



Takoma Park City Council Meeting – October 26, 2022 Agenda Items 1 and 2

Voting Session

Second Reading Charter Amendment Removing the Requirement for Board of Personnel Appeals and
Second Reading Charter Amendment Updating the Charter Amendment Process

Recommended Council Action

Approve the Charter Amendment Resolutions

Context with Key Issues

The City Council is asked to adopt two charter amendments to update language in the City Charter to conform to Council policy and Maryland law. The City Attorney drafted resolutions which were discussed by the Council at its work session on September 28. A public hearing was held on October 12, followed by first reading of the resolutions.

The charter amendment removing the requirement for a Board of Personnel Appeals would delete § 910 of Article IX of the City Charter in its entirety. Section 910 requires the City to have a Board of Personnel Appeals and for the Council to establish via ordinance the Board's jurisdiction. This change is consistent with prior legislative determinations made by the City Council when it adopted Ordinance 2021-39 reimagining the City's advisory committees and quasi-judicial boards and commissions.

The charter amendment updating the charter amendment process would amend provisions of Article V of the Charter that predate and are inconsistent with State legislation regarding Council initiated charter amendments. The amendment will include the 21-day pre-public hearing notice provisions, remove the provision regarding the delay between the public hearing and voting session, and provide other related changes for clarity.

Council Priority

Engaged, Responsive & Service-oriented Government

Environmental Considerations

N/A

Fiscal Considerations

Amending the City Charter requires notices of public hearings and publication of a weekly fair summary of the charter amendment for four successive weeks. The anticipated approximate cost is \$4,000.

Racial Equity Considerations

The charter amendments are not expected to disproportionately impact any particular group.

Attachments and Links

Second reading charter amendment resolutions.

1 Introduced by: Councilmember Searcy

First Reading: October 12, 2022

2 Second Reading:

3 Effective Date:

4
5 **CITY OF TAKOMA PARK, MARYLAND**

6
7 **CHARTER AMENDMENT RESOLUTION NO. 2022-01**

8
9 **AMENDMENT TO THE CITY OF TAKOMA PARK CHARTER,**
10 **ARTICLE V**

11
12 **WHEREAS,** Section 501 of the City Charter authorizes the Council to initiate amendments to
13 the Charter; and

14
15 **WHEREAS,** in the last several years, changes have been made to State law, *see* Maryland Code,
16 § 4-301, *et seq.* of the Local Government Article, regarding amendments to
17 municipal charters which are initiated by Council; and

18
19 **WHEREAS,** some of those changes involve a public hearing requirement and advance notice of
20 the public hearing prior to passage of the resolution; and

21
22 **WHEREAS,** Takoma Park's Charter currently contains requirements related to public hearings,
23 advance notice, and other language designed to ensure the public is aware of a
24 proposed Charter change; and

25
26 **WHEREAS,** some of Takoma Park's Charter provisions addressing public hearings, advance
27 notice, and other language designed to ensure the public is on notice of a proposed
28 Charter change are no longer consistent with State law and other language; and

29
30 **WHEREAS,** language in the Charter regarding the effectiveness of a Charter amendment being
31 conditioned upon registration with the State is not consistent with State law; and

32
33 **WHEREAS,** the proposed amendments to the Charter are designed to promote consistency with
34 State law.

35
36 **SECTION 1. NOW, THEREFORE, BE IT RESOLVED BY THE COUNCIL OF THE**
37 **CITY OF TAKOMA PARK, MARYLAND,** that pursuant to Article XI-E of the Constitution of
38 the State of Maryland, Title 4, Subtitle 3 of the Local Government Article of the Annotated Code
39 of Maryland, and Article V, Amendment Procedures of the City of Takoma Park Municipal
40 Charter, that the City of Takoma Park Municipal Charter is amended as follows:

41
42 **ARTICLE V**
43 **AMENDMENT PROCEDURES**

44 **Section 501 Initiation**

45 An amendment to this Charter may be initiated by the Council or by a petition of qualified voters

1 of the City of Takoma Park.

