



Takoma Park City Council Meeting – July 27, 2022 Agenda Item 4

Voting Session

Second Reading Ordinance Revising the Election Code (Title 5)

Recommended Council Action

Approve the ordinance at second reading. First reading was held on July 20, 2022.

Context with Key Issues

The Takoma Park Board of Elections recommended certain revisions to the Elections Code to add clarity and provide for the improved conduct of elections. The City Attorney drafted an ordinance which was discussed by the Council at its work session on July 6.

Chapter 5.10 Candidate and Political Committee Registration and Campaign Finance Limitations.

The language of the chapter included the phrase “seek to influence an election,” which had caused confusion. The chapter now has separate sections for candidate registration and political committee registration. Only a registered political committee may accept contributions or make expenditures. This change, combined with the already existing definition of “political committee,” adds clarity for the reader. Sections 5.12.010 through 5.12.030 now apply to political committees as well as candidates.

Section 5.12.020 (D) related to what is to be done with anonymous contributions has been rephrased and moved to Section 5.12.020(E).

Section 5.12.020(D) prohibits contributions not only from anonymous contributors but also from corporations, political committees, and labor unions, from a person making a contribution in the name of another, and from certain foreign nationals (as required by federal law). *Individuals with permanent resident status are not considered foreign nationals.*

Section 5.12.022 Campaign finance reports is amended to delete Section 5.12.022(B)(3), to eliminate the requirement to file a second pre-election report. The new (B)(3) moves the post-election report filing from the first Monday following the election to the third Monday following the election.

Sections 5.18.065 and 5.20.025 have been added to make it clear that no person may use an absentee or mail in ballot that was issued by the City for another person.

Since first reading, several minor changes have been recommended. They are shown with double underline and ~~double strikethrough~~.

Section 5.10.035 (C) has been added under the “Political committee registration and campaign finance” to respond to a question from Councilmember Kostiuk question. The language is intended

to clarify that the section on political committee registration is not designed to limit the broad reach of the word "person."

Section 2 has been added to page 28 to indicate that the ordinance will be effective upon adoption.

Council Priority

Engaged, Responsive, and Service-Oriented Government

Environmental Considerations

N/A

Fiscal Considerations

These code amendments will not add to the cost of the election.

Racial Equity Considerations

These recommended revisions are not expected to have a disproportionate impact on any members of our community.

Attachments and Links

Draft Second Reading Ordinance

1 Introduced by: Councilmember Kostiuk

First Reading: July 20, 2022

2 Second Reading:

3 Effective Date:

4
5 **CITY OF TAKOMA PARK, MARYLAND**
6 **ORDINANCE 2022-30**

7
8 **AMENDING THE CITY OF TAKOMA PARK CODE, TITLE 5, ELECTIONS**
9

10 **WHEREAS**, Article XI–E of the Constitution of Maryland grants the City the authority to hold
11 municipal elections;

12
13 **WHEREAS**, the Maryland Code, Local Government Article, Section 5–202, as amended,
14 authorizes the legislative body of each municipal corporation in the State of
15 Maryland to pass ordinances that such legislative body deems necessary to assure
16 the good government of the municipality, to protect and preserve the municipality’s
17 rights, property and privileges, to preserve peace and good order, to secure persons
18 and property from danger and destruction, and to protect the health, comfort, and
19 convenience of the citizens of the municipality;

20
21 **WHEREAS**, Section 607 of the City Charter states that the Council has the power to provide by
22 Ordinance for the conduct of City elections generally and shall designate a
23 convenient polling place, the manner of holding City elections, and the voting
24 system to be used for the City election;

25
26 **WHEREAS**, Section 5.24.040(D) of the City Code charges the Takoma Park Board of Elections
27 with recommending to the Council amendments to the City’s election laws and
28 regulations when it deems such amendments are necessary and will provide for the
29 improved conduct of elections;

30
31 **WHEREAS**, the Takoma Park Board of Elections has recommended adoption of certain
32 amendments prior to the November 8, 2022, City Election;

33
34 **WHEREAS**, the Council last amended Takoma Park Code, Title 5, Elections on April 21, 2020,
35 by Ordinance No. 2020–7; and

36
37 **WHEREAS**, the Council, after having reviewed the proposed revisions and upon making further
38 modifications, desires to amend Title 5 of the City Code.

