



Takoma Park City Council Meeting – April 1, 2020 Agenda Item 2

Voting Session

Second Reading Ordinance Amending Title 5, Election Code

Recommended Council Action

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

Context with Key Issues

The Board of Elections recommended revisions to the City's Elections Code. The Council heard the Board's recommendations on June 5, 2019 and discussed them on September 18. Discussions again took place on November 6, 2019, and the Mayor and Council referred several matters back to the Board to answer or clarify. The Board and the new City Attorney received comments and questions from the Mayor and Council at the work session on January 29, 2020. 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 on February 13th. Minor revisions were suggested by the BOE and, for the most part, made. Mayor and Council had additional questions and inquiries at the Work Session on March 4th and in subsequent correspondence. The text has been refined since that time to address those issues. During the March 18th first reading, revisions were made via amendment. They are highlighted.

Line 103: "or political committee" was added pursuant to amendment.

Line 170: Recommended language inserted to the definition of registration to address new Chapter 5.10.

Lines 220 through 263: Chapter 5.10 was inserted by amendment.

Lines 290 through 291: Pursuant to amendment, language was altered to address redundancy arising out of deletion of language in paragraph A related to address.

Line 305: Pursuant to amendment the following language was added "by any candidate or political committee"

Line 333: An apostrophe was added after the s in candidates. It is not highlighted.

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

- Title 5, Elections showing recommended revisions.

1 Introduced by: Councilmember Kovar

First Reading: March 18, 2020

2 Second Reading: _____

3 Effective Date: _____

4
5 **CITY OF TAKOMA PARK, MARYLAND**
6 **ORDINANCE 2020-7**
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 **5.10 Registration and Campaign Finance**

55 **5.12 Fair Election Practices**

56 **5.16 Voting**

57 **5.20 Absentee Voting**

58 **5.22 Provisional Ballots**

59 **5.24 Board of Elections**

60
61 **Chapter 5.04**

62
63 **GENERAL PROVISIONS**

64
65 **Sections:**

66 5.04.010 Purpose.

67 5.04.020 Definitions.

68
69 **5.04.010 Purpose.**

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

75
76 **5.04.020 Definitions.**

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

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

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

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

89
90 “Campaign material” means any printed or electronic statement or advertisement that contains
91 text, graphics, or other images, including social media; relates to or concerns any candidate or

92 prospective candidate or any matter or issue which has been submitted to a vote at an election or
93 is in the process of being petitioned to referendum; and is published or distributed to anyone by,
94 at the request of, or under the authority of, a candidate or political committee.

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

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

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

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

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

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

122
123 The term “expenditure” does not include:

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

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

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

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

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

140
141 “Person” means an individual, partnership, committee, association, corporation, labor
142 organization, or any other organization or group of persons, but such term does not include the
143 City of Takoma Park or any authority of the City.

144
145 “Personal funds” mean any assets which the candidate has a legal right of access to or control over,
146 and which they have legal title to or an equitable interest in, at the time of candidacy; income from
147 employment; dividends and interest from, and proceeds from sale or liquidation of, stocks and
148 other investments; income from trusts, if established before the election cycle; income from trusts
149 established by bequests (even after candidacy); bequests to the candidate; personal gifts
150 customarily received by the candidate prior to the beginning of the election cycle; and proceeds
151 from lotteries and similar games of chance.

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

159
160 ~~“Political matter” means any pamphlet, circular, card, sample ballot, poster, billboard,~~
161 ~~advertisement, button or any other printed, photographed, typewritten or written material or~~
162 ~~statement relating to or concerning any candidate or prospective candidate or any matter or issue~~
163 ~~which has been submitted to a vote at an election or is in the process of being petitioned to~~
164 ~~referendum.~~

165
166 ~~“Provisional ballot” means a ballot that is cast by an individual but not counted until the~~
167 ~~individual’s qualifications to vote have been confirmed by the Takoma Park Board of Elections.~~

168
169 ~~“Registration” means the act by which a person becomes qualified to vote in any election in the~~
170 ~~City or the process outlined in Chapter 5.10.~~

171
172 ~~“Safe harbor events” mean:~~

173
174 ~~1. The use of real or personal property, including a church or community room used on a~~
175 ~~regular basis by members of a community for noncommercial purposes, when said real or personal~~
176 ~~property is used for a candidate-related or political committee-related activity, and the cost of~~
177 ~~invitations, food, and beverages, voluntarily provided by an individual to any candidate or any~~
178 ~~political committee of a political party in rendering voluntary personal services on the individual’s~~
179 ~~residential premises or in the church or community room for candidate-related or political party-~~
180 ~~related activities, to the extent that the cumulative value of such invitations, food, and beverages~~
181 ~~provided by such individual on behalf of any single candidate does not exceed \$200 with respect~~
182 ~~to any single election; or~~

183
184 2. The sale of any food or beverage by a vendor for use in any candidate’s campaign or for
185 use by or on behalf of any political committee of a political party at a charge less than the normal
186 comparable charge, if such charge is at least equal to the cost of such food or beverage to the
187 vendor, to the extent that the cumulative value of such activity by such vendor on behalf of any
188 single candidate does not exceed \$200 with respect to any single election; or

189
190 3. Any unreimbursed payment for travel expenses made by any individual on behalf of any
191 candidate or any political committee of a political party, to the extent that the cumulative value of
192 such activity by such individual on behalf of any single candidate does not exceed \$200 with
193 respect to any single election.

