Voting Session
Amending the City of Takoma Park Code, Title 5, Elections to Add Chapter 5.18 in order to Establish Mail-In Voting and Amending Chapters 5.04, 5.16, and 5.20 to Ensure Provisions Contained Therein are Consistent with the New Chapter 5.18

Recommended Council Action
Consider and vote on the Ordinance at second reading.

Context with Key Issues
Revisions to the City's Code are necessary to accommodate mail-in ballot voting for the purposes of having the ability to conduct the November 2020 election in the context of the current global pandemic.

The most significant changes are found in new Chapter 5.18 and are designed to allow the City to proceed with an election that is almost entirely a mail-in ballot election or a traditional election with a mail-in ballot component. The City Clerk and Board of Elections are still working on calculating the appropriate time periods for the date ranges that will be utilized for distribution of mail-in ballots, notices, and reminders.

Additional changes were made to Chapter 5.04, 5.16, and 5.20, to accommodate mail-in ballot related changes or for the purposes of consistency.

Council Priority
Engaged, Responsive and Service-Oriented Government

Environmental Considerations
N/A

Fiscal Considerations
The FY21 Budget includes $57,000 for the election. The estimated cost of the election is being revised to incorporate vote by mail. The cost related to vote by mail will include printing of ballots, envelopes, and instructions, and inserting and mailing ballots to all Takoma Park registered voters. Postage for return ballots will be paid. Staff is consulting with and seeking quotes from potential vendors to print, insert, and mail ballots and related materials.

Racial Equity Considerations
A reason for the change in election date to coincide with presidential and gubernatorial elections is to encourage more residents to vote in Takoma Park elections. It has been particularly difficult to draw in voters from Wards 4, 5, and 6, the wards with larger numbers of people of color and people who live in multifamily housing.

The change to vote by mail could negatively impact the turnout anticipated when the election date was changed. In preparing for 2020, staff and the Board will be focused on outreach, education, and preparation for residents to vote.

Prepared by: E.I. Cornbrooks, IV, City Attorney   Rev.: 2020-07-29; Posted: 2020-07-23
Approved by: Suzanne R. Ludlow, City Manager

Attachments and Links

- Draft Ordinance
- [Link to full text of Title 5, Elections](#)
- Potential Amendments to Ordinance for Second Reading

CITY OF TAKOMA PARK, MARYLAND
ORDINANCE 2020–__

AMENDING THE CITY OF TAKOMA PARK CODE, TITLE 5, ELECTIONS TO ADD CHAPTER 5.18 IN ORDER TO ESTABLISH MAIL-IN VOTING AND AMENDING CHAPTERS 5.04, 5.16, AND 5.20 TO ENSURE PROVISIONS CONTAINED THEREIN ARE CONSISTENT WITH THE NEW CHAPTER 5.18.

WHEREAS, the Maryland Code, Local Government Article, Section 5–202, as amended, authorizes the legislative body of each municipal corporation in the State of Maryland to pass ordinances that such legislative body deems necessary to assure the good government of the municipality, to protect and preserve the municipality's rights, property and privileges, to preserve peace and good order, to secure persons and property from danger and destruction, and to protect the health, comfort, and convenience of the citizens of the municipality; and

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

WHEREAS, the Council recognizes that there is tremendous uncertainty about the course of the COVID-19 pandemic and that there is presently a resurgence of the disease across the globe and in many states in the United States of America; and

WHEREAS, the Council recognizes the potential for COVID-19 cases to increase when people gather as the fall and winter months approach, which may result in the State and local governments resuming more onerous restrictions on large gatherings; and

WHEREAS, the Council is committed to ensuring the 2020 election is accessible, secure, and safe, while minimizing, to the extent possible, the potential for exposure to COVID-19 to the voting public and City employees and election workers; and

WHEREAS, certain amendments to Title 5, Elections, are needed to accommodate a mail-in ballot election; and

WHEREAS, the Takoma Park Board of Elections recommends adoption of certain amendments prior to the November 3, 2020, City Election; and

WHEREAS, the Council last amended the City of Takoma Park Code, Title 5, Elections on April 1, 2020, by Ordinance No.: 2020-07; and

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

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

TITLE 5

ELECTIONS

Chapters:

Chapter 5.04

GENERAL PROVISIONS

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5.04.030 Construction of this Title.