39
40 **NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF**
41 **TAKOMA PARK, MARYLAND**, that

42
43 **SECTION 1: Title 5, Elections, of the *City of Takoma Park Code* is hereby amended as follows:**
44

1 Title 5

2 ELECTIONS

3 Chapters:

- 4 5.04 General Provisions
- 5 5.08 Wards
- 6 5.10 Registration and Campaign Finance Limitations
- 7 5.12 Fair Election Practices
- 8 5.16 Voting
- 9 5.18 Mail-In Ballot Voting
- 10 5.20 Absentee Voting
- 11 5.22 Provisional Ballots
- 12 5.24 Board of Elections

13
14 Chapter 5.04

15 GENERAL PROVISIONS

16 Sections:

- 17 5.04.010 Purpose.
- 18 5.04.020 Definitions.
- 19 5.04.030 Construction of this title.

20 **5.04.010 Purpose.**

21 The purpose of the election procedures contained in this title is to provide for the conduct of City
22 elections administered pursuant to the powers granted to the Council to provide for the conduct of
23 registration, nominations and voting in City elections and for the prevention of fraud in connection
24 with such elections. (Ord. 2020-7, 2020/Ord. 2015-28, 2015/prior code § 4D-1)

25 **5.04.020 Definitions.**

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

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

29 “Authorized representative” means any person appointed or designated by a candidate or a political
30 committee to file campaign reports or to be responsible for campaign material published or
31 distributed.

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

34 “Campaign material” means any printed or electronic statement or advertisement that contains

1 text, graphics, or other images, including social media; relates to or concerns any candidate or
2 prospective candidate or any matter or issue which has been submitted to a vote at an election or
3 is in the process of being petitioned to referendum; and is published or distributed to anyone by,
4 at the request of, or under the authority of a candidate or political committee.

5 “Campaign report” means a report of all contributions received by a candidate and all distributions
6 made by a candidate.

7 “Candidate” means any individual who seeks nomination or election to the office of Mayor or
8 Councilmember.

9 “Contribution” means any gift, subscription, loan, advance, deposit of money, transfer of money,
10 or transfer of anything of value made by any person to any candidate or political committee for
11 the purpose of influencing any election for City office. The term “contribution” does not include
12 the value of services provided without compensation by an individual who volunteers on behalf of
13 a candidate as a campaign worker and it does not include safe harbor events.

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

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

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

23 The term “expenditure” does not include:

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

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

28 3. Any communication by any membership organization or corporation to its members,
29 stockholders, or executive or administrative personnel, if such membership organization or
30 corporation is not organized primarily for the purpose of influencing the nomination for
31 election, or election, of any individual to City office.

32 “In-kind contribution” means any nonmonetary contribution, such as goods or services offered
33 free or at less than the usual and normal charge, including expenditures made by any person or
34 entity in cooperation, consultation, or concert with, or at the request or suggestion of, a candidate
35 or an agent of a candidate.

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

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

8 “Political committee” means any combination of two or more persons formed in any manner which
9 independently collects or expends a cumulative amount of \$100.00 or more to assist in the
10 promotion of the success or defeat of any candidate for City elective office or any cause to be
11 submitted to the voters.

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

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

16 “Safe harbor events” mean:

17 1. The use of real or personal property, including a church or community room used on a
18 regular basis by members of a community for noncommercial purposes, when said real or
19 personal property is used for a candidate-related or political-committee-related activity, and
20 the cost of invitations, food, and beverages, voluntarily provided by an individual to any
21 candidate or any political committee on the individual’s residential premises or in the church
22 or community room for candidate-related activities, to the extent that the cumulative value of
23 such invitations, food, and beverages provided by such individual on behalf of any single
24 candidate does not exceed \$200.00 with respect to any single election; or

25 2. The sale of any food or beverage by a vendor for use in any candidate’s campaign or for
26 use by or on behalf of any political committee of a political party at a charge less than the
27 normal comparable charge, if such charge is at least equal to the cost of such food or beverage
28 to the vendor, to the extent that the cumulative value of such activity by such vendor on behalf
29 of any single candidate does not exceed \$200.00 with respect to any single election; or

30 3. Any unreimbursed payment for travel expenses made by any individual on behalf of any
31 candidate or any political committee, to the extent that the cumulative value of such activity
32 by such individual on behalf of any single candidate does not exceed \$200.00 with respect to
33 any single election.

