



## Takoma Park City Council Meeting – March 18, 2020 Agenda Item 3

### **Voting Session**

First Reading Ordinance Amending the Election Code

### **Recommended Council Action**

Consider the draft ordinance and vote at first reading.

### **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 City Council had additional questions at the work session on March 4 and in subsequent correspondence. The text has been refined since that time to address those issues. Substantive changes have been highlighted.

The definition of "contribution" was altered to ensure that safe harbor events are not treated as a contribution.

Section 5.12.010.A. - The requirement that an address be included was removed. Council needs to be aware that the removal of the "address" requirement in paragraph A makes paragraph B effectively redundant. If the Council proceeds in this manner, the City Attorney recommends removing paragraph B in its entirety.

Section 5.12.010.C. - The words "candidate or" were added prior to committee.

Section 5.12.010.D. – The words "upon request" were added at the end of the paragraph.

Section 5.12.022.A & B. – Changes were made to ensure that political committees are also required to file campaign finance reports.

Section 5.12.022.B. - Changes were made for clarity, to reflect that the pre-election report is due 7 days before early voting as opposed to fourteen days, and language was added in subparagraph 5 to address a concern regarding the sequence of reporting.

Section 5.12.022.C. - Language was added in new subparagraph 4 to address missing requirement that the amount contributed by each person be reported.

Section 5.12.030.D.1. - Council needs to clarify whether it is permissible to have a post-campaign party with supporters utilizing campaign funds. The version of the ordinance discussed at the last work session had the provision removed. Based on discussion in the last work session, it has been reinserted.

Section 5.20.010. - Language added to clarify that absentee process can be referred to as early voting.

As indicated previously, additional items will need to be addressed after the 2020 election.

### **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**

- Draft Ordinance Amending Title 5, Elections

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;

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;

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;

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;

34  
35 **WHEREAS,** the Takoma Park Board of Elections has recommended adoption of certain  
36 amendments prior to the November 3, 2020, City Election;

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:

47 **TITLE 5**  
48  
49 **ELECTIONS**

50  
51 **Chapters:**

- 52 **5.04 General Provisions**
- 53 **5.08 Wards**
- 54 **5.12 Fair Election Practices**
- 55 **5.16 Voting**
- 56 **5.20 Absentee Voting**
- 57 **5.22 Provisional Ballots**
- 58 **5.24 Board of Elections**

59  
60 **Chapter 5.04**

61 **GENERAL PROVISIONS**

62  
63  
64 **Sections:**

- 65 5.04.010 Purpose.
- 66 5.04.020 Definitions.

67  
68 **5.04.010 Purpose.**

69  
70 The purpose of the election procedures contained in this title is to provide for the conduct of City  
71 elections administered pursuant to the powers granted to the Council to provide for the conduct of  
72 registration, nominations, and voting in City elections and for the prevention of fraud in connection  
73 with such elections. (Ord. 2015-28, 2015/prior code § 4D-1)

74  
75 **5.04.020 Definitions.**

76  
77 As used in this title, the following terms shall have the meanings indicated unless a contrary  
78 meaning is clearly intended from the context in which the term appears:

79  
80 “Agent” means any person who represents and acts for another.

81  
82 “Authorized representative” means any person appointed or designated by a candidate or a political  
83 committee to file campaign reports or to be responsible for ~~political matter~~ campaign material  
84 published or distributed.

85  
86 “Ballot” is the means by which a vote is cast. “Ballot” or “ballots” include paper ballots, absentee  
87 ballots, provisional ballots, or a voting machine ballot, whichever in context is appropriate.

88  
89 “Campaign material” means any printed or electronic statement or advertisement that contains  
90 text, graphics, or other images, including social media; relates to or concerns any candidate or  
91 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 and **it does not include**  
108 **safe harbor events.**

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

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

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

121  
122 The term “expenditure” does not include:

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

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

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

134  
135 “In-kind contribution” means any non-monetary contribution, such as goods or services offered  
136 free or at less than the usual and normal charge, including expenditures made by any person or

137 entity in cooperation, consultation, or concert with, or at the request or suggestion of, a candidate  
138 or an agent of a candidate.

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

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

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

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

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

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

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

176  
177 “Safe harbor events” mean:

- 178  
179 1. The use of real or personal property, including a church or community room used on a  
180 regular basis by members of a community for noncommercial purposes, when said real or personal  
181 property is used for a candidate-related or political committee-related activity, and the cost of

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

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

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

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

202  
203 "Voting system" means a method of casting and tabulating ballots or votes. (Ord. 2015-28,  
204 2015/Ord. No. 2009-22, 5-18-09/prior code § 4D-2)

## Chapter 5.08

### WARDS

205  
206  
207  
208  
209  
210 Sections:

211 5.08.010 Description of ward boundaries.

