in the City of Takoma Park metropolitan area.  
479

480 D. Prohibited uses of surplus campaign funds include:  
481

482 1. The personal use of the candidate, the treasurer, or any member of the candidate's  
483 campaign staff, or the immediate family members of those individuals ~~(however, use of surplus~~  
484 ~~funds to hold a party for campaign supporters is a permitted political purpose); or~~  
485

486 2. A transfer to a political committee or a candidate other than the political committee or  
487 individual candidate for whom the funds were raised.  
488

489 ~~BE.~~ A candidate, or any individual who previously was a candidate and has retained surplus  
490 campaign funds, shall report annually, no later than January 31, on the retention or disposition of  
491 surplus campaign funds until all such funds are depleted.  
492

493 F. A violation of this section is a Class B offense. (Ord. 2015-28, 2015/prior code § 4D-8)  
494



495 **5.12.040 Financial disclosure statements.**

496

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

499

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

504

**Chapter 5.16**

505

**VOTING**

506

507

508 Sections:

509 5.16.010 Voting systems.

510 5.16.020 Ballots.

511 5.16.030 Instruction and assistance in voting.

512 5.16.040 Time allowed for voting.

513 5.16.050 Closing of polls.

514 5.16.060 Tabulation of votes.

515 5.16.070 Election challenges and appeals.

516 5.16.080 Inspection of ballots in the event of an election challenge or appeal.

517 5.16.090 Penalties.

518

519 **5.16.010 Voting systems.**

520

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

522

523 B. The City Council may purchase, rent, lease or otherwise acquire such voting systems and  
524 related equipment as may be required for an election. (Ord. 2015-28, 2015/Ord. No. 2009-22, 5-  
525 18-09/prior code § 4D-10)

526

527 **5.16.020 Ballots.**

528

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

530

531 1. The name of every candidate who has been nominated in accordance with the provisions  
532 of the Charter and with this title;

533

534 2. A description of every question which is to be submitted to a vote.

535

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

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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. Honorifics and titles shall not appear on ballots.

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 of the offices for which he or she may vote and the number of persons for whom he or she 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.”

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 action:

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~~ sample ballots.” Any such

582 ~~specimen~~ sample ballots shall be conspicuously posted at each polling place and may be distributed  
583 to voters. (Ord. 2015-28, 2015/prior code § 4D-11)  
584

585 **5.16.030 Instruction and assistance in voting.**  
586

587 A. Upon request, election judges or election workers shall instruct a voter regarding the operation  
588 of the particular voting system.  
589

590 B. Any voter who requires assistance in voting by reason of disability, inability to write, or  
591 inability to read the ballot may be given assistance by an individual of the voter's choice. A voter  
592 may not choose a candidate or an agent of any candidate in that City election, the voter's employer  
593 or agent of the employer, or an officer or agent of the voter's union. In the event a voter chooses  
594 no one, an election judge or election worker may assist the voter. Any person giving assistance to  
595 a voter pursuant to this subsection shall complete an affidavit of assistance to be filed with the  
596 ~~Chief Judge~~ designated election worker.  
597

598 1. After such an affidavit has been made and filed, the voter may enter into a voting machine,  
599 booth or other place set aside for voting with the person of the voter's choice. The person whom  
600 the voter has selected or, in the case the voter has selected no one, the election judge shall mark  
601 the ballot or operate the voting machine as the voter shall direct.  
602

603 2. The only assistance which will be lawful for the person whom the voter has selected or for  
604 the election judge to give the voter is to mark the ballot or operate the voting machine as the voter  
605 shall direct, without prompting or suggestion.  
606

607 3. A voter may not be accompanied into a voting ~~machine~~, booth or other place set aside for  
608 voting by any person ~~over the age of 15 years~~ 16 years of age or older, unless the affidavit required  
609 by subsection (B) of this section has been ~~accepted by an election judge~~ filed. (Ord. 2015-28,  
610 2015/Ord. No. 2009-22, 5-19-09/Ord. 2005-34, 2005/prior code § 4D-12)  
611