2 (Res. No. 2019-2, § 1, 11-13-19)

3 **Section 502 Initiation by the Council**

4 (a) The Council may initiate a proposed amendment or amendments to the Charter by a resolution
5 which, except as otherwise specified in this section, is passed by a majority of the entire Council
6 and in the same manner as other resolutions. ~~[The Council shall hold a public hearing on any such~~
7 ~~proposed amendment or amendments and shall not take final action on a resolution less than~~
8 ~~fourteen (14) days following the hearing.]~~

9 (b) Before adopting a Council initiated resolution that proposes an amendment to the Charter, the
10 Council shall hold a public hearing on any such proposed amendment or amendments and shall
11 give at least twenty-one (21) days advance notice of the public hearing. Such public notice shall
12 state the title of the Charter amendment and shall specify the time and place of the public hearing
13 to be held thereon. The public hearings shall be conducted by the Council under such procedures
14 as it shall, in its discretion establish.

15 ~~(b)~~ (c) In conformity with a requirement imposed upon the General Assembly by Article 3 III,
16 Section 29 of the Constitution of Maryland, the resolution shall contain the complete and exact
17 wording of the proposed amendment or amendments, prepared so that the section or sections are
18 set forth as they would read when amended or enacted. This Charter or any section thereof may
19 not be revised or amended by reference to its title or section only.

20 ~~(c)~~ (d) In conformity with a requirement imposed on the General Assembly by Article 3 III,
21 Section 29 of the Constitution of Maryland, every Charter amendment adopted by the Council
22 shall embrace but one subject, and that shall be described in its title. ~~[Prior to the passage of any~~
23 ~~resolution which proposes an amendment or amendments to the charter, a public hearing thereon~~
24 ~~shall be held by the Council, public notice of which shall be given in a newspaper of general~~
25 ~~circulation in the City of Takoma Park once a week for two successive weeks, the last such notice~~
26 ~~to appear at least ten (10) days prior to the public hearing. Such public notice shall state the title~~
27 ~~of the Charter amendment and shall specify the time and place of the public hearing to be held~~
28 ~~thereon. The public hearings shall be conducted by the Council under such procedures as it shall,~~
29 ~~in its discretion establish.]~~

30 ~~(d)~~ (e) The City Clerk shall give notice by posting and publication of any resolution which proposes
31 an amendment or amendments to this Charter. A complete and exact copy of the resolution
32 containing the proposed amendment or amendments shall be posted at City Hall or another main
33 municipal building or public place for a period of at least forty (40) days following its adoption.

34 ~~(e)~~ (f) A fair summary of the proposed amendment or amendments shall be published in a
35 newspaper of general circulation in the City of Takoma Park not less than four (4) times, at weekly
36 intervals within a period of at least forty (40) days after the adoption of the resolution containing
37 the proposed amendment or amendments.

38 ~~(f)~~ (g) The amendment or amendments so proposed by the Council shall become and be considered
39 a part of the Charter, according to the terms of the amendment or amendments, in all respects to
40 be effective and observed as such, upon the fiftieth (50) day after being so ordained or passed,
41 unless on or before the fortieth (40) day after being so ordained or passed there shall be presented

1 to the Council, or mailed to it by registered mail, a petition meeting the requirements of this section.

2 ~~(g)~~ (h) The petition shall be signed by qualified City voters at least equal in number to twenty
3 percent (20%) of registered voters at the time of the most recent general City election and shall
4 request that the proposed amendment or amendments be submitted on referendum to the voters of
5 the City. Each person signing the petition shall indicate thereon such person's name and residence
6 address. Upon receiving the petition for a referendum, the City Clerk is directed to verify that any
7 person who signed it is qualified to vote in its municipal general elections and shall consider the
8 petition to have no effect if it has too few valid signatures.

9 ~~(h)~~ (i) If the petition for a referendum complies with the requirements of this section, the Council
10 shall by resolution, passed as in its normal legislative procedure, specify the day and the hours for
11 the election at which the question shall be submitted to the voters of the City of Takoma Park. This
12 may be at either the next regular general election or at a special election at the discretion of the
13 Council. In the event a special election is designated, it shall be held within a period of not less
14 than forty (40) days nor more than sixty (60) days after the final passage of the resolution providing
15 for the referendum. The resolution providing for the referendum shall specify the exact wording
16 which is to be placed on the ballots or voting systems when the question is submitted to the voters
17 of the City.