#### 212 **5.08.010 Description of ward boundaries.**

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

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



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

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

278  
279 G. A violation of this section is a Class B offense. (Ord. 2015-28, 2015/prior code § 4D-6)  
280

281 **5.12.020 Campaign reports contributions and expenditures.**

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

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

294  
295 C. For purposes of this section–

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

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

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

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

314  
315 E. An expenditure is made on behalf of a candidate if it is made by–

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1. Any other agent of the candidate for purposes of making any expenditure; or
  2. Any person authorized or requested by the candidate or an agent of the candidate to make the expenditure.
- F. A candidate may make unlimited expenditures from the candidate’s personal funds, or from assets jointly owned with their spouse or domestic partner.
- G. No candidate shall knowingly accept any contribution or make any expenditure in violation of the provisions of this section. No officer, agent or employee of a candidate shall knowingly accept a contribution made for the benefit or use of a candidate, or knowingly make any expenditure on behalf of a candidate, in violation of any limitation imposed on contributions and expenditures under this section.
- H. A violation of this section is a Class B offense. (Ord. 2015-28, 2015/prior code § 4D-7)

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

- A. A contribution accepted by a candidate and any other donation received by an individual as support for activities of the holder of City office, may be used by the candidate or individual as follows:
1. For otherwise authorized expenditures in connection with the candidate’s campaign for City office;
  2. For ordinary and necessary expenses incurred in connection with duties of the individual as a holder of City office;
  3. For donations to an organization that is classified as a 501(c)(3) nonprofit organization under 26 U.S. Code § 501, or to an organization which has received City grant funding within the last 2 years; or
  4. For transfer to another authorized political committee for the purpose of nominating or electing said candidate to any local, State, or Federal office;
  5. For any other lawful purpose unless prohibited by any subsection of this section.

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

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

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

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

365  
366 **5.12.022 Campaign finance reports.**

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

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

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

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

385  
386 B. Each candidate and political committee or the authorized representative of each candidate or  
387 political committee, shall file the following reports:

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

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

394  
395 3. A post-election report, which shall be filed no later than 4:00pm of the Monday following  
396 the election;

397  
398 4. An annual report, which shall be filed no later than January 31 of each year, on the retention  
399 or disposition of surplus campaign funds until all such funds are used or distributed;

400  
401 5. The post-nomination report shall include all information required to be reported by this  
402 section from the date of the preceding election or the most recent annual report, if applicable, up  
403 to and including the full day before the filing of the post-nomination report. All other reports shall  
404 include information starting from the full day that the previous report was filed up to and including  
405 the full day before the filing of the current report.

407 C. Each report under this section shall disclose:

408

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

410

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

412

413 3. The identification of each person who makes a contribution to the candidate during the  
414 reporting period;

415

416 4. The amount contributed by each person who makes a contribution to the candidate during  
417 the reporting period;

418

419 5. The total amount of all disbursements, including all expenditures, for the reporting period  
420 and the election cycle; and

421

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

426

427 7. The date, location, and nature of any safe harbor events and a certification by the candidate  
428 that all reported safe harbor events comply with the City's election code.

429

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

434

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

439

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

442

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

445

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

450

451 DE. A campaign report must be attested to as complete and accurate to be deemed "filed." If  
452 there is a material or significant deficiency in a campaign report, the City Clerk ~~shall~~ will notify

453 the candidate or political committee, in writing, of the deficiency. The candidate or political  
454 committee ~~then has~~ shall file a corrected report within two weeks from the date of that notice to  
455 ~~file a corrected report.~~ If a corrected report is not filed within two weeks or if a corrected report is  
456 not attested to as complete and accurate, then daily late filing fees will be assessed.

457  
458 EG. If the City Clerk determines that there is a material or significant deficiency in a corrected  
459 report, then the candidate or political committee must continue to correct and resubmit the  
460 campaign report to the City Clerk until such campaign report is accepted. In ~~this~~ such case, daily  
461 late filing fees will continue to be assessed.

462  
463 FH. A person ~~may~~ shall not receive any salary or benefits from the office of the Mayor or  
464 Councilmember until all required campaign reports have been attested to as complete and accurate,  
465 accepted as filed, and all late filing fees have been paid.

466  
467 I. All campaign reports filed, and all notifications of deficiencies and late filing fees, shall be  
468 available for public review during the normal office hours of the City Clerk.