This Title shall be construed so as to permit fair elections through in person voting, mail-in ballot voting, absentee ballot voting, and provisional voting, or any combination of said voting methods should the Council so determine by ordinance.

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Chapter 5.16

VOTING

5.16.070 Election challenges and appeals.

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

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Chapter 5.18

MAIL-IN BALLOT VOTING

Sections:

5.18.010 Mail-in ballot voting.
A.   City elections may utilize mail-in ballot voting.

B.   The Council may determine by ordinance whether mail-in ballot voting shall be the primary means of voting. In the event the Council determines that mail-in ballot voting shall be the primary means of voting, such an election shall be called a "mail-in ballot election."

C.   In a mail-in ballot election, at least one voting center shall be kept open on election day for in-person voting. The Board of Elections shall keep any such voting center open from 7:00 a.m. to 8:00 p.m. on election day.

5.18.020 Mail-in ballots.
A.   Prior to any City election, the City Clerk shall print or cause to be printed an adequate number of mail-in ballots, envelopes, and instructions for mail-in voters.

B.   The form and arrangement of all mail-in ballots, ballot instructions, covering envelopes, ballot envelopes, and return envelopes shall be as determined by the City Clerk.

C.   At all times, the City Clerk shall ensure adequate procedures are in place to safeguard the mail-in ballots.

5.18.030 Regular participation by mail-in ballot.

A.   Voters qualified to vote in City elections may participate in any City election by mail-in ballot on a regular basis by completing the requisite form established by the City Clerk. At any time, the voter may rescind the decision to participate regularly in City elections by mail-in ballot.

B.   If the election is not a mail-in ballot election pursuant to Section 5.18.010(B), the provisions of this Chapter only apply to those voters who participate by mail-in ballot on a regular basis as set forth in Section 5.18.030(A).

5.18.040 Mail-in ballot elections.

A.   The City Clerk shall determine who is qualified to vote in the City election for which the mail-in ballot will be sent.

B.   Except as elsewhere provided in this Chapter, the City Clerk shall cause to be mailed to all qualified voters in the City a mail-in ballot.

C.   The City Clerk shall keep a full record of mail-in ballot voting, including for each voter:

        1.   The name and home address of the voter;

        2.   The action taken with regard to notices, ballots, and reminders, sent to the voter;

        3.   The date of issuance of notices, ballots, and reminders;

        4.   The address to which the notices, ballots, and reminders are sent;

        5.   The date and time of the receipt of the voted mail-in ballot; and

        6.   Any other information deemed necessary.

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

D.   Postage for transmitting and return of the mail-in ballot material shall be paid by the City.

5.18.050 Distribution of mail-in ballots and notices and reminders.

A.   Mail-in ballots for an election must be mailed or distributed no more than thirty (30) days and no less than fifteen (15) days prior to the election to which they apply.

B.   One notice shall be mailed to all households in the City and at least one notice to all registered voters in the City informing them of the mail-in ballot voting deadlines and the date, time, and location of in-person voting on election day. Notice will be mailed or distributed no later than thirty (30) days prior to the election. The notice will be in addition to the mailing of the ballot itself. At least one other form of mass communication informing the public of the City election which must include all of the information required on the notices. The Board of Elections may provide for additional notices and reminders.

5.18.060 Replacement mail-in ballots.

A registered voter may obtain a replacement mail-in ballot if the original ballot was destroyed, spoiled, lost or not received by the registered voter. A registered voter who obtains a mail-in ballot in accordance with this subsection will be required to sign an affidavit, in a form approved by the Board, specifying the reason for requesting the replacement ballot.

5.18.070 Voter assistance for mail-in ballot voting.

A.	Any voter who requires assistance in casting a mail-in ballot by reason of disability, inability to write, or inability to read the ballot may be given assistance by an agent of the voter. An agent giving assistance to a voter pursuant to this subsection shall include a certification of assistance to be included with the mail-in ballot.

B.	An agent of a voter:

	1.	Must be at least 16 years of age;

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

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

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

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

	6.	Shall execute a certification under penalty of perjury that the ballot was marked and placed in a sealed envelope by the voter, or with permitted assistance, in the agent's presence, and the agent complied with the provisions of Section 5.18.070(C).