194
195 “Surplus campaign funds” means funds left in a candidate’s campaign account after the election is
196 over and all campaign debts (including all loans) have been paid.

197
198 “Voting system” means a method of casting and tabulating ballots or votes. (Ord. 2015-28,
199 2015/Ord. No. 2009-22, 5-18-09/prior code § 4D-2)

200
201 **Chapter 5.08**

202
203 **WARDS**

204
205 Sections:

206 5.08.010 Description of ward boundaries.

207
208 **5.08.010 Description of ward boundaries.**

209
210 ~~A. The City is divided into six wards for purposes of City elections. Each ward shall be compact~~
211 ~~in form and composed of adjoining territory. The populations of the wards shall be substantially~~
212 ~~equal.~~

213
214 B. The City is divided into six wards for the purposes of City elections. The boundary lines of
215 the six wards shall be as they are shown on the map and accompanying street directory designated
216 “2013 District Plan and Street Directory,” dated December 3, 2012, including any corrections
217 made since that time, incorporated herein, on file and available for inspection in the office of the
218 City Clerk. (Ord. 2015-28, 2015/Ord. 2013-3 § 1, 2013/Ord. 2003-17 § 1, 2003/prior code § 4D-
219 5)

220 **Chapter 5.10**

221
222 **Registration and Campaign Finance Limitations**

223 **Sections:**

224 5.10.010 Registration and campaign finance.

225 5.10.020 Process for registration.

226 5.10.030 Special elections and referendums.

227 5.10.040 Interpretation.

229 **5.10.010 Registration and campaign finance.**
230 A. No person may seek to influence an election or seek elected office in the City of Takoma
231 Park unless that person is registered with the City Clerk's Office.

232
233 B. Only a registered person may accept contributions or make expenditures in a City of
234 Takoma Park election.

235
236 C. The election laws of the City shall apply to the registered person as if that person is a
237 candidate for office in the City of Takoma Park.

238
239 **5.10.020 Process for registration.**

240 A. Beginning on the second Monday in June during an election year, any person seeking
241 elected office in the City of Takoma Park or seeking to influence an election in the City of Takoma
242 Park shall register with the City Clerk by completing a registration form prepared by the City Clerk
243 and approved by the City Attorney.

244
245 B. A registered person may withdraw the registration at any time provided, however, that the
246 person is otherwise compliant with all other aspects of the City's election laws.

247
248 C. A person who is not registered and is nominated at the City's Caucus for an elected office,
249 shall register within three days of being nominated unless the person declines the nomination as
250 set forth in the City Charter.

251
252 **5.10.030 Special elections and referendums.**

253 A. The provisions of this Chapter, except for section 5.10.020.A, shall apply to any person
254 accepting contributions or making expenditures in a special election or a referendum in the City
255 of Takoma Park.

256
257 B. Any person seeking office or seeking to influence a referendum or special election shall
258 register in accordance with this Chapter at the earliest reasonable opportunity once the dates and
259 times for the referendum or special election are established and publicized.

260
261 **5.10.040 Interpretation.**

262 This Chapter shall be interpreted so as to promote registration and compliance with the City of
263 Takoma Park's election laws.

264 **Chapter 5.12**

265
266 **FAIR ELECTION PRACTICES**

- 267
268 Sections:
269 5.12.010 ~~Political matter~~ Campaign material published or distributed.
270 5.12.020 Campaign ~~reports~~ contributions and expenditures.
271 5.12.021 Use of contributed amounts for certain purposes
272 5.12.022 Campaign finance reports

273 5.12.030 Surplus campaign funds.
274 5.12.040 Financial disclosure statements.

275

276 **5.12.010 ~~Political matter~~ Campaign material published or distributed.**

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

280

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

284

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

289

290 B. The name, title, and address of the person responsible for publication or distribution of
291 campaign material described in this section shall be on file with the City Clerk.

292

293 C. With respect to campaign material utilizing electronic media, compliance with section
294 5.12.010A is achieved if the display page or information or opinion contains an internet address
295 of the candidate or political committee responsible for the publication or distribution and allows
296 the receiver of the display page or information or opinion to click on the internet address or
297 hyperlink address and be taken to a landing or home page that prominently displays
298 the authority line information.

299

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

304

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

310

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

313

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

315

316 **5.12.020 Campaign ~~reports~~ contributions and expenditures.**
317

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

326
327 B. Contributions made by a candidate from their personal funds, or from assets jointly owned
328 with their spouse or domestic partner, are not subject to any limits on the amount contributed.