469  
470 GJ. A violation of this section is a Class B offense. (Ord. 2015-28, 2015/prior code § 4D-7)

471 **5.12.030 Surplus campaign funds, dispositions, and reports.**

472  
473 A. Surplus campaign funds may be ~~used at the discretion of the candidate for any community or~~  
474 ~~political purpose, except:~~ retained after an election and used by the candidate to support that same  
475 candidate's election or reelection to any City office or any other elected office.

476  
477 B. Surplus campaign funds of a candidate, which are not retained in accordance with this section,  
478 shall be disposed of in accordance with subsection (C) of this section.

479  
480 C. A candidate may dispose of surplus campaign funds by:  
481  
482 1. Returning the funds, pro rata, to the contributors; or  
483  
484 2. Donating the funds to the City's general fund; or  
485  
486 3. Donating the funds to an organization that is classified as a 501(c)(3) nonprofit  
487 organization under 26 U.S. Code § 501 or to an organization which has received City grant funding  
488 within the last 2 years. In the event a candidate determines to donate surplus funds to an  
489 organization meeting the criteria in section 5.12.021(c)(3), preference for the donation should be  
490 given to organization providing services in the City of Takoma Park or to an organization  
491 providing services in the City of Takoma Park metropolitan area.

492  
493 D. Prohibited uses of surplus campaign funds include:  
494  
495 1. The personal use of the candidate, the treasurer, or any member of the candidate's  
496 campaign staff, or the immediate family members of those individuals, however, use of surplus  
497 funds to hold a party for campaign supporters is a permitted political purpose; or  
498

499 2. A transfer to a political committee or a candidate other than the political committee or  
500 ~~individual candidate~~ for whom the funds were raised.

501  
502 ~~BE.~~ A candidate, or any individual who previously was a candidate and has retained surplus  
503 campaign funds, shall report annually, no later than January 31, on the retention or disposition of  
504 surplus campaign funds until all such funds are depleted.

505  
506 F. A violation of this section is a Class B offense. (Ord. 2015-28, 2015/prior code § 4D-8)

507  
508 **5.12.040 Financial disclosure statements.**

509  
510 A. Candidates must have timely filed financial disclosure statements in proper form as required  
511 by Section 3.04.080 of the ethics title of the Takoma Park Code to be eligible to assume office.

512  
513 B. If a candidate elected to a position is unable to ~~take office because he or she has failed~~ serve  
514 as a result of failing to file a financial disclosure statement as required by Section 3.04.080, then  
515 the Clerk shall declare the position to be vacant in accordance with Section 301(b) of the Takoma  
516 Park Municipal Charter. (Ord. 2015-28, 2015)

517 **Chapter 5.16**

518  
519 **VOTING**

520  
521 Sections:

522 5.16.010 Voting systems.

523 5.16.020 Ballots.

524 5.16.030 Instruction and assistance in voting.

525 5.16.040 Time allowed for voting.

526 5.16.050 Closing of polls.

527 5.16.060 Tabulation of votes.

528 5.16.070 Election challenges and appeals.

529 5.16.080 Inspection of ballots in the event of an election challenge or appeal.

530 5.16.090 Penalties.

531

532 **5.16.010 Voting systems.**

533

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

535

536 B. The City Council may purchase, rent, lease or otherwise acquire such voting systems and  
537 related equipment as may be required for an election. (Ord. 2015-28, 2015/Ord. No. 2009-22, 5-  
538 18-09/prior code § 4D-10)

539

540 **5.16.020 Ballots.**

541

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

543

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

546  
547 2. A description of every question which is to be submitted to a vote.

548  
549 B. All ballots shall be ~~printed~~ in plain clear type ~~in black ink upon material of such size and~~  
550 ~~shape to fit the construction of~~ suitable for the voting system.

551  
552 C. The form and arrangement of all ballots shall be determined by the City Clerk in accordance  
553 with the following requirements:

554  
555 1. In all elections, the names of candidates shall be arranged alphabetically on the ballots  
556 according to their surname, under the designation of office. The names of the candidates for Mayor  
557 shall appear first on the ballots, followed by the names of the candidates for Councilmember  
558 according to the numeric designation of the ward. Honorifics and titles shall not appear on ballots.

559  
560 2. No ballot shall contain a party designation of a candidate.

561  
562 3. Each ballot shall contain ~~an appropriate instruction to the voter informing him or her of the~~  
563 ~~offices for which he or she may vote and the number of persons for whom he or she may lawfully~~  
564 ~~vote for each office.~~

565  
566 4. All ballots shall contain a statement in understandable language of every question to be  
567 submitted to a vote at any election.