612 **5.16.040 Time allowed for voting.**  
613

614 Each voter is expected to mark the ballot or operate the voting machine expeditiously and may be  
615 required to leave the voting ~~machine~~, booth or other place set aside for voting after ~~five minutes~~ a  
616 reasonable period of time to vote has passed. (Ord. 2015-28, 2015/Ord. No. 2009-22, 5-19-09/prior  
617 code § 4D-13)  
618

619 **5.16.050 Closing of polls.**  
620

621 A. All qualified voters who are in the process of voting or waiting in line to vote at the time of  
622 the scheduled closing of polls shall be permitted to vote.  
623

624 B. When the last voter in the polling place has voted, the polls shall be officially closed and the  
625 election judges shall immediately lock and seal the voting system so that it will be prevented from  
626 operating.  
627

628 C. The election judges shall then record the number of votes cast, and compare the number of  
629 votes cast with the number of voters who have checked in to vote. (Ord. 2015-28, 2015/Ord. No.  
630 2009-22, 5-19-09/prior code § 4D-14)

631

632 **5.16.060 Tabulation of votes.**

633

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

636

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

639

640 1. The secrecy of the ballot;

641 2. Correct counting of votes on ballots on which the proper number of votes has been  
642 indicated;

643

644 3. If the intent of the voter with respect to a particular contest or question is not clearly  
645 demonstrated, then only the vote for that contest or question shall be rejected;

646

647 4. The tabulating and recording of votes by ward for or against any candidate, candidates or  
648 question;

649

650 5. Prompt reporting of election returns after the official closing of the polls.

651

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

654

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

659

660 E. A violation of subsection (B) or (C) of this section is a Class B offense. (Ord. 2015-28,  
661 2015/Ord. No. 2009-22, 5-19-09/prior code § 4D-15)

662

663 **5.16.070 Election challenges and appeals.**

664

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

668

669 1. The written notice of election challenge shall be made under penalty of perjury and include  
670 a complete statement of all facts on which the candidate or voter relies to support ~~his or her~~ their  
671 election challenge.

672

673 2. The City Clerk shall immediately refer the notice of election challenge to the Takoma Park  
674 Board of Elections, which shall investigate the facts of the challenge.

675  
676 3. Within four business days after the City Clerk receives the written notice of election  
677 challenge, the Takoma Park Board of Elections shall issue a report of its factual investigation,  
678 together with a recommendation for action to the Council.

679  
680 B. Within 10 business days after an election, the Council shall convene a special meeting to  
681 determine all election challenges.

682  
683 C. The candidate or voter who submitted the election challenge shall be given a reasonable  
684 opportunity to be heard at the special meeting of the Council ~~in regard to his or her with respect to~~  
685 their election challenge. An elected official who is the subject of an election challenge, shall not  
686 participate in the discussion or vote related to the challenge.

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

689  
690 E. An appeal shall be taken by way of petition filed with the Circuit Court for Montgomery  
691 County within five days from the date of the decision of the Council on an election challenge.  
692 Appeals shall be heard de novo and without a jury by the Circuit Court as soon as possible. (Ord.  
693 2015-28, 2015/Ord. No. 2009-22, 5-19-09/prior code § 4D-16)

694  
695 **5.16.080 Inspection of ballots in the event of an election challenge or appeal.**

696  
697 A. All ballots cast in any election shall remain locked and sealed for three months after the  
698 certification of election results or for as long as may be necessary or advisable because of any  
699 challenge to a result of an election or the validity of a ballot.

700  
701 B. As part of the investigation and report of an election challenge or appeal, the ballot storage  
702 box or voting machine may be opened and the data and figures examined in order to count or  
703 recount the votes cast in the race, referendum question, or election being challenged or to  
704 determine any matter related to the validity of a ballot. Such ballot count or examination shall be  
705 conducted in response to an order of any court of competent jurisdiction or at the direction of the  
706 Takoma Park Board of Elections and in the presence of the principals involved in the election  
707 challenge or appeal or their authorized representatives. The Takoma Park Board of Elections or an  
708 individual appointed by a court of competent jurisdiction shall make a record of the votes for such  
709 challenged office or other matter relating to the validity of ballots or votes cast. (Ord. 2015-28,  
710 2015/Ord. No. 2009-22, 5-19-09/prior code § 4D-17)

711  
712 **5.16.090 Penalties.**

713  
714 The following are Class A misdemeanor offenses or Class A municipal infractions:

715  
716 A. A person who is not a qualified voter of the City voting in a City election.