329
330 C. For purposes of this section—

331
332 1. Contributions to a named candidate made to any person authorized by such candidate to
333 accept contributions on the candidates' behalf shall be considered to be contributions made to such
334 candidate;

335
336 2. Expenditures made by any person in cooperation, consultation, or concert, with, or at the
337 request or suggestion of, a candidate or their agents, shall be considered to be a contribution to
338 such candidate; and

339
340 3. All contributions made by a person, either directly or indirectly, on behalf of a particular
341 candidate, including contributions which are in any way earmarked or otherwise directed through
342 an intermediary or conduit to said candidate, shall be treated as contributions from such person to
343 said candidate, and the intermediary or conduit shall report the original source and the amount
344 contributed to said candidate.

345
346 D. Candidates shall not utilize or retain anonymous contributions of any amount. If a candidate
347 receives an anonymous contribution, the amount shall be declared in campaign reports and
348 contributed to the City's general fund no later than 4:00pm on the Monday following the election.

349
350 E. An expenditure is made on behalf of a candidate if it is made by—

351
352 1. Any other agent of the candidate for purposes of making any expenditure; or

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

355
356 F. A candidate may make unlimited expenditures from the candidate's personal funds, or from
357 assets jointly owned with their spouse or domestic partner.

358
359 G. No candidate shall knowingly accept any contribution or make any expenditure in violation
360 of the provisions of this section. No officer, agent or employee of a candidate shall knowingly

361 accept a contribution made for the benefit or use of a candidate, or knowingly make any
362 expenditure on behalf of a candidate, in violation of any limitation imposed on contributions and
363 expenditures under this section.

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

366
367 **5.12.021 Use of contributed amounts for certain purposes.**

368
369 A. A contribution accepted by a candidate and any other donation received by an individual as
370 support for activities of the holder of City office, may be used by the candidate or individual as
371 follows:

372
373 1. For otherwise authorized expenditures in connection with the candidate's campaign for
374 City office;

375
376 2. For ordinary and necessary expenses incurred in connection with duties of the individual
377 as a holder of City office;

378
379 3. For donations to an organization that is classified as a 501(c)(3) nonprofit organization
380 under 26 U.S. Code § 501, or to an organization which has received City grant funding within the
381 last 2 years; or

382
383 4. For transfer to another authorized political committee for the purpose of nominating or
384 electing said candidate to any local, State, or Federal office;

385
386 5. For any other lawful purpose unless prohibited by any subsection of this section.

387
388 B. A contribution or donation described in subsection (A) shall not be converted by any person
389 to personal use.

390
391 C. For the purposes of subsection (B), a contribution shall be considered to be converted to
392 personal use if the contribution or amount is used to fulfill any commitment, obligation, or expense
393 of a person that would exist irrespective of the candidate's election campaign or individual's duties
394 as a holder of City office.

395
396 D. A contribution shall not be transferred from a candidate's campaign account to another
397 candidate or to another national, State, or local committee of a political party.

398
399 E. A violation of this section is a Class B offense. (Ord. 2015-28, 2015/prior code § 4D-7)

400
401 **5.12.022 Campaign finance reports.**

402
403 A. Each candidate or ~~his or her~~ their authorized representative and each authorized representative
404 of any political committee shall file ~~a reports~~ with the City Clerk disclosing ~~the total monetary~~
405 contributions, as well as the names and addresses of all persons, other than the candidate or
406 members of his or her immediate family, who contribute anything of value, other than volunteer

407 ~~services, of \$25.01 or more in an election. All campaign reports filed shall be available for public~~
408 ~~review during the normal office hours of the City Clerk all contributions and all disbursements in~~
409 ~~accordance with this section.~~

410
411 ~~1. An initial report listing contributions received since the date of the last preceding election~~
412 ~~to fill the office for which the candidate is running shall be filed with the City Clerk no later than~~
413 ~~the Monday at least seven days preceding the election.~~

414
415 ~~2. A final report of campaign contributions not previously reported shall be filed with the~~
416 ~~City Clerk no later than 4:00 p.m. of the Monday following the election.~~

417
418 ~~3. Even if no contributions have been received since the end of the period for which the last~~
419 ~~preceding report was filed or due, a statement to that effect must be filed with the City Clerk.~~

420
421 B. Each candidate and political committee or the authorized representative of each candidate or
422 political committee, shall file the following reports:

423
424 1. A post-nomination report, which shall be filed no later than 4:00pm of the second third
425 Monday after the City Nominating Caucus;

426
427 2. A pre-election report, which shall be filed no later than 4:00pm of the Monday at least
428 seven days preceding the start of early voting;

429
430 3. A post-election report, which shall be filed no later than 4:00pm of the Monday following
431 the election;

432
433 4. An annual report, which shall be filed no later than January 31 of each year, on the retention
434 or disposition of surplus campaign funds until all such funds are used or distributed;

435
436 5. The post-nomination report shall include all information required to be reported by this
437 section from the date of the preceding election or the most recent annual report, if applicable, up
438 to and including the full day before the filing of the post-nomination report. All other reports shall
439 include information starting from the full day that the previous report was filed up to and including
440 the full day before the filing of the current report.