568  
569 5. The City Clerk shall prepare and certify the form in which a question shall appear, and  
570 each question may be captioned with a descriptive title containing not more than five words.

571  
572 6. Each ballot question shall ~~be printed~~ appear on the ballots following the name of the  
573 candidates and shall be accompanied by the words “For” and “Against.”

574  
575 D. If, because of an error in printing or a change in circumstances, the City Clerk at any time  
576 finds it necessary to make a change in a ballot, the City Clerk shall promptly change the ballots by  
577 taking the following action:

578  
579 1. If there is sufficient time for printing or reprinting of the ballot, make the appropriate  
580 changes or corrections on the printed ballots;

581  
582 2. If there is insufficient time for reprinting, and if it is appropriate to the voting system in  
583 use, cause to be printed a sufficient number of stickers incorporating the appropriate changes or  
584 corrections. The stickers shall be as consistent as possible with the printed ballots and be affixed  
585 to the ballots in the appropriate places;

586  
587 3. If time does not permit the process provided in subsection (D)(2) of this section or if such  
588 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;

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

**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 or election worker 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~~ designated 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 years~~ 16 years of age or older, 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)

**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 a reasonable period of time to vote has passed~~. (Ord. 2015-28, 2015/Ord. No. 2009-22, 5-19-09/prior code § 4D-13)

**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.



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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.

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

685  
686 2. The City Clerk shall immediately refer the notice of election challenge to the Takoma Park  
687 Board of Elections, which shall investigate the facts of the challenge.

688  
689 3. Within four business days after the City Clerk receives the written notice of election  
690 challenge, the Takoma Park Board of Elections shall issue a report of its factual investigation,  
691 together with a recommendation for action to the Council.

692  
693 B. Within 10 business days after an election, the Council shall convene a special meeting to  
694 determine all election challenges.

695  
696 C. The candidate or voter who submitted the election challenge shall be given a reasonable  
697 opportunity to be heard at the special meeting of the Council ~~in regard to his or her with respect to~~  
698 their election challenge. An elected official who is the subject of an election challenge, shall not  
699 participate in the discussion or vote related to the challenge.

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

702  
703 E. An appeal shall be taken by way of petition filed with the Circuit Court for Montgomery  
704 County within five days from the date of the decision of the Council on an election challenge.  
705 Appeals shall be heard de novo and without a jury by the Circuit Court as soon as possible. (Ord.  
706 2015-28, 2015/Ord. No. 2009-22, 5-19-09/prior code § 4D-16)

707  
708 **5.16.080 Inspection of ballots in the event of an election challenge or appeal.**

709  
710 A. All ballots cast in any election shall remain locked and sealed for three months after the  
711 certification of election results or for as long as may be necessary or advisable because of any  
712 challenge to a result of an election or the validity of a ballot.

713  
714 B. As part of the investigation and report of an election challenge or appeal, the ballot storage  
715 box or voting machine may be opened and the data and figures examined in order to count or  
716 recount the votes cast in the race, referendum question, or election being challenged or to  
717 determine any matter related to the validity of a ballot. Such ballot count or examination shall be  
718 conducted in response to an order of any court of competent jurisdiction or at the direction of the  
719 Takoma Park Board of Elections and in the presence of the principals involved in the election  
720 challenge or appeal or their authorized representatives. The Takoma Park Board of Elections or an  
721 individual appointed by a court of competent jurisdiction shall make a record of the votes for such  
722 challenged office or other matter relating to the validity of ballots or votes cast. (Ord. 2015-28,  
723 2015/Ord. No. 2009-22, 5-19-09/prior code § 4D-17)

724

725 **5.16.090 Penalties.**

726

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

728

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

730

731 B. Intentionally allowing a person who is not a qualified voter to vote in a City election.

732

733 C. Tampering with, damaging, breaking or attempting to tamper with, damage or break any  
734 voting machine, ballot or other voting system or equipment used or to be used in any City election.

735

736 D. Any other violation of this title, unless the violation has been designated as a Class B offense.  
737 (Ord. 2015-28, 2015/Ord. No. 2009-22, 5-19-09/prior code § 4D-18)

738

739

**Chapter 5.20**

740

741

**ABSENTEE VOTING**

742

743 Sections:

744 5.20.010 Who may vote.

745 5.20.020 ~~Applications~~Requests for absentee ballots.

746 5.20.030 ~~Late applications for absentee ballots.~~

747 ~~5.20.035~~ Instruction and assistance in absentee voting.

748 5.20.040 Determination of absentee voters' eligibility and delivery of ballots.

749 5.20.050 Absentee ballots.

750 5.20.060 Tabulation of absentee ballots.