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

36 “Voting system” means a method of casting and tabulating ballots or votes. (Ord. 2020-7,
37 2020/Ord. 2015-28, 2015/Ord. No. 2009-22, 5-18-09/prior code § 4D-2)

38 **5.04.030 Construction of this title.**

39 This title shall be construed so as to permit fair elections through in-person voting, mail-in ballot

1 voting, absentee ballot voting, and provisional voting, or any combination of said voting methods
2 should the Council so determine by ordinance. (Ord. 2020-20, 2020)

3 4 **Chapter 5.08**

5 **WARDS**

6 Sections:

7 5.08.010 Description of ward boundaries.

8 9 **5.08.010 Description of ward boundaries.**

10 The City is divided into six wards for the purposes of City elections. The boundary lines of the
11 wards shall be as they are shown on the map and accompanying street directory designated “2013
12 District Plan and Street Directory,” dated December 3, 2012, including any corrections made since
13 that time, incorporated herein, on file and available for inspection in the office of the City Clerk.
14 (Ord. 2020-7, 2020/Ord. 2015-28, 2015/Ord. 2013-3 § 1, 2013/Ord. 2003-17 § 1, 2003/prior code
15 § 4D-5)

16 17 **Chapter 5.10**

18 **CANDIDATE AND POLITICAL COMMITTEE REGISTRATION** 19 **AND CAMPAIGN FINANCE LIMITATIONS**

20
21
22 Sections:

23 5.10.010 Candidate Registration and campaign finance.

24 5.10.020 Candidate Process for registration.

25 5.10.030 Special elections and referendums.

26 5.10.035 Political committee registration and campaign finance.

27 5.10.040 Interpretation.

28 **5.10.010 Registration and campaign finance.**

29 A. No person may seek to influence an election or seek elected office in the City of Takoma
30 Park unless that person is registered with the City Clerk’s office.

31 B. Only a registered person may accept contributions or make expenditures in a City of Takoma
32 Park election.

33 C. The election laws of the City shall apply to the registered person as if that person is a
34 candidate for office in the City of Takoma Park. (Ord. 2020-7, 2020)

35 **5.10.020 Process for registration.**

36 A. Beginning on the second Monday in June during an election year, any person seeking elected
37 office in the City of Takoma Park or seeking to influence an election in the City of Takoma Park

1 shall register with the City Clerk by completing a registration form prepared by the City Clerk and
2 approved by the City Attorney.

3 B. A registered person may withdraw the registration at any time; provided, however, that the
4 person is otherwise compliant with all other aspects of the City’s election laws.

5 C. A person who is not registered and is nominated at the City’s Caucus for an elected office
6 shall register within three days of being nominated unless the person declines the nomination as
7 set forth in the City Charter. (Ord. 2020-7, 2020)

8 **5.10.030 Special elections and referendums.**

9 A. The provisions of this chapter, except for Section 5.10.020(A), shall apply to any person
10 accepting contributions or making expenditures in a special election ~~or a referendum~~ in the City
11 of Takoma Park.

12 B. Any person seeking office ~~or seeking to influence a referendum or in a~~ special election shall
13 register in accordance with this chapter ~~at the earliest reasonable opportunity~~ once the dates and
14 times for ~~the referendum or~~ special election are established and publicized. (Ord. 2020-7, 2020)

15 **5.10.035 Political committee registration and campaign finance.**

16
17 A. A political committee shall register with the City Clerk by completing a form prepared by
18 the City Clerk and approved by the City Attorney.

19
20 B. Only a registered political committee may accept contributions or make expenditures in a
21 City of Takoma Park election, special election, or referendum.

22
23 C. Nothing in this section shall alter the applicability of the City’s election laws as set forth
24 in Section 5.10.010(c).