441
442 C. Each report under this section shall disclose:

443
444 1. The amount of cash on hand at the beginning of the reporting period;

445
446 2. The total amount of all contributions for the reporting period and the election cycle;

447
448 3. The identification of each person who makes a contribution to the candidate during the
449 reporting period;

450
451 4. The amount contributed by each person who makes a contribution to the candidate during
452 the reporting period;

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

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

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

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

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

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

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

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

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

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

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

501
502 I. All campaign reports filed, and all notifications of deficiencies and late filing fees, shall be
503 available for public review during the normal office hours of the City Clerk.

504
505 ~~GJ.~~ A violation of this section is a Class B offense. (Ord. 2015-28, 2015/prior code § 4D-7)

506 **5.12.030 Surplus campaign funds, dispositions, and reports.**

507
508 A. Surplus campaign funds may be ~~used at the discretion of the candidate for any community or~~
509 ~~political purpose, except:~~ retained after an election and used by the candidate to support that same
510 candidate's election or reelection to any City office or any other elected office.

511
512 B. Surplus campaign funds of a candidate, which are not retained in accordance with this section,
513 shall be disposed of in accordance with subsection (C) of this section.

514
515 C. A candidate may dispose of surplus campaign funds by:
516
517 1. Returning the funds, pro rata, to the contributors; or
518
519 2. Donating the funds to the City's general fund; or
520
521 3. Donating the funds to an organization that is classified as a 501(c)(3) nonprofit
522 organization under 26 U.S. Code § 501 or to an organization which has received City grant funding
523 within the last 2 years. In the event a candidate determines to donate surplus funds to an
524 organization meeting the criteria in section 5.12.021(c)(3), preference for the donation should be
525 given to organization providing services in the City of Takoma Park or to an organization
526 providing services in the City of Takoma Park metropolitan area.

527
528 D. Prohibited uses of surplus campaign funds include:
529
530 1. The personal use of the candidate, the treasurer, or any member of the candidate's
531 campaign staff, or the immediate family members of those individuals, however, use of surplus
532 funds to hold a party for campaign supporters is a permitted political purpose; or
533
534 2. A transfer to a political committee or a candidate other than the political committee or
535 individual candidate for whom the funds were raised.

536
537 ~~BE.~~ A candidate, or any individual who previously was a candidate and has retained surplus
538 campaign funds, shall report annually, no later than January 31, on the retention or disposition of
539 surplus campaign funds until all such funds are depleted.

540
541 F. A violation of this section is a Class B offense. (Ord. 2015-28, 2015/prior code § 4D-8)

542

543 **5.12.040 Financial disclosure statements.**

544

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

547

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

552

Chapter 5.16

553

VOTING

554

555

556

Sections:

557

5.16.010 Voting systems.

558

5.16.020 Ballots.

559

5.16.030 Instruction and assistance in voting.

560

5.16.040 Time allowed for voting.

561

5.16.050 Closing of polls.

562

5.16.060 Tabulation of votes.

563

5.16.070 Election challenges and appeals.

564

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

565

5.16.090 Penalties.

566

567

5.16.010 Voting systems.

568

569

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

570

571

B. The City Council may purchase, rent, lease or otherwise acquire such voting systems and
572 related equipment as may be required for an election. (Ord. 2015-28, 2015/Ord. No. 2009-22, 5-
573 18-09/prior code § 4D-10)

574

575

5.16.020 Ballots.

576

577

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

578

579

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

581

582

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

583

584

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

586

587 C. The form and arrangement of all ballots shall be determined by the City Clerk in accordance
588 with the following requirements:
589

590 1. In all elections, the names of candidates shall be arranged alphabetically on the ballots
591 according to their surname, under the designation of office. The names of the candidates for Mayor
592 shall appear first on the ballots, followed by the names of the candidates for Councilmember
593 according to the numeric designation of the ward. Honorifics and titles shall not appear on ballots.
594

595 2. No ballot shall contain a party designation of a candidate.

596 3. Each ballot shall contain ~~an appropriate instruction to the voter informing him or her of the~~
597 ~~offices for which he or she may vote and the number of persons for whom he or she may lawfully~~
598 ~~vote for each office.~~
599

600 4. All ballots shall contain a statement in understandable language of every question to be
601 submitted to a vote at any election.
602

603 5. The City Clerk shall prepare and certify the form in which a question shall appear, and
604 each question may be captioned with a descriptive title containing not more than five words.
605

606 6. Each ballot question shall ~~be printed~~ appear on the ballots following the name of the
607 candidates and shall be accompanied by the words “For” and “Against.”
608

609 D. If, because of an error in printing or a change in circumstances, the City Clerk at any time
610 finds it necessary to make a change in a ballot, the City Clerk shall promptly change the ballots by
611 taking the following action:
612