751 5.20.070 Absentee ballot challenges and appeals.

752 5.20.080 Penalties.

753

754 **5.20.010 Who may vote.**

755

756 Any person who is qualified to vote may vote by absentee ballot in City elections. **This process**  
757 **may also be referred to as "vote by mail."** (Ord. 2015-28, 2015/Ord. No. 2009-22, 5-19-09/prior  
758 code § 4D-20)

759

760 **5.20.020 ~~Applications~~ Requests for absentee ballots.**

761

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

764

765 1. On a form provided by the City Clerk to the voter upon request; or

766

767 2. In a signed, written request that includes:

768

769 a. The voter's name and home address;

770

771 b. A certification that the voter is registered to vote and ~~is has been or will be~~ a resident  
772 of the City for at least 21 days immediately preceding the date of the City election; and  
773

774 c. The address to which the absentee ballot is to be mailed or delivered, if different  
775 from the voter's home address.  
776

777 B. ~~Applications~~ A requests for a mailed absentee ballot must be received by the City Clerk no  
778 later than 4:00 p.m. on the seventh calendar day preceding ~~the~~ election day. (Ord. 2015-28,  
779 2015/Ord. No. 2009-22, 5-18-09/prior code § 4D-21)  
780

781 **~~5.20.030—Late applications for absentee ballots.~~**  
782

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

786 ~~B.—Late applications for absentee ballots must be delivered to the City Clerk by the applicant, or~~  
787 ~~his or her authorized agent, in writing and include the voter's certification made under penalty of~~  
788 ~~perjury setting forth the following:~~  
789

790 1. ~~The voter's name and home address;~~  
791

792 2. ~~That the voter is registered to vote and has been or will be a resident of the City for at least~~  
793 ~~21 days immediately preceding the date of the City election.~~  
794

795 ~~€D.~~ Upon receiving a ~~late application for an absentee ballot~~ the request, the City Clerk, if  
796 satisfied that the ~~applicant voter~~ is a qualified City voter and entitled to vote by absentee ballot,  
797 shall give the applicant, or ~~his or her~~ their authorized agent, an absentee ballot to be marked by the  
798 voter, placed in a sealed envelope and returned to the City Clerk. (Ord. 2015-28, 2015/Ord. No.  
799 2009-22, 5-18-09/prior code § 4D-22)  
800

801 **~~5.20.03530~~ Instruction and assistance in absentee voting.**  
802

803 A. A voter may authorize an agent to pick up and deliver an absentee ballot.  
804

805 B. An agent of a voter:  
806

807 1. Must be at least 16 years of age;  
808

809 2. Must not be a candidate or an agent of any candidate in that City election;  
810

811 3. Must not be the voter's employer or an agent of the employer;  
812

813 4. Must not be an officer or agent of the voter's union;  
814

815 5. Shall be designated as the agent of the voter in writing signed by the voter under penalty  
816 of perjury; and

817  
818 6. Shall execute a certification under penalty of perjury that the ballot was delivered to the  
819 voter who submitted the ~~application~~ request, was marked and placed in a sealed envelope by the  
820 voter, or with permitted assistance, in the agent's presence, and was returned to the City Clerk by  
821 the agent.

822  
823 C. Any voter who requires assistance in casting an absentee ballot by reason of disability,  
824 inability to write, or inability to read the ballot may be given assistance by an agent of the voter.  
825 An agent giving assistance to a voter pursuant to this subsection shall include a certification of  
826 assistance to be included with the absentee ballot. (Ord. 2015-28, 2015/Ord. No. 2009-22, 5-18-  
827 09)

828  
829 **5.20.040 Determination of absentee voters' eligibility and delivery of ballots.**

830  
831 A. Upon receipt of ~~an application~~ a request for an absentee ballot containing a voter's  
832 certification, the City Clerk shall determine if the ~~applicant~~ requestor is qualified to vote in the  
833 City election for which the absentee ballot is requested.

834  
835 B. If the ~~applicant~~ requestor is a qualified voter in the City, the City Clerk shall promptly deliver  
836 or mail the absentee ballot to the ~~applicant~~ requestor.

837 1. Postage for transmitting and return of the absentee ballot material ~~to the applicant~~ shall be  
838 paid by the City ~~and postage for the return of the ballot and related material shall be paid by the~~  
839 ~~voter.~~

840  
841 2. The City Clerk shall endeavor to send the absentee ballots ~~(except in the case of late~~  
842 ~~applications for absentee ballot)~~ to applicants not later than five days before the election date.