25
26 **5.10.040 Interpretation.**

27 This chapter shall be interpreted so as to promote registration and compliance with the City of
28 Takoma Park’s election laws. (Ord. 2020-7, 2020)

29

30 **Chapter 5.12**

31 **FAIR ELECTION PRACTICES**

32 Sections:

- 33 5.12.010 Campaign material published or distributed.
- 34 5.12.020 Campaign contributions and expenditures.
- 35 5.12.021 Use of contributed amounts for certain purposes.
- 36 5.12.022 Campaign finance reports.
- 37 5.12.030 Surplus campaign funds, dispositions, and reports.
- 38 5.12.040 Financial disclosure statements.

1 **5.12.010 Campaign material published or distributed.**

2 A. Unless otherwise stated in this chapter, each item of campaign material shall contain, set
3 apart from any other message, an authority line that states the name and title of the candidate,
4 political committee, person, treasurer, or campaign manager responsible for the publication or
5 distribution of the same.

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

8 C. With respect to campaign material utilizing electronic media, compliance with subsection
9 (A) of this section is achieved if the display page or information or opinion contains an internet
10 address of the candidate or political committee responsible for the publication or distribution and
11 allows the receiver of the display page or information or opinion to click on the internet address
12 or hyperlink address and be taken to a landing or home page that prominently displays the authority
13 line information.

14 ~~D. If campaign material is too small to contain an authority line, the candidate, committee, or~~
15 ~~individual distributing the campaign material shall notify the City Clerk in writing within 24 hours~~
16 ~~of the campaign material's posting or distribution. The City Clerk shall then make the information~~
17 ~~available to the public upon request.~~

18 E. Any material that is published or distributed by any candidate or political committee in
19 support of or in opposition to a campaign without being directly or indirectly authorized by the
20 campaign should include the following statement:

21 This message has been authorized and paid for by (name of payer or any
22 organization affiliated with the payer). This message has not been authorized or
23 approved by any candidate or campaign.

24 F. Campaign signs for City elections shall only be displayed in compliance with applicable
25 Federal, State, and local laws.

26 G. A violation of this section is a Class B offense. (Ord. 2020-7, 2020/Ord. 2015-28, 2015/prior
27 code § 4D-6)

28 **5.12.020 Campaign contributions and expenditures.**

29 A. Except as provided in subsection (B) of this section, no person shall make contributions,
30 either directly or indirectly, including in-kind contributions, to any candidate or political
31 committee with respect to any election for City office which, in the aggregate, exceed \$1,000.00
32 during a single election cycle.

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

35 C. For purposes of this section:

36 1. Contributions to a named candidate or political committee made to any person
37 authorized by such candidate or political committee to accept contributions on the candidate's
38 or political committee's behalf shall be considered to be contributions made to such candidate

1 or political committee;

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

5 3. All contributions made by a person, either directly or indirectly, on behalf of a particular
6 candidate or political committee, including contributions which are in any way earmarked or
7 otherwise directed through an intermediary or conduit to said candidate or political committee,
8 shall be treated as contributions from such person to said candidate or political committee, and
9 the intermediary or conduit shall report the original source and the amount contributed to said
10 candidate or political committee.

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

14 D. No candidate or political committee shall knowingly accept or solicit a contribution from:

15 1. An anonymous contributor;

16 2. A corporation, including labor unions and political committees;

17 3. A person making a contribution in the name of another; or

18 4. A foreign national, which includes:

19 a. a person outside of the United States who is not a citizen of the United States;

20 b. an individual within the United States who is not a citizen of the United States and
21 who is not lawfully admitted for permanent residence;

22 c. a government of a foreign country;

23 d. a political party of a foreign country;

24 e. any partnership, association, corporation, organization, or other combination of
25 persons organized under the laws of, or having its principal place of business in, a
26 foreign country; or

27 g. any other foreign person that is prohibited from making contributions by federal law,
28 including 52 U.S.C. § 30121 and 11 CFR 110.20, which may be amended from time to
29 time.

30 E. If a candidate receives an anonymous contribution, the amount shall be declared in
31 campaign reports and contributed to the City's general fund no later than 4:00 p.m. on the Monday
32 following the election.