18 (Res. No. 2019-2, § 1, 11-13-19)

19 **Section 503 Initiation by Petition**

20 (a) Qualified City voters at least equal in number to twenty percent (20%) of registered voters at
21 the time of the most recent general City election may initiate a proposed amendment or
22 amendments to the Charter, by a petition presented to the Council. The petition shall contain the
23 complete and exact wording of the proposed amendment or amendments, and the proposed
24 amendment or amendments shall be prepared in conformity with the several requirements
25 contained in subsections ~~(b)~~ (c) and ~~(e)~~ (d) of Section 502 of this Article. Each person signing it
26 shall indicate thereon such person's name and residence address. Upon receiving the petition, the
27 City Clerk is directed to verify that any person who signed it is qualified to vote in City elections
28 and that the petition contains the required number of signatures. If the petition complies with the
29 requirements of this section, the Council shall by resolution passed as in its normal legislative
30 procedure, and not later than sixty (60) days after the petition shall have been presented to it,
31 specify the day and the hours for the election at which the question shall be submitted to the voters
32 of the City of Takoma Park. This may be at either the next regular municipal election or at a special
33 election, in the discretion of the Council. In the event a special election is designated, it shall be
34 within a period of not less than forty (40) days nor more than sixty (60) days after the final passage
35 of the resolution. In the resolution, the exact wording shall be specified which is to be placed on
36 the ballots or voting systems when the question is submitted to the voters of the City.

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

42 (Res. No. 2019-2, § 1, 11-13-19)

1 **Section 504 Posting and Publication**

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

10 (Res. No. 2019-2, § 1, 11-13-19)

11 **Section 505 Referendum**

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

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

25 (c) If a majority of those who vote on any question so submitted to the voters of the City shall
26 cast their votes in favor of the proposed Charter amendment or amendments, the Mayor shall so
27 proclaim publicly within ten (10) days after receiving a certification of the votes from the officials
28 conducting the referendum; and on the thirtieth (30) day following the public proclamation the
29 proposed Charter amendment or amendments shall become a part of the Charter of the City of
30 Takoma Park, according to its terms, in all respects to be effective and observed as such. If less
31 than a majority of those who vote on any such questions shall cast their votes in favor of the
32 proposed Charter amendment or amendments, the Mayor shall so proclaim, adding to the
33 proclamation the statement that the proposed Charter amendment or amendments contained in said
34 question are null and void and of no effect whatsoever.

35 (Res. No. 2019-2, § 1, 11-13-19)

36 **Section 506 Form and Registration of Amendment**

37 (a) In any proposal to amend an existing Charter of the City, the new matter, if any, to be added
38 to the Charter shall be indicated by being underscored or in italics and all matters to be eliminated
39 from the existing Charter, if any, shall be indicated in its proper place by enclosing such matter in
40 double parentheses or in boldface brackets. Where the subject matter consists of an entirely new
41 section or sections the words of such new section or sections shall also be underscored or in italics
42 or contain some marginal or other notation to that effect. When the purpose of any proposal is to

1 repeal in its entirety any section or sections of the existing Charter, the matter intended to be
2 repealed need not be written out in full and enclosed in either double parentheses or boldface
3 brackets.

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

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

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

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

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

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

26 (Res. No. 2019-2, § 1, 11-13-19)

27 **Section 507 Codification of Amendments**

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

31 (Res. No. 2019-2, § 1, 11-13-19)

32
33 **SECTION 2. AND BE IT FURTHER RESOLVED BY THE COUNCIL OF THE CITY OF**
34 **TAKOMA PARK**, that the date of adoption of this Charter Amendment Resolution is **October**
35 **26, 2022**, and the amendment of the City of Takoma Park Municipal Charter enacted by this
36 Resolution shall become effective on **December 15, 2022 (50 days after its passage)**, unless a
37 proper petition for referendum shall be filed as permitted by Section 502 of the City of Takoma
38 Park Municipal Charter and Annotated Code of Maryland, Local Government Article, Section 4-
39 304. A complete and exact copy of this Charter Amendment Resolution shall be continuously

1 posted on a bulletin board at the Takoma Park Community Center – Sam Abbott Citizens’ Center
2 from **October 27, 2022 until December 5, 2022 (a period of at least 40 days following its adoption)**,
3 and a fair summary of the proposed Charter Amendment shall be published in a newspaper of
4 general circulation in the City of Takoma Park once a week for four weeks within 40 days after
5 passage of this Charter Amendment Resolution.