843  
844 C. The City Clerk shall keep a full record of absentee voting, including for each absentee voter:

845  
846 1. The date ~~and time~~ of receipt of ~~the an application~~ request for an absentee ballot;

847  
848 2. The name and home address of the ~~voter~~ applicant;

849  
850 3. The action taken with regard to the request ~~application~~;

851  
852 4. The date of issuance of an absentee ballot;

853  
854 5. If mailed, the address to which the absentee ballot is sent;

855  
856 6. The date and time of the receipt of a the voted absentee ballot; and

857  
858 7. Any other information deemed necessary.

859  
860 Such absentee voting record shall be available for public review during the normal office hours of  
861 the City Clerk.

862  
863 D. Only one absentee ballot shall be issued to a voter unless the City Clerk has reasonable  
864 grounds to believe that the absentee ballot previously issued to the voter has been lost, destroyed  
865 or spoiled. (Ord. 2015-28, 2015/Ord. No. 2009-22, 5-18-09/prior code § 4D-23)

866  
867 **5.20.050 Absentee ballots.**

868  
869 A. Prior to any City election, the City Clerk shall print or cause to be printed an adequate number  
870 of ~~applications for absentee ballots~~ request forms, absentee ballots, envelopes, and instructions for  
871 absentee voters.

872 B. The form and arrangement of all absentee ballot request forms, ~~applications, certification~~  
873 ~~forms~~, absentee ballots, ballot instructions, covering envelopes, ballot envelopes, and return  
874 envelopes shall be as determined by the Takoma Park Board of Elections. (Ord. 2015-28,  
875 2015/Ord. No. 2009-22, 5-18-09/prior code § 4D-24)

876  
877 C. At all times, the City Clerk shall ensure adequate procedures are in place to safeguard the  
878 absentee ballots.

879 **5.20.060 Tabulation of absentee ballots.**

880  
881 A. No absentee ballots shall be ~~opened~~ tabulated before the official closing of the polls on election  
882 day.

883  
884 B. ~~Following the official closing of the polls on election day, the election judges shall proceed~~  
885 ~~to open the absentee ballot envelopes and count the absentee ballots.~~

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

889  
890 C. An absentee ballot shall be rejected if:

- 891
- 892 1. The election judges determine the voter died before election day;
  - 893
  - 894 2. The voter failed to sign the oath on the ballot envelope;
  - 895
  - 896 3. More than one absentee ballot was received from the same voter for the same City election  
897 in the same ballot envelope; or
  - 898
  - 899 4. The election judges determine that ~~an~~ the absentee ballot is intentionally marked with an  
900 identifying mark that is clearly evident and placed on the ballot for the purpose of identifying the  
901 ballot.
  - 902

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

906

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

911  
912 **5.20.070 Absentee ballot challenges and appeals.**  
913  
914 Election challenges and appeals relating to absentee ballots shall be determined as set forth in  
915 Section 5.16.070. (Ord. 2015-28, 2015/Ord. No. 2009-22, 5-18-09/prior code § 4D-26)

916  
917 **5.20.080 Penalties.**  
918  
919 A violation of this chapter is a Class B municipal infraction offense. (Ord. 2015-28, 2015/Ord. No.  
920 2009-22, 5-18-09/prior code § 4D-27)

## 921 Chapter 5.22

### 922 PROVISIONAL BALLOTS

923  
924  
925 Sections:

- 926 5.22.010 Casting provisional ballots.  
927 5.22.020 Provisional ballot application.  
928 5.22.030 Assistance casting provisional ballot.  
929 5.22.040 Provisional ballots.  
930 5.22.050 Tabulation of provisional ballots.

931  
932 **5.22.010 Casting provisional ballots.**

933  
934 An individual is eligible to cast a provisional ballot in a City election if:

935  
936 A. The individual declares in a written affirmation submitted with the provisional ballot that the  
937 individual is a qualified voter of the City and is otherwise eligible to vote in that election; and  
938

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

942  
943 1. ~~2.—~~A City election official asserts that the individual is not eligible to register to vote; or

944  
945 2. ~~3.—~~The individual does not have the necessary identification for registration to vote., ~~if~~  
946 ~~any.~~ (Ord. 2015-28, 2015/Ord. No. 2009-22, 5-18-09)

947  
948 **5.22.020 Provisional ballot application.**

949  
950 A. Before an individual casts a provisional ballot, the individual shall complete and sign the  
951 provisional ballot application prescribed by the Takoma Park Board of Elections.