- 718 B. Intentionally allowing a person who is not a qualified voter to vote in a City election.  
719  
720 C. Tampering with, damaging, breaking or attempting to tamper with, damage or break any  
721 voting machine, ballot or other voting system or equipment used or to be used in any City election.  
722  
723 D. Any other violation of this title, unless the violation has been designated as a Class B offense.  
724 (Ord. 2015-28, 2015/Ord. No. 2009-22, 5-19-09/prior code § 4D-18)  
725

## 726 Chapter 5.20

### 727 ABSENTEE VOTING

#### 728 Sections:

- 730  
731 5.20.010 Who may vote.  
732 5.20.020 ~~Applications~~Requests for absentee ballots.  
733 5.20.030 ~~Late applications for absentee ballots.~~  
734 ~~5.20.035~~ Instruction and assistance in absentee voting.  
735 5.20.040 Determination of absentee voters' eligibility and delivery of ballots.  
736 5.20.050 Absentee ballots.  
737 5.20.060 Tabulation of absentee ballots.  
738 5.20.070 Absentee ballot challenges and appeals.  
739 5.20.080 Penalties.  
740

#### 741 5.20.010 Who may vote.

742  
743 Any person who is qualified to vote may vote by absentee ballot in City elections. (Ord. 2015-28,  
744 2015/Ord. No. 2009-22, 5-19-09/prior code § 4D-20)  
745

#### 746 5.20.020 ~~Applications~~Requests for absentee ballots.

747  
748 A. ~~An application~~ request for absentee ballot, signed by the voter under penalty of perjury, may  
749 be made:

- 750  
751 1. On a form provided by the City Clerk to the voter upon request; or  
752  
753 2. In a signed, written request that includes:  
754  
755 a. The voter's name and home address;  
756  
757 b. A certification that the voter is registered to vote and ~~is has been or will be~~ a resident  
758 of the City for at least 21 days immediately preceding the date of the City election; and  
759  
760 c. The address to which the absentee ballot is to be mailed or delivered, if different  
761 from the voter's home address.  
762

763 B. ~~Applications~~ A requests for a mailed absentee ballot must be received by the City Clerk no  
764 later than 4:00 p.m. on the seventh calendar day preceding ~~the~~ election day. (Ord. 2015-28,  
765 2015/Ord. No. 2009-22, 5-18-09/prior code § 4D-21)  
766

767 **~~5.20.030~~ —Late applications for absentee ballots.**  
768

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

772 ~~B.~~ ~~Late applications for absentee ballots must be delivered to the City Clerk by the applicant, or~~  
773 ~~his or her authorized agent, in writing and include the voter's certification made under penalty of~~  
774 ~~perjury setting forth the following:~~  
775

776 1. ~~The voter's name and home address;~~  
777

778 2. ~~That the voter is registered to vote and has been or will be a resident of the City for at least~~  
779 ~~21 days immediately preceding the date of the City election.~~  
780

781 ED. Upon receiving a ~~late application for an absentee ballot~~ the request, the City Clerk, if  
782 satisfied that the ~~applicant voter~~ is a qualified City voter and entitled to vote by absentee ballot,  
783 shall give the applicant, or ~~his or her~~ their authorized agent, an absentee ballot to be marked by the  
784 voter, placed in a sealed envelope and returned to the City Clerk. (Ord. 2015-28, 2015/Ord. No.  
785 2009-22, 5-18-09/prior code § 4D-22)  
786

787 **~~5.20.035~~30 Instruction and assistance in absentee voting.**  
788

789 A. A voter may authorize an agent to pick up and deliver an absentee ballot.  
790

791 B. An agent of a voter:  
792

793 1. Must be at least 16 years of age;  
794

795 2. Must not be a candidate or an agent of any candidate in that City election;  
796