613 1. If there is sufficient time for printing or reprinting of the ballot, make the appropriate
614 changes or corrections on the printed ballots;
615

616 2. If there is insufficient time for reprinting, and if it is appropriate to the voting system in
617 use, cause to be printed a sufficient number of stickers incorporating the appropriate changes or
618 corrections. The stickers shall be as consistent as possible with the printed ballots and be affixed
619 to the ballots in the appropriate places;
620

621 3. If time does not permit the process provided in subsection (D)(2) of this section or if such
622 a process is inappropriate, take all appropriate measures to notify voters of the change and the
623 procedure to be used by each voter to record a vote;
624

625 4. After any change on a ballot, the City Clerk shall take all reasonable steps to notify all
626 candidates for the office involved of the change or correction in the ballots.
627

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

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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.

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)

679 **5.16.060 Tabulation of votes.**

680
681 A. After the polls have officially closed, the election judges then shall proceed to tabulate the
682 votes cast.

683
684 B. The election judges shall tabulate the votes cast as provided in Section 606 of the City Charter,
685 using procedures to ensure the following:

686
687 1. The secrecy of the ballot;

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

690
691 3. If the intent of the voter with respect to a particular contest or question is not clearly
692 demonstrated, then only the vote for that contest or question shall be rejected;

693
694 4. The tabulating and recording of votes by ward for or against any candidate, candidates or
695 question;

696
697 5. Prompt reporting of election returns after the official closing of the polls.

698
699 C. The tabulation, release or announcement of election results prior to the official closing of the
700 polls is prohibited.

701
702 D. All paper ballots and any printed or electronic record from voting machines shall be safely
703 kept by the City Clerk for three months after the date of the election at which the ballots were cast
704 and may then be destroyed, unless prior to that time the City Clerk is ordered by a court of
705 competent jurisdiction to keep the same for any longer period.

706
707 E. A violation of subsection (B) or (C) of this section is a Class B offense. (Ord. 2015-28,
708 2015/Ord. No. 2009-22, 5-19-09/prior code § 4D-15)

709 **5.16.070 Election challenges and appeals.**

710
711
712 A. Any candidate or voter who wishes to challenge the results of an election or any matter relating
713 to the validity of a ballot shall give written notice to the City Clerk within two business days after
714 the date the results of the election are certified to the Council.

715
716 1. The written notice of election challenge shall be made under penalty of perjury and include
717 a complete statement of all facts on which the candidate or voter relies to support ~~his or her~~ their
718 election challenge.

719
720 2. The City Clerk shall immediately refer the notice of election challenge to the Takoma Park
721 Board of Elections, which shall investigate the facts of the challenge.

722

723 3. Within four business days after the City Clerk receives the written notice of election
724 challenge, the Takoma Park Board of Elections shall issue a report of its factual investigation,
725 together with a recommendation for action to the Council.
726

727 B. Within 10 business days after an election, the Council shall convene a special meeting to
728 determine all election challenges.
729

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

734 D. Any candidate or voter aggrieved by any decision or action of the Council on an election
735 challenge shall have the right to appeal to the Circuit Court for Montgomery County.
736

737 E. An appeal shall be taken by way of petition filed with the Circuit Court for Montgomery
738 County within five days from the date of the decision of the Council on an election challenge.
739 Appeals shall be heard de novo and without a jury by the Circuit Court as soon as possible. (Ord.
740 2015-28, 2015/Ord. No. 2009-22, 5-19-09/prior code § 4D-16)
741

742 **5.16.080 Inspection of ballots in the event of an election challenge or appeal.**
743

744 A. All ballots cast in any election shall remain locked and sealed for three months after the
745 certification of election results or for as long as may be necessary or advisable because of any
746 challenge to a result of an election or the validity of a ballot.
747

748 B. As part of the investigation and report of an election challenge or appeal, the ballot storage
749 box or voting machine may be opened and the data and figures examined in order to count or
750 recount the votes cast in the race, referendum question, or election being challenged or to
751 determine any matter related to the validity of a ballot. Such ballot count or examination shall be
752 conducted in response to an order of any court of competent jurisdiction or at the direction of the
753 Takoma Park Board of Elections and in the presence of the principals involved in the election
754 challenge or appeal or their authorized representatives. The Takoma Park Board of Elections or an
755 individual appointed by a court of competent jurisdiction shall make a record of the votes for such
756 challenged office or other matter relating to the validity of ballots or votes cast. (Ord. 2015-28,
757 2015/Ord. No. 2009-22, 5-19-09/prior code § 4D-17)
758

759 **5.16.090 Penalties.**
760

761 The following are Class A misdemeanor offenses or Class A municipal infractions:
762

763 A. A person who is not a qualified voter of the City voting in a City election.
764

765 B. Intentionally allowing a person who is not a qualified voter to vote in a City election.
766

767 C. Tampering with, damaging, breaking or attempting to tamper with, damage or break any
768 voting machine, ballot or other voting system or equipment used or to be used in any City election.
769

770 D. Any other violation of this title, unless the violation has been designated as a Class B offense.
771 (Ord. 2015-28, 2015/Ord. No. 2009-22, 5-19-09/prior code § 4D-18)
772

773 **Chapter 5.20**

774 **ABSENTEE VOTING**

775
776
777 Sections:

778 5.20.010 Who may vote.