952  
953 B. At the time the provisional ballot is issued, the election official shall give the individual  
954 written information advising the individual that, and describing how, the individual will be able to  
955 ascertain whether the vote was counted and, if the vote was not counted, the reason it was not.  
956 (Ord. 2015-28, 2015/Ord. No. 2009-22, 5-18-09)

957  
958 **5.22.030 Assistance casting provisional ballot.**

959  
960 Any voter who requires assistance in casting a provisional ballot by reason of disability, inability  
961 to write, or inability to read the ballot may be given assistance by an individual of the voter's  
962 choice, not to include any candidate or an agent of any candidate in that City election, the voter's  
963 employer or agent of the employer, or an officer or agent of the voter's union. Any person giving  
964 assistance to a voter pursuant to this section shall include an affidavit of assistance to be included  
965 with the provisional ballot. (Ord. 2015-28, 2015/Ord. No. 2009-22, 5-18-09)

966  
967 **5.22.040 Provisional ballots.**

968  
969 A. Prior to any City election, the City Clerk shall print or cause to be printed an adequate number  
970 of applications for provisional ballots, ~~provisional ballots,~~ envelopes and instructions for  
971 provisional voters.

972  
973 B. The form and arrangement of all provisional ballot applications, ~~provisional ballots,~~  
974 instructions, and ballot envelopes shall be as determined by the Takoma Park Board of Elections.  
975 (Ord. 2015-28, 2015/Ord. No. 2009-22, 5-18-09)

976  
977 **5.22.050 Tabulation of provisional ballots.**

978  
979 A. The Takoma Park Board of Elections shall evaluate provisional ballot applications and include  
980 accepted provisional ballot votes in the certified election results presented to the Council.

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

983  
984 C. The Takoma Park Board of Elections shall open an envelope containing a provisional ballot  
985 only after the Board has approved the provisional ballot application.

986  
987 D. The Takoma Park Board of Elections may not reject a provisional ballot except by majority  
988 vote of a ~~panel appointed by the Chairperson of the Board.~~ Grounds for rejection of a provisional  
989 ballot include, but are not limited to:

- 990  
991 1. The individual who cast the provisional ballot is not a qualified voter in the City.  
992  
993 2. The individual returned a voted absentee ballot in that City election.  
994  
995 3. The individual cast more than one ballot in that City election.  
996  
997 4. The individual failed to sign the oath on the provisional ballot application.



998  
999 5. The provisional ballot is intentionally marked with an identifying mark that is clearly  
1000 evident and placed on the ballot for the purpose of identifying the ballot.

1001  
1002 6. The individual failed to provide required identification or the identification submitted did  
1003 not satisfy the identification requirements.

1004  
1005 7. The individual provided incomplete or inaccurate information on the provisional ballot  
1006 application.

1007  
1008 8. An identity or residency challenge of the individual was upheld.

1009  
1010 9. ~~The individual was not eligible to receive a provisional ballot.~~

1011 ~~E. If the intent of the provisional voter with respect to a particular contest or question is not~~  
1012 ~~clearly demonstrated, then only the vote for that contest or question shall be rejected.~~

1013  
1014 E. F. The Takoma Park Board of Elections, in coordination with the City Clerk, shall establish a  
1015 system that any individual who casts a provisional ballot may access without cost to discover  
1016 whether the ballot was counted and, if not counted, the reason it was not. The system shall ensure  
1017 the confidentiality of the individual who accesses the system and the secrecy of each ballot. (Ord.  
1018 2015-28, 2015/Ord. No. 2009-22, 5-18-09)

1019  
1020 **Chapter 5.24**

1021  
1022 **BOARD OF ELECTIONS**

1023  
1024 Sections:

1025 5.24.010 Establishment of Board of Elections.

1026 5.24.020 Membership and term of office.

1027 5.24.030 Administration.

1028 5.24.040 Duties of the Board of Elections.

1029  
1030 **5.24.010 Establishment of Board of Elections.**

1031  
1032 The City of Takoma Park Board of Elections is established. The Board of Elections shall be  
1033 composed of up to seven members who shall be appointed by the Council. The Council shall make  
1034 every effort to ensure that the Board of Elections includes representatives from each Council ward.  
1035 (Ord. 2015-28, 2015/Ord. 2007-36 § 1, 2007: Ord. 2006-36 (part), 2006)

1036  
1037 **5.24.020 Membership and term of office.**

1038  
1039 A. Qualifications. Members of the Board of Elections shall be qualified voters of the City and  
1040 shall not hold or be a candidate for any elective office in government (Federal, State, County, or  
1041 local) during their term on the Board. Members of the Board of Elections also shall not serve as  
1042 the treasurer or campaign manager for any candidate for City elective office or be an advocate for

1043 or against any campaign or ballot referendum question in a regular or special City election. Any  
1044 member who ceases to meet the qualifications for membership on the Board of Elections shall  
1045 automatically forfeit his or her membership on the Board and the Council may act to fill the  
1046 vacancy.