797 3. Must not be the voter's employer or an agent of the employer;  
798

799 4. Must not be an officer or agent of the voter's union;  
800

801 5. Shall be designated as the agent of the voter in writing signed by the voter under penalty  
802 of perjury; and  
803

804 6. Shall execute a certification under penalty of perjury that the ballot was delivered to the  
805 voter who submitted the ~~application~~ request, was marked and placed in a sealed envelope by the  
806 voter, or with permitted assistance, in the agent's presence, and was returned to the City Clerk by  
807 the agent.  
808

809 C. Any voter who requires assistance in casting an absentee ballot by reason of disability,  
810 inability to write, or inability to read the ballot may be given assistance by an agent of the voter.  
811 An agent giving assistance to a voter pursuant to this subsection shall include a certification of  
812 assistance to be included with the absentee ballot. (Ord. 2015-28, 2015/Ord. No. 2009-22, 5-18-  
813 09)

814

815 **5.20.040 Determination of absentee voters' eligibility and delivery of ballots.**

816

817 A. Upon receipt of ~~an application~~ a request for an absentee ballot containing a voter's  
818 certification, the City Clerk shall determine if the ~~applicant~~ requestor is qualified to vote in the  
819 City election for which the absentee ballot is requested.

820

821 B. If the ~~applicant~~ requestor is a qualified voter in the City, the City Clerk shall promptly deliver  
822 or mail the absentee ballot to the ~~applicant~~ requestor.

823 1. Postage for transmitting and return of the absentee ballot material ~~to the applicant~~ shall be  
824 paid by the City ~~and postage for the return of the ballot and related material shall be paid by the~~  
825 ~~voter.~~

826

827 2. The City Clerk shall endeavor to send the absentee ballots ~~(except in the case of late~~  
828 ~~applications for absentee ballot)~~ to applicants not later than five days before the election date.

829

830 C. The City Clerk shall keep a full record of absentee voting, including for each absentee voter:

831

832 1. The date ~~and time~~ of receipt of the an application request for an absentee ballot;

833

834 2. The name and home address of the ~~voter~~ applicant;

835

836 3. The action taken with regard to the request ~~application~~;

837

838 4. The date of issuance of an absentee ballot;

839

840 5. If mailed, the address to which the absentee ballot is sent;

841

842 6. The date and time of the receipt of a the voted absentee ballot; and

843

844 7. Any other information deemed necessary.

845

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

848

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



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**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 for~~ absentee ballots request forms, absentee ballots, envelopes, and instructions for absentee voters.
- B. The form and arrangement of all absentee ballot request forms, ~~applications, 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)
- C. At all times, the City Clerk shall ensure adequate procedures are in place to safeguard the absentee ballots.

**5.20.060 Tabulation of absentee ballots.**

- A. No absentee ballots shall be ~~opened~~ tabulated 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.~~
  - 1.—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.
- C. 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~~ the 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.
- D. 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.
- E. All absentee voters' requests, ~~applications~~, 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)

897  
898 **5.20.070 Absentee ballot challenges and appeals.**  
899

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

902  
903 **5.20.080 Penalties.**  
904

905 A violation of this chapter is a Class B municipal infraction offense. (Ord. 2015-28, 2015/Ord. No.  
906 2009-22, 5-18-09/prior code § 4D-27)

907 **Chapter 5.22**  
908

909 **PROVISIONAL BALLOTS**  
910

911 Sections:

- 912 5.22.010 Casting provisional ballots.  
913 5.22.020 Provisional ballot application.  
914 5.22.030 Assistance casting provisional ballot.  
915 5.22.040 Provisional ballots.  
916 5.22.050 Tabulation of provisional ballots.