1 FE. An expenditure is made on behalf of a candidate or political committee if it is made by:

- 2 1. Any other agent of the candidate for purposes of making any expenditure; or
- 3 2. Any person authorized or requested by the candidate or an agent of the candidate to
- 4 make the expenditure.

5 GF. A candidate may make unlimited expenditures from the candidate's personal funds, or

6 from assets jointly owned with their spouse or domestic partner.

7 HG. No candidate or political committee shall knowingly accept any contribution or make any

8 expenditure in violation of the provisions of this section. No officer, agent or employee of a

9 candidate or political committee shall knowingly accept a contribution made for the benefit or use

10 of a candidate or political committee, or knowingly make any expenditure on behalf of a candidate

11 or political committee, in violation of any limitation imposed on contributions and expenditures

12 under this section.

13 IH. A violation of this section is a Class B offense. (Ord. 2020-7, 2020/Ord. 2015-28,

14 2015/prior code § 4D-7)

15 **5.12.021 Use of contributed amounts for certain purposes.**

16 A. A contribution accepted by a candidate and any other donation received by an individual as

17 support for activities of the holder of City office may be used by the candidate or individual as

18 follows:

- 19 1. For otherwise authorized expenditures in connection with the candidate's campaign for
- 20 City office;
- 21 2. For ordinary and necessary expenses incurred in connection with duties of the individual
- 22 as a holder of City office;
- 23 3. For donations to an organization that is classified as a 501(c)(3) nonprofit organization
- 24 under 26 U.S.C § 501, or to an organization which has received City grant funding within the
- 25 last two years;
- 26 4. For transfer to another authorized political committee for the purpose of nominating or
- 27 electing said candidate to any local, State, or Federal office; or
- 28 5. For any other lawful purpose unless prohibited by any subsection of this section.

29 B. A contribution or donation described in subsection (A) of this section shall not be converted

30 by any person to personal use.

31 C. For the purposes of subsection (B) of this section, a contribution shall be considered to be

32 converted to personal use if the contribution or amount is used to fulfill any commitment,

33 obligation, or expense of a person that would exist irrespective of the candidate's election

34 campaign or individual's duties as a holder of City office.

35 D. A contribution shall not be transferred from a candidate's campaign account to another

36 candidate or to another national, State, or local committee of a political party.

1 E. A violation of this section is a Class B offense. (Ord. 2020-7, 2020)

2 **5.12.022 Campaign finance reports.**

3 A. Each candidate or their authorized representative and each authorized representative of any
4 political committee shall file reports with the City Clerk disclosing all contributions and all
5 disbursements in accordance with this section.

6 B. Each candidate and political committee, or the authorized representative of each candidate
7 or political committee, shall file the following reports:

8 1. A post-nomination report, which shall be filed no later than 4:00 p.m. of the second
9 Monday after the City nominating caucus;

10 2. A first pre-election report, which shall be filed no later than 4:00 p.m. on the fourth
11 Monday preceding election day;

12 ~~3. A second pre-election report, which shall be filed no later than 4:00 p.m. on the second~~
13 ~~Monday preceding election day;~~

14 ~~34.~~ A post-election report, which shall be filed no later than 4:00 p.m. on the third
15 Monday following the election;

16 ~~45.~~ An annual report, which shall be filed no later than January 31st of each year, on the
17 retention or disposition of surplus campaign funds until all such funds are used or distributed;
18 and

19 ~~56.~~ The post-nomination report shall include all information required to be reported by this
20 section from the date of the preceding election or the most recent annual report, if applicable,
21 up to and including the full day before the filing of the post-nomination report. All other
22 reports shall include information starting from the full day that the previous report was filed
23 up to and including the full day before the filing of the current report.

24 C. Each report under this section shall disclose:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

30 H. A person shall not receive any salary or benefits from the office of the Mayor or
31 Councilmember until all required campaign reports have been attested to as complete and accurate,
32 accepted as filed, and all late filing fees have been paid.

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

35 J. A violation of this section is a Class B offense. (Ord. 2020-20 (part), 2020/Ord. 2020-7,
36 2020)

37 **5.12.030 Surplus campaign funds, dispositions, and reports.**

38 A. Surplus campaign funds may be retained after an election and used by the candidate to

1 support that same candidate’s election or reelection to any City office or any other elected office.