6
7 **SECTION 3. AND BE IT FURTHER RESOLVED BY THE COUNCIL OF THE CITY OF**
8 **TAKOMA PARK**, that the City Clerk is specifically directed to carry out the provisions of Section
9 2 of this Resolution and, as evidence of this compliance, the City Clerk shall maintain appropriate
10 certificates of the publication of the newspaper in which the fair summary of the Charter
11 Amendment Resolution shall have been published. If a favorable referendum is held on the
12 proposed amendment, the Council shall proclaim the proposed Charter Amendment hereby
13 enacted to have been approved by the voters and the Charter Amendment shall become effective
14 on the date provided by law.

15
16 **SECTION 4. AND BE IT FURTHER RESOLVED BY THE COUNCIL OF THE CITY OF**
17 **TAKOMA PARK**, that as soon as the Charter Amendment enacted by this Resolution shall
18 become effective, either as provided in this Resolution or following a referendum, the City Clerk
19 shall send to the Department of Legislative Services of Maryland the following information
20 concerning the Charter Amendment Resolution: (1) the complete text of this Charter Amendment
21 Resolution; (2) the date of the referendum election, if any; (3) the number of votes, whether in the
22 Council or in a referendum, cast for or against the Charter Amendment enacted by this Resolution;
23 and (4) the effective date of the Charter Amendment.

24
25 **THE ABOVE CHARTER AMENDMENT** was enacted by the foregoing Charter
26 Amendment Resolution No. 2022-01 which was passed as a meeting of the Council of the City of
27 Takoma Park, Maryland on **the 26th day of October, 2022**, ___ members of the Council voting
28 in the affirmative, ___ members of the Council voting in the negative, ___ members of the Council
29 abstaining, and ___ members of the Council absent, and the said Charter Amendment Resolution
30 becomes effective in accordance with the law on **the 15th day of December, 2022**.

31
32
33 **THIS CHARTER AMENDMENT RESOLUTION IS ADOPTED BY THE COUNCIL OF THE**
34 **CITY OF TAKOMA PARK, MARYLAND, THIS 26th DAY OF OCTOBER, 2022, BY ROLL-**
35 **CALL VOTE AS FOLLOWS:**

36
37 Aye:
38 Nay:
39 Abstain:
40 Absent:

41
42 **Explanatory Note**

- 43
44 1. [Bold brackets and ~~strikethrough~~] indicates language being deleted from the Charter.
45
46

1 COUNCIL OF THE CITY OF TAKOMA PARK

2

3

4

5 _____
Kate Stewart, Mayor

6

7 ATTEST:

8

9

10 _____
Jessie Carpenter, CMC

11 City Clerk

12

13 Date: _____

1 Introduced by: Councilmember Dyballa

First Reading: October 12, 2022

2 Second Reading:

3 Effective Date:

4
5 **CITY OF TAKOMA PARK, MARYLAND**

6
7 **CHARTER AMENDMENT RESOLUTION NO. 2022-02**

8
9 **AMENDMENT TO THE TAKOMA PARK CITY CHARTER,**
10 **ARTICLE IX**

11
12 **WHEREAS,** Section 501 of the City Charter authorizes the Council to initiate amendments to
13 the Charter; and

14
15 **WHEREAS,** Section 401(b)(1) of the City Charter states that the Council has the power to
16 establish any administrative agencies, boards, commission that may be deemed
17 necessary to further the purposes of the City, and to provide administrative
18 procedures, including rule making and quasi-judicial decision-making by such
19 agencies; and

20
21 **WHEREAS,** the City Council previously identified it as a priority to review the overall structure
22 and purpose of existing Council-appointed committees and put in place
23 improvements with the desired outcome of enabling diverse, engaged, productive,
24 and rewarding resident involvement and collaboration with City government; and

25
26 **WHEREAS,** the adoption of Ordinance No. 2021-39 amended the City Code to restructure the
27 City’s advisory committees and quasi-judicial boards; and

28
29 **WHEREAS,** the proposed amendment to the Charter will ensure that the restructured advisory
30 committees and quasi-judicial boards are effectuated justly.