917  
918 **5.22.010 Casting provisional ballots.**  
919

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

921  
922 A. The individual declares in a written affirmation submitted with the provisional ballot that the  
923 individual is a qualified voter of the City and is otherwise eligible to vote in that election; and  
924

925 B. ~~1.—The individual's name does not appear on either the voter registry; list of registered~~  
926 ~~voters in the City provided by the Montgomery County Board of Elections or the supplemental list~~  
927 ~~of non-United States citizens who are registered to vote in City elections; or and~~  
928

929 1. ~~2.—~~A City election official asserts that the individual is not eligible to register to vote; or  
930

931 2. ~~3.—~~The individual does not have the necessary identification for registration to vote., if  
932 ~~any.~~ (Ord. 2015-28, 2015/Ord. No. 2009-22, 5-18-09)  
933

934 **5.22.020 Provisional ballot application.**  
935

936 A. Before an individual casts a provisional ballot, the individual shall complete and sign the  
937 provisional ballot application prescribed by the Takoma Park Board of Elections.  
938

939 B. At the time the provisional ballot is issued, the election official shall give the individual  
940 written information advising the individual that, and describing how, the individual will be able to

941 ascertain whether the vote was counted and, if the vote was not counted, the reason it was not.  
942 (Ord. 2015-28, 2015/Ord. No. 2009-22, 5-18-09)

943

944 **5.22.030 Assistance casting provisional ballot.**

945

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

952

953 **5.22.040 Provisional ballots.**

954

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

958

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

962

963 **5.22.050 Tabulation of provisional ballots.**

964

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

967

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

970

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

973

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

977

978 1. The individual who cast the provisional ballot is not a qualified voter in the City.

979

980 2. The individual returned a voted absentee ballot in that City election.

981

982 3. The individual cast more than one ballot in that City election.

983

984 4. The individual failed to sign the oath on the provisional ballot application.

985

986 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.

987  
988 6. The individual failed to provide required identification or the identification submitted did  
989 not satisfy the identification requirements.

990  
991 7. The individual provided incomplete or inaccurate information on the provisional ballot  
992 application.

993  
994 8. An identity or residency challenge of the individual was upheld.

995  
996 9. ~~The individual was not eligible to receive a provisional ballot.~~

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

999  
1000 E. F. The Takoma Park Board of Elections, in coordination with the City Clerk, shall establish a  
1001 system that any individual who casts a provisional ballot may access without cost to discover  
1002 whether the ballot was counted and, if not counted, the reason it was not. The system shall ensure  
1003 the confidentiality of the individual who accesses the system and the secrecy of each ballot. (Ord.  
1004 2015-28, 2015/Ord. No. 2009-22, 5-18-09)

## Chapter 5.24

### BOARD OF ELECTIONS

#### Sections:

1011 5.24.010 Establishment of Board of Elections.

1012 5.24.020 Membership and term of office.

1013 5.24.030 Administration.

1014 5.24.040 Duties of the Board of Elections.

#### **5.24.010 Establishment of Board of Elections.**

1017  
1018 The City of Takoma Park Board of Elections is established. The Board of Elections shall be  
1019 composed of up to seven members who shall be appointed by the Council. The Council shall make  
1020 every effort to ensure that the Board of Elections includes representatives from each Council ward.  
1021 (Ord. 2015-28, 2015/Ord. 2007-36 § 1, 2007: Ord. 2006-36 (part), 2006)

#### **5.24.020 Membership and term of office.**

1022  
1023  
1024  
1025 A. Qualifications. Members of the Board of Elections shall be qualified voters of the City and  
1026 shall not hold or be a candidate for any elective office in government (Federal, State, County, or  
1027 local) during their term on the Board. Members of the Board of Elections also shall not serve as  
1028 the treasurer or campaign manager for any candidate for City elective office or be an advocate for  
1029 or against any campaign or ballot referendum question in a regular or special City election. Any  
1030 member who ceases to meet the qualifications for membership on the Board of Elections shall

1031 automatically forfeit his or her membership on the Board and the Council may act to fill the  
1032 vacancy.

1033  
1034 B. Term. Members of the Board of Elections shall serve staggered three-year terms. ~~Initial~~  
1035 ~~appointments to the Board shall be for one, two or three years.~~ All terms shall begin on July 1st  
1036 and end on June 30th. Midterm vacancies on the Board of Elections shall be filled by the Council  
1037 for the remainder of the unexpired term.

1038  
1039 C. Oath of office. A member of the Board of Elections shall take an oath of office upon assuming  
1040 their initial term.