1047  
1048 B. Term. Members of the Board of Elections shall serve staggered three-year terms. ~~Initial~~  
1049 ~~appointments to the Board shall be for one, two or three years.~~ All terms shall begin on July 1st  
1050 and end on June 30th. Midterm vacancies on the Board of Elections shall be filled by the Council  
1051 for the remainder of the unexpired term.

1052  
1053 C. Oath of office. A member of the Board of Elections shall take an oath of office upon assuming  
1054 their initial term.

1055 ~~D. €.~~ Removal. Any member of the Board of Elections may be removed by the Council before  
1056 the member's term has expired if the Council determines that the member has become  
1057 incapacitated, has failed to reasonably perform ~~his or her~~ their duties as a member of the Board of  
1058 Elections, or for other good cause. Before removal, ~~the a~~ member of the Board of Elections who  
1059 is proposed to be removed shall be given written notice of the proposed removal and the reasons  
1060 for such action. If the Board member requests a public hearing on the proposed removal within 10  
1061 days after receipt of the written notice, then the Council shall conduct a hearing before acting on  
1062 the proposed removal. Any member who fails to attend, without being properly excused by the  
1063 Chairperson, three or more consecutive meetings of the Board, or a majority of five consecutive  
1064 meetings, shall be deemed to have provided good cause for removal by the Council. (Ord. 2015-  
1065 28, 2015/Ord. 2006-36 (part), 2006)

1066  
1067 **5.24.030 Administration.**

1068  
1069 A. Officers. The Board of Elections shall elect a Chairperson and Vice Chairperson for a one-  
1070 year term or until a successor is elected.

1071  
1072 B. Quorum. A majority of the members of the Board of Elections shall constitute a quorum for  
1073 the transaction of business.

1074  
1075 C. Meetings. The Board of Elections shall meet as required to perform its duties, but at least  
1076 once a year. Regular or special meetings shall be convened by the Chairperson or by a majority of  
1077 the members of the Board of Elections.

1078  
1079 D. ~~Adoption of Bylaws~~ Administrative Regulations and Rules of Procedure. The Board of  
1080 Elections may adopt ~~bylaws~~ administrative regulations and rules of procedure to further regulate  
1081 the activities of the Board.

1082  
1083 E. The City Attorney shall be the legal advisor to the Board of Elections. (Ord. 2015-28,  
1084 2015/Ord. 2006-36 (part), 2006)

1085

1086 **5.24.040 Duties of the Board of Elections.**

1087

1088 The Board of Elections shall:

1089

1090 A. Plan and conduct regular and special City elections in coordination with the City Clerk;

1091

1092 B. Encourage voter registration in the City;

1093

1094 C. Conduct voter education programs and prepare and distribute voter outreach materials;

1095

1096 D. Recommend to the Council amendments to the City's elections law and regulations when it  
1097 deems such amendments are necessary and will provide for the improved conduct of elections;

1098

1099 E. Periodically review City elections procedures;

1100

1101 F. Serve as election judges in City elections;

1102 G. Identify ~~Recommend~~ additional qualified individuals ~~to the Council~~ for appointment as  
1103 election judges and workers during a regular or special City election;

1104

1105 H. Investigate and decide allegations of violations of the City of Takoma Park's election laws;

1106

1107 I. Direct that corrective action be taken with respect to any election related violation;

1108

1109 J. In the event an election issue arises that is not addressed in the City of Takoma Park's  
1110 Charter or Code or the Board of Elections Regulations, the Board of Elections may, at its sole  
1111 discretion, apply the election laws of the State of Maryland or another local government in the  
1112 State of Maryland to resolve the issue; and

1113

1114 K. H. Perform such other duties as may be assigned to the Board of Elections by Charter,  
1115 ordinances and resolutions, and by the direction of the Council. (Ord. 2015-28, 2015/Ord. 2006-  
1116 36 (part), 2006)

1117

1118 THIS ORDINANCE IS ADOPTED BY THE COUNCIL OF THE CITY OF TAKOMA PARK,  
1119 MARYLAND, THIS \_\_\_\_\_ DAY OF \_\_\_\_\_, 2020, BY ROLL-CALL VOTE  
1120 AS FOLLOWS:

1121

1122 AYE:

1123 NAY:

1124 ABSTAIN:

1125 ABSENT:

1126

1127 **Explanatory Note**

1128

1129 1. Underlining indicates language being added to the Code.

1130 2. [Bold brackets and ~~strikethrough~~] indicates language being deleted from the Code.