2 B. Surplus campaign funds of a candidate **or political committee**, which are not retained in
3 accordance with this section, shall be disposed of in accordance with subsection (C) of this section.

4 C. A candidate **or political committee** may dispose of surplus campaign funds by:

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

6 2. Donating the funds to the City’s general fund; or

7 3. Donating the funds to an organization that is classified as a 501(c)(3) nonprofit
8 organization under 26 U.S.C § 501 or to an organization which has received City grant funding
9 within the last two years. In the event a candidate determines to donate surplus funds to an
10 organization meeting the criteria in Section 5.12.021(A)(3), preference for the donation should
11 be given to an organization providing services in the City of Takoma Park or to an organization
12 providing services in the City of Takoma Park metropolitan area.

13 D. Prohibited uses of surplus campaign funds include:

14 1. The personal use of the candidate, the treasurer or any member of the candidate’s **or**
15 **political committee’s campaign** staff, or the immediate family members of those individuals
16 (however, use of surplus funds to hold a party for campaign supporters is a permitted political
17 purpose); or

18 2. A transfer to a political committee or a candidate other than the political committee or
19 candidate for whom the funds were raised.

20 E. A candidate **or political committee**, or any individual who previously was a candidate and
21 has retained surplus campaign funds, shall report annually, no later than January 31st, on the
22 retention or disposition of surplus campaign funds until all such funds are depleted.

23 F. A violation of this section is a Class B offense. (Ord. 2020-7, 2020/Ord. 2015-28, 2015/prior
24 code § 4D-8)

25 **5.12.040 Financial disclosure statements.**

26 A. Candidates **must shall** have timely filed financial disclosure statements in proper form as
27 required by Section 3.04.080 to be eligible to assume office.

28 B. If a candidate elected to a position is unable to serve as a result of failing to file a financial
29 disclosure statement as required by Section 3.04.080, then the Clerk shall declare the position to
30 be vacant in accordance with Section 301(b) of the Takoma Park Municipal Charter. (Ord. 2020-
31 7, 2020/Ord. 2015-28, 2015)

32

33

Chapter 5.16

1 **VOTING**

2 Sections:

- 3 5.16.010 Voting systems.
- 4 5.16.020 Ballots.
- 5 5.16.030 Instruction and assistance in voting.
- 6 5.16.040 Time allowed for voting.
- 7 5.16.050 Closing of polls.
- 8 5.16.060 Tabulation of votes.
- 9 5.16.070 Election challenges and appeals.
- 10 5.16.080 Inspection of ballots in the event of an election challenge or appeal.
- 11 5.16.090 Penalties.

12 **5.16.010 Voting systems.**

- 13 A. Only one voting system may be used in any City election.
- 14 B. The City Council may purchase, rent, lease or otherwise acquire such voting systems and
15 related equipment as may be required for an election. (Ord. 2020-7, 2020/Ord. 2015-28, 2015/Ord.
16 No. 2009-22, 5-18-09/prior code § 4D-10)

17 **5.16.020 Ballots.**

- 18 A. The City Clerk shall provide ballots for all elections which shall contain:
 - 19 1. The name of every candidate who has been nominated in accordance with the provisions
20 of the Charter and with this title;
 - 21 2. A description of every question which is to be submitted to a vote.
- 22 B. All ballots shall be in plain clear type suitable for the voting system.
- 23 C. The form and arrangement of all ballots shall be determined by the City Clerk in accordance
24 with the following requirements:
 - 25 1. In all elections, the names of candidates shall be arranged alphabetically on the ballots
26 according to their surname, under the designation of office. The names of the candidates for
27 Mayor shall appear first on the ballots, followed by the names of the candidates for
28 Councilmember according to the numeric designation of the ward. Honorifics and titles shall
29 not appear on ballots.
 - 30 2. No ballot shall contain a party designation of a candidate.
 - 31 3. Each ballot shall contain appropriate instruction to the voter.
 - 32 4. All ballots shall contain a statement in understandable language of every question to be
33 submitted to a vote at any election.
 - 34 5. The City Clerk shall prepare and certify the form in which a question shall appear, and
35 each question may be captioned with a descriptive title containing not more than five words.