C.	An individual that is permitted to receive or collect a registered voter's mail-in ballot must:

	1.	Accept only a ballot that is within a sealed envelope; and

	2.	Deliver the mail-in ballot in accordance with Section 5.18.090(B).

D.	No mail-in ballot, completed or otherwise, shall be handled or delivered by a candidate or any individual volunteering or working for a candidate, except for their own ballot or that of their immediate family member or member of their household.

5.18.080 Absentee voting and provisional voting.

A.	Any qualified voter who shall be absent from the City during a mail-in ballot voting period, may vote as an absentee voter in accordance with the absentee voting chapter of this Title.

B.	Provisional voting shall be in accordance with the provisional voting chapter in this Title.

5.18.090 Tabulation of mail-in ballots.

A.	No mail-in ballots shall be tabulated before the official closing of the polls on election day.

B.	An otherwise legally sufficient mail-in ballot shall be tabulated only if it is:

    1.	Post-marked with a date that is no later than election day; and

    2.	Received via mail by the City Clerk before five o'clock in the afternoon on the fourth business day after election day; or

    3.	Received by other means established by the City Clerk provided that the mail-in ballots received by other means are received prior to the closing of the polls on election day.

A mail-in ballot that does not meet these requirements shall not be counted.

C.	A mail-in 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 ballot was received from the same voter for the same City election in the same ballot envelope;

    4.	The election judges determine that the ballot is intentionally marked with an identifying mark that is clearly evident and placed on the ballot for the purpose of identifying the ballot; or

    5.	Election judges determine the mail-in ballot was issued to a person other than the person utilizing it to cast a vote.

D.	If more than one legally sufficient mail-in ballot is received in separate envelopes from the same voter, then the election judges shall count only the first legally sufficient ballot received and shall reject any other mail-in ballot received from the voter.

E.	All mail-in ballot envelopes and mail-in 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.

**5.18.100	Mail-in ballot challenges and appeals.**
Election challenges and appeals relating to mail-in ballots shall be determined as set forth in Section 5.16.070.

**5.18.110	Penalties.**
A violation of this chapter is a Class B municipal infraction offense.

Chapter 5.20

ABSENTEE VOTING

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5.20.010 Who may vote.

<u>A.</u>   Any person who is qualified to vote may vote by absentee ballot in City elections. ~~This process may also be referred to as "vote by mail."~~

<u>B.</u>   <u>In the event an election is conducted by mail-in ballot voting, absentee ballots shall be provided to those eligible pursuant to Chapter 5.18 of the City Code.</u>

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5.20.020 Requests for absentee ballots.

A.   A request for absentee ballot, signed by the voter under penalty of perjury, may be made:

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

    2.   In a signed, written request that includes:

        a.   The voter's name and home address;

        b.   A certification that the voter is registered to vote and is a resident of the City; and

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

B.   A request for a mailed absentee ballot must be received by the City Clerk no later than 4:00 p.m. on the seventh calendar day preceding Election Day.

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

~~D.   Upon receiving the request, the City Clerk, if satisfied that the voter is a qualified City voter and entitled to vote by absentee ballot, shall give the applicant, or their authorized agent, an absentee ballot to be marked by the voter, placed in a sealed envelope and returned to the City Clerk.~~

5.20.060 Tabulation of absentee ballots.

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B.　　An otherwise legally sufficient absentee ballot shall be tabulated only if it is:

　　1.　　Post-marked with a date that is no later than election day; and

　　2.　　Received via mail by the City Clerk before five o'clock in the afternoon on the fourth business day after election day; or

　　3.　　<mark>Received by</mark> other means established by the City Clerk provided that the absentee ballots received by other means are received prior to the closing of the polls on election day.

An absentee ballot that does not meet these requirements shall not be counted.

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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 first legally sufficient ballot ~~with the latest properly signed oath~~ and shall reject any other absentee ballot received from the voter.

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

AYE:
NAY:
ABSTAIN:
ABSENT:

Explanatory Note

1.　　Underlining indicates language being added to the Code.
2.　　[Bold brackets and ~~strikethrough~~] indicates language being deleted from the Code.