779 5.20.020 ~~Applications~~ Requests for absentee ballots.

780 5.20.030 ~~Late applications for absentee ballots.~~

781 ~~5.20.035~~ Instruction and assistance in absentee voting.

782 5.20.040 Determination of absentee voters' eligibility and delivery of ballots.

783 5.20.050 Absentee ballots.

784 5.20.060 Tabulation of absentee ballots.

785 5.20.070 Absentee ballot challenges and appeals.

786 5.20.080 Penalties.
787

788 **5.20.010 Who may vote.**

789
790 Any person who is qualified to vote may vote by absentee ballot in City elections. This process
791 may also be referred to as "vote by mail." (Ord. 2015-28, 2015/Ord. No. 2009-22, 5-19-09/prior
792 code § 4D-20)
793

794 **5.20.020 ~~Applications~~ Requests for absentee ballots.**

795
796 A. ~~An application~~ request for absentee ballot, signed by the voter under penalty of perjury, may
797 be made:
798

799 1. On a form provided by the City Clerk to the voter upon request; or
800

801 2. In a signed, written request that includes:
802

803 a. The voter's name and home address;
804

805 b. A certification that the voter is registered to vote and ~~is has been or will be~~ a resident
806 of the City for ~~at least 21 days immediately preceding the date of the City election;~~ and
807

808 c. The address to which the absentee ballot is to be mailed or delivered, if different
809 from the voter's home address.
810

811 B. ~~Applications~~ A requests for a mailed absentee ballot must be received by the City Clerk no
812 later than 4:00 p.m. on the seventh calendar day preceding ~~the~~ election day. (Ord. 2015-28,
813 2015/Ord. No. 2009-22, 5-18-09/prior code § 4D-21)

814

815 **~~5.20.030~~ — Late applications for absentee ballots.**

816

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

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

823

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

825

826 2. ~~That the voter is registered to vote and has been or will be a resident of the City for at least~~
827 ~~21 days immediately preceding the date of the City election.~~

828

829 ED. Upon receiving a ~~late application for an absentee ballot~~ the request, the City Clerk, if
830 satisfied that the ~~applicant voter~~ is a qualified City voter and entitled to vote by absentee ballot,
831 shall give the applicant, or ~~his or her~~ their authorized agent, an absentee ballot to be marked by the
832 voter, placed in a sealed envelope and returned to the City Clerk. (Ord. 2015-28, 2015/Ord. No.
833 2009-22, 5-18-09/prior code § 4D-22)

834

835 **~~5.20.035~~30 Instruction and assistance in absentee voting.**

836

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

838

839 B. An agent of a voter:

840

841 1. Must be at least 16 years of age;

842

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

844

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

846

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

848

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

851

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

856

857 C. Any voter who requires assistance in casting an absentee ballot by reason of disability,
858 inability to write, or inability to read the ballot may be given assistance by an agent of the voter.
859 An agent giving assistance to a voter pursuant to this subsection shall include a certification of
860 assistance to be included with the absentee ballot. (Ord. 2015-28, 2015/Ord. No. 2009-22, 5-18-
861 09)

862

863 **5.20.040 Determination of absentee voters' eligibility and delivery of ballots.**

864

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

868

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

871 1. Postage for transmitting and return of the absentee ballot material ~~to the applicant~~ shall be
872 paid by the City ~~and postage for the return of the ballot and related material shall be paid by the~~
873 ~~voter.~~

874

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

877

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

879

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

881

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

883

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

885

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

887

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

889

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

891

892 7. Any other information deemed necessary.

893

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

896

897 D. Only one absentee ballot shall be issued to a voter unless the City Clerk has reasonable
898 grounds to believe that the absentee ballot previously issued to the voter has been lost, destroyed
899 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)

945
946 **5.20.070 Absentee ballot challenges and appeals.**
947

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

950
951 **5.20.080 Penalties.**
952

953 A violation of this chapter is a Class B municipal infraction offense. (Ord. 2015-28, 2015/Ord. No.
954 2009-22, 5-18-09/prior code § 4D-27)

955 **Chapter 5.22**
956

957 **PROVISIONAL BALLOTS**
958

959 Sections:

- 960 5.22.010 Casting provisional ballots.
961 5.22.020 Provisional ballot application.
962 5.22.030 Assistance casting provisional ballot.
963 5.22.040 Provisional ballots.
964 5.22.050 Tabulation of provisional ballots.
965

966 **5.22.010 Casting provisional ballots.**
967

968 An individual is eligible to cast a provisional ballot in a City election if:
969

970 A. The individual declares in a written affirmation submitted with the provisional ballot that the
971 individual is a qualified voter of the City and is otherwise eligible to vote in that election; and
972