1041 ~~D. C.~~ Removal. Any member of the Board of Elections may be removed by the Council before  
1042 the member's term has expired if the Council determines that the member has become  
1043 incapacitated, has failed to reasonably perform ~~his or her~~ their duties as a member of the Board of  
1044 Elections, or for other good cause. Before removal, ~~the~~ a member of the Board of Elections who  
1045 is proposed to be removed shall be given written notice of the proposed removal and the reasons  
1046 for such action. If the Board member requests a public hearing on the proposed removal within 10  
1047 days after receipt of the written notice, then the Council shall conduct a hearing before acting on  
1048 the proposed removal. Any member who fails to attend, without being properly excused by the  
1049 Chairperson, three or more consecutive meetings of the Board, or a majority of five consecutive  
1050 meetings, shall be deemed to have provided good cause for removal by the Council. (Ord. 2015-  
1051 28, 2015/Ord. 2006-36 (part), 2006)

1052  
1053 **5.24.030 Administration.**

1054  
1055 A. Officers. The Board of Elections shall elect a Chairperson and Vice Chairperson for a one-  
1056 year term or until a successor is elected.

1057  
1058 B. Quorum. A majority of the members of the Board of Elections shall constitute a quorum for  
1059 the transaction of business.

1060  
1061 C. Meetings. The Board of Elections shall meet as required to perform its duties, but at least  
1062 once a year. Regular or special meetings shall be convened by the Chairperson or by a majority of  
1063 the members of the Board of Elections.

1064  
1065 D. ~~Adoption of Bylaws~~ Administrative Regulations and Rules of Procedure. The Board of  
1066 Elections may adopt ~~bylaws~~ administrative regulations and rules of procedure to further regulate  
1067 the activities of the Board.

1068  
1069 E. The City Attorney shall be the legal advisor to the Board of Elections. (Ord. 2015-28,  
1070 2015/Ord. 2006-36 (part), 2006)

1071  
1072 **5.24.040 Duties of the Board of Elections.**

1073  
1074 The Board of Elections shall:

1075

- 1076 A. Plan and conduct regular and special City elections in coordination with the City Clerk;  
1077  
1078 B. Encourage voter registration in the City;  
1079  
1080 C. Conduct voter education programs and prepare and distribute voter outreach materials;  
1081  
1082 D. Recommend to the Council amendments to the City's elections law and regulations when it  
1083 deems such amendments are necessary and will provide for the improved conduct of elections;  
1084  
1085 E. Periodically review City elections procedures;  
1086  
1087 F. Serve as election judges in City elections;
- 1088 G. ~~Identify~~ ~~Recommend~~ additional qualified individuals to the Council for appointment as  
1089 election judges and workers during a regular or special City election;
- 1090 **H. Investigate and decide allegations of violations of the City of Takoma Park's election laws;**  
1091  
1092
- 1093 **I. Direct that corrective action be taken with respect to any election related violation;**  
1094
- 1095 **J. In the event an election issue arises that is not addressed in the City of Takoma Park's**  
1096 **Charter or Code or the Board of Elections Regulations, the Board of Elections may, at its sole**  
1097 **discretion, apply the election laws of the State of Maryland or another local government in the**  
1098 **State of Maryland to resolve the issue; and**  
1099
- 1100 **K.H.** Perform such other duties as may be assigned to the Board of Elections by Charter,  
1101 ordinances and resolutions, and by the direction of the Council. (Ord. 2015-28, 2015/Ord. 2006-  
1102 36 (part), 2006)

1103  
1104 THIS ORDINANCE IS ADOPTED BY THE COUNCIL OF THE CITY OF TAKOMA PARK,  
1105 MARYLAND, THIS \_\_\_\_\_ DAY OF \_\_\_\_\_, 2020, BY ROLL-CALL VOTE  
1106 AS FOLLOWS:

1107  
1108 AYE:  
1109 NAY:  
1110 ABSTAIN:  
1111 ABSENT:

1112  
1113 **Explanatory Note**

- 1114  
1115 1. Underlining indicates language being added to the Code.  
1116 2. [Bold brackets and ~~strike through~~] indicates language being deleted from the Code.