31
32 **SECTION 1. NOW, THEREFORE, BE IT RESOLVED BY THE COUNCIL OF THE**
33 **CITY OF TAKOMA PARK, MARYLAND,** that pursuant to Article XI-E of the Constitution of
34 the State of Maryland, Title 4, Subtitle 3 of the Local Government Article of the Annotated Code
35 of Maryland, and Article V, Amendment Procedures of the City of Takoma Park Municipal
36 Charter, that the City of Takoma Park Municipal Charter is amended as follows:

37
38 * * *

39
40 **ARTICLE IX**
41 **PERSONNEL**

42
43 * * *

44
45 ~~[Section 910 Personnel Appeals]~~

1 ~~(a) There is established a board to adjudicate certain final personnel decisions by the City~~
2 ~~Manager, directly or by delegation, affecting members of the classified service of the City.~~

3
4 ~~(b) The Council shall define by ordinance which personnel decisions are appealable and~~
5 ~~enact such additional provisions as are necessary to implement this section.]~~

6 * * *

7
8 **SECTION 2. AND BE IT FURTHER RESOLVED BY THE COUNCIL OF THE CITY OF**
9 **TAKOMA PARK**, that the date of adoption of this Charter Amendment Resolution is **October**
10 **26, 2022**, and the amendment of the City of Takoma Park Municipal Charter enacted by this
11 Resolution shall become effective on **December 15, 2022 (50 days after its passage)**, unless a
12 proper petition for referendum shall be filed as permitted by Section 502 of the City of Takoma
13 Park Municipal Charter and Annotated Code of Maryland, Local Government Article, Section 4-
14 304. A complete and exact copy of this Charter Amendment Resolution shall be continuously
15 posted on a bulletin board at the Takoma Park Community Center – Sam Abbott Citizens’ Center
16 from **October 27, 2022 until December 5, 2022 (a period of at least 40 days following its adoption)**,
17 and a fair summary of the proposed Charter Amendment shall be published in a newspaper of
18 general circulation in the City of Takoma Park once a week for four weeks within 40 days after
19 passage of this Charter Amendment Resolution.

20
21 **SECTION 3. AND BE IT FURTHER RESOLVED BY THE COUNCIL OF THE CITY OF**
22 **TAKOMA PARK**, that the City Clerk is specifically directed to carry out the provisions of Section
23 2 of this Resolution and, as evidence of this compliance, the City Clerk shall maintain appropriate
24 certificates of the publication of the newspaper in which the fair summary of the Charter
25 Amendment Resolution shall have been published. If a favorable referendum is held on the
26 proposed amendment, the Council shall proclaim the proposed Charter Amendment hereby
27 enacted to have been approved by the voters and the Charter Amendment shall become effective
28 on the date provided by law.

29
30 **SECTION 4. AND BE IT FURTHER RESOLVED BY THE COUNCIL OF THE CITY OF**
31 **TAKOMA PARK**, that as soon as the Charter Amendment enacted by this Resolution shall
32 become effective, either as provided in this Resolution or following a referendum, the City Clerk
33 shall send to the Department of Legislative Services of Maryland the following information
34 concerning the Charter Amendment Resolution: (1) the complete text of this Charter Amendment
35 Resolution; (2) the date of the referendum election, if any; (3) the number of votes, whether in the
36 Council or in a referendum, cast for or against the Charter Amendment enacted by this Resolution;
37 and (4) the effective date of the Charter Amendment.

38
39 **THE ABOVE CHARTER AMENDMENT** was enacted by the foregoing Charter
40 Amendment Resolution No. 2022-02 which was passed as a meeting of the Council of the City of
41 Takoma Park, Maryland on **the 26th day of October, 2022**, ___ members of the Council voting
42 in the affirmative, ___ members of the Council voting in the negative, ___ members of the Council
43 abstaining, and ___ members of the Council absent, and the said Charter Amendment Resolution
44 becomes effective in accordance with the law on **the 15th day of December, 2022**.

1 THIS CHARTER AMENDMENT RESOLUTION IS ADOPTED BY THE COUNCIL OF THE
2 CITY OF TAKOMA PARK, MARYLAND, THIS 26th DAY OF OCTOBER, 2022, BY ROLL-
3 CALL VOTE AS FOLLOWS:
4

- 5 Aye:
- 6 Nay:
- 7 Abstain:
- 8 Absent:
- 9

10 **Explanatory Note**

11
12 1. [Bold brackets and ~~striketrough~~] indicates language being deleted from the Charter.
13
14

15 COUNCIL OF THE CITY OF TAKOMA PARK

16
17
18 _____
19 Kate Stewart, Mayor

20
21 ATTEST:
22
23 _____
24 Jessie Carpenter, CMC
25 City Clerk

26
27 Date: _____