973 B. ~~1.—The individual’s name does not appear on either the voter registry; list of registered~~
974 ~~voters in the City provided by the Montgomery County Board of Elections or the supplemental list~~
975 ~~of non-United States citizens who are registered to vote in City elections; or and~~
976

977 1. ~~2.—~~A City election official asserts that the individual is not eligible to register to vote; or
978

979 2. ~~3.—~~The individual does not have the necessary identification for registration to vote., if
980 ~~any.~~ (Ord. 2015-28, 2015/Ord. No. 2009-22, 5-18-09)
981

982 **5.22.020 Provisional ballot application.**
983

984 A. Before an individual casts a provisional ballot, the individual shall complete and sign the
985 provisional ballot application prescribed by the Takoma Park Board of Elections.
986

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

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

991
992 **5.22.030 Assistance casting provisional ballot.**

993
994 Any voter who requires assistance in casting a provisional ballot by reason of disability, inability
995 to write, or inability to read the ballot may be given assistance by an individual of the voter's
996 choice, not to include any candidate or an agent of any candidate in that City election, the voter's
997 employer or agent of the employer, or an officer or agent of the voter's union. Any person giving
998 assistance to a voter pursuant to this section shall include an affidavit of assistance to be included
999 with the provisional ballot. (Ord. 2015-28, 2015/Ord. No. 2009-22, 5-18-09)

1000
1001 **5.22.040 Provisional ballots.**

1002
1003 A. Prior to any City election, the City Clerk shall print or cause to be printed an adequate number
1004 of applications for provisional ballots, ~~provisional ballots,~~ envelopes and instructions for
1005 provisional voters.

1006
1007 B. The form and arrangement of all provisional ballot applications, ~~provisional ballots,~~
1008 instructions, and ballot envelopes shall be as determined by the Takoma Park Board of Elections.
1009 (Ord. 2015-28, 2015/Ord. No. 2009-22, 5-18-09)

1010
1011 **5.22.050 Tabulation of provisional ballots.**

1012
1013 A. The Takoma Park Board of Elections shall evaluate provisional ballot applications and include
1014 accepted provisional ballot votes in the certified election results presented to the Council.

1015
1016 B. Evaluation of provisional ballot applications shall be conducted by the Takoma Park Board
1017 of Elections.

1018
1019 C. The Takoma Park Board of Elections shall open an envelope containing a provisional ballot
1020 only after the Board has approved the provisional ballot application.

1021
1022 D. The Takoma Park Board of Elections may not reject a provisional ballot except by majority
1023 vote of a ~~panel appointed by the Chairperson of the Board.~~ Grounds for rejection of a provisional
1024 ballot include, but are not limited to:

- 1025 1. The individual who cast the provisional ballot is not a qualified voter in the City.
- 1026
- 1027 2. The individual returned a voted absentee ballot in that City election.
- 1028
- 1029 3. The individual cast more than one ballot in that City election.
- 1030
- 1031 4. The individual failed to sign the oath on the provisional ballot application.
- 1032
- 1033 5. The provisional ballot is intentionally marked with an identifying mark that is clearly
1034 evident and placed on the ballot for the purpose of identifying the ballot.

1035
1036 6. The individual failed to provide required identification or the identification submitted did
1037 not satisfy the identification requirements.

1038
1039 7. The individual provided incomplete or inaccurate information on the provisional ballot
1040 application.

1041
1042 8. An identity or residency challenge of the individual was upheld.

1043
1044 9. ~~The individual was not eligible to receive a provisional ballot.~~

1045 ~~E. If the intent of the provisional voter with respect to a particular contest or question is not~~
1046 ~~clearly demonstrated, then only the vote for that contest or question shall be rejected.~~

1047
1048 E. F. The Takoma Park Board of Elections, in coordination with the City Clerk, shall establish a
1049 system that any individual who casts a provisional ballot may access without cost to discover
1050 whether the ballot was counted and, if not counted, the reason it was not. The system shall ensure
1051 the confidentiality of the individual who accesses the system and the secrecy of each ballot. (Ord.
1052 2015-28, 2015/Ord. No. 2009-22, 5-18-09)

1053
1054 **Chapter 5.24**

1055
1056 **BOARD OF ELECTIONS**

1057
1058 Sections:

1059 5.24.010 Establishment of Board of Elections.

1060 5.24.020 Membership and term of office.

1061 5.24.030 Administration.

1062 5.24.040 Duties of the Board of Elections.

1063
1064 **5.24.010 Establishment of Board of Elections.**

1065
1066 The City of Takoma Park Board of Elections is established. The Board of Elections shall be
1067 composed of up to seven members who shall be appointed by the Council. The Council shall make
1068 every effort to ensure that the Board of Elections includes representatives from each Council ward.
1069 (Ord. 2015-28, 2015/Ord. 2007-36 § 1, 2007: Ord. 2006-36 (part), 2006)

1070
1071 **5.24.020 Membership and term of office.**

1072
1073 A. Qualifications. Members of the Board of Elections shall be qualified voters of the City and
1074 shall not hold or be a candidate for any elective office in government (Federal, State, County, or
1075 local) during their term on the Board. Members of the Board of Elections also shall not serve as
1076 the treasurer or campaign manager for any candidate for City elective office or be an advocate for
1077 or against any campaign or ballot referendum question in a regular or special City election. Any
1078 member who ceases to meet the qualifications for membership on the Board of Elections shall

1079 automatically forfeit his or her membership on the Board and the Council may act to fill the
1080 vacancy.

1081
1082 B. Term. Members of the Board of Elections shall serve staggered three-year terms. ~~Initial~~
1083 ~~appointments to the Board shall be for one, two or three years.~~ All terms shall begin on July 1st
1084 and end on June 30th. Midterm vacancies on the Board of Elections shall be filled by the Council
1085 for the remainder of the unexpired term.

1086
1087 C. Oath of office. A member of the Board of Elections shall take an oath of office upon assuming
1088 their initial term.

1089 ~~D. C.~~ Removal. Any member of the Board of Elections may be removed by the Council before
1090 the member's term has expired if the Council determines that the member has become
1091 incapacitated, has failed to reasonably perform ~~his or her~~ their duties as a member of the Board of
1092 Elections, or for other good cause. Before removal, ~~the~~ a member of the Board of Elections who
1093 is proposed to be removed shall be given written notice of the proposed removal and the reasons
1094 for such action. If the Board member requests a public hearing on the proposed removal within 10
1095 days after receipt of the written notice, then the Council shall conduct a hearing before acting on
1096 the proposed removal. Any member who fails to attend, without being properly excused by the
1097 Chairperson, three or more consecutive meetings of the Board, or a majority of five consecutive
1098 meetings, shall be deemed to have provided good cause for removal by the Council. (Ord. 2015-
1099 28, 2015/Ord. 2006-36 (part), 2006)

1100
1101 **5.24.030 Administration.**

1102
1103 A. Officers. The Board of Elections shall elect a Chairperson and Vice Chairperson for a one-
1104 year term or until a successor is elected.

1105
1106 B. Quorum. A majority of the members of the Board of Elections shall constitute a quorum for
1107 the transaction of business.

1108
1109 C. Meetings. The Board of Elections shall meet as required to perform its duties, but at least
1110 once a year. Regular or special meetings shall be convened by the Chairperson or by a majority of
1111 the members of the Board of Elections.

1112
1113 ~~D. Adoption of Bylaws~~ Administrative Regulations and Rules of Procedure. The Board of
1114 Elections may adopt ~~bylaws~~ administrative regulations and rules of procedure to further regulate
1115 the activities of the Board.

1116
1117 E. The City Attorney shall be the legal advisor to the Board of Elections. (Ord. 2015-28,
1118 2015/Ord. 2006-36 (part), 2006)

1119
1120 **5.24.040 Duties of the Board of Elections.**

1121
1122 The Board of Elections shall:

1123

- 1124 A. Plan and conduct regular and special City elections in coordination with the City Clerk;
1125
1126 B. Encourage voter registration in the City;
1127
1128 C. Conduct voter education programs and prepare and distribute voter outreach materials;
1129
1130 D. Recommend to the Council amendments to the City’s elections law and regulations when it
1131 deems such amendments are necessary and will provide for the improved conduct of elections;
1132
1133 E. Periodically review City elections procedures;
1134
1135 F. Serve as election judges in City elections;
- 1136 G. Identify ~~Recommend~~ additional qualified individuals ~~to the Council~~ for appointment as
1137 election judges and workers during a regular or special City election;
1138
1139 H. Investigate and decide allegations of violations of the City of Takoma Park’s election laws;
1140
1141 I. Direct that corrective action be taken with respect to any election related violation;
1142
1143 J. In the event an election issue arises that is not addressed in the City of Takoma Park’s
1144 Charter or Code or the Board of Elections Regulations, the Board of Elections may, at its sole
1145 discretion, apply the election laws of the State of Maryland or another local government in the
1146 State of Maryland to resolve the issue; and
1147
1148 K. H. Perform such other duties as may be assigned to the Board of Elections by Charter,
1149 ordinances and resolutions, and by the direction of the Council. (Ord. 2015-28, 2015/Ord. 2006-
1150 36 (part), 2006)

1151
1152 THIS ORDINANCE IS ADOPTED BY THE COUNCIL OF THE CITY OF TAKOMA PARK,
1153 MARYLAND, THIS _____ DAY OF _____, 2020, BY ROLL-CALL VOTE
1154 AS FOLLOWS:

- 1155
1156 AYE:
1157 NAY:
1158 ABSTAIN:
1159 ABSENT:

1160
1161 **Explanatory Note**
1162

- 1163 1. Underlining indicates language being added to the Code.
1164 2. [Bold brackets and ~~striketrough~~] indicates language being deleted from the Code.