1 6. Each ballot question shall appear on the ballot following the name of the candidates and
2 shall be accompanied by the words “For” and “Against.”

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

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

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

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

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

17 E. The City Clerk may cause to be printed copies of the form of the ballot to be used for an
18 election, to be in type of suitable size and designated as “sample ballots.” Any such sample ballots
19 shall be conspicuously posted at each polling place and may be distributed to voters. (Ord. 2020-
20 7, 2020/Ord. 2015-28, 2015/prior code § 4D-11)

21 **5.16.030 Instruction and assistance in voting.**

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

24 B. Any voter who requires assistance in voting by reason of disability, inability to write, or
25 inability to read the ballot may be given assistance by an individual of the voter’s choice. A voter
26 may not choose a candidate or an agent of any candidate in that City election, the voter’s employer
27 or agent of the employer, or an officer or agent of the voter’s union. In the event a voter chooses
28 no one, an election judge or election worker may assist the voter. Any person giving assistance to
29 a voter pursuant to this subsection shall complete an affidavit of assistance to be filed with the
30 designated election worker.

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

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

38 3. A voter may not be accompanied into a voting booth or other place set aside for voting

1 by any person 16 years of age or older, unless the affidavit required by subsection (B) of this
2 section has been filed. (Ord. 2020-7, 2020/Ord. 2015-28, 2015/Ord. No. 2009-22, 5-19-
3 09/Ord. 2005-34, 2005/prior code § 4D-12)

4 **5.16.040 Time allowed for voting.**

5 Each voter is expected to mark the ballot or operate the voting machine expeditiously and may be
6 required to leave the voting booth or other place set aside for voting after a reasonable period of
7 time to vote has passed. (Ord. 2020-7, 2020/Ord. 2015-28, 2015/Ord. No. 2009-22, 5-19-09/prior
8 code § 4D-13)

9 **5.16.050 Closing of polls.**

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

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

15 C. The election judges shall then record the number of votes cast, and compare the number of
16 votes cast with the number of voters who have checked in to vote. (Ord. 2020-7, 2020/Ord. 2015-
17 28, 2015/Ord. No. 2009-22, 5-19-09/prior code § 4D-14)

18 **5.16.060 Tabulation of votes.**

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

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

- 23 1. The secrecy of the ballot;
- 24 2. Correct counting of votes on ballots on which the proper number of votes has been
25 indicated;
- 26 3. If the intent of the voter with respect to a particular contest or question is not clearly
27 demonstrated, then only the vote for that contest or question shall be rejected;
- 28 4. The tabulating and recording of votes by ward for or against any candidate, candidates
29 or question;
- 30 5. Prompt reporting of election returns after the official closing of the polls.

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

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

1 E. A violation of subsection (B) or (C) of this section is a Class B offense. (Ord. 2020-7,
2 2020/Ord. 2015-28, 2015/Ord. No. 2009-22, 5-19-09/prior code § 4D-15)

3 **5.16.070 Election challenges and appeals.**

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

7 1. The written notice of election challenge shall be made under penalty of perjury and
8 include a complete statement of all facts on which the candidate or voter relies to support their
9 election challenge.

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

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

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

17 C. The candidate or voter who submitted the election challenge shall be given a reasonable
18 opportunity to be heard at the special meeting of the Council with respect to their election
19 challenge. An elected official who is the subject of an election challenge shall not participate in
20 the discussion or vote related to the challenge.

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

23 E. Appeals shall be taken by way of petition filed with the Circuit Court for Montgomery
24 County within five days from the date of the decision of the Council on an election challenge.
25 Appeals shall be heard de novo and without a jury by the Circuit Court as soon as possible. (Ord.
26 2020-20 (part), 2020/Ord. 2020-7, 2020/Ord. 2015-28, 2015/Ord. No. 2009-22, 5-19-09/prior code
27 § 4D-16)

28 **5.16.080 Inspection of ballots in the event of an election challenge or appeal.**

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

32 B. As part of the investigation and report of an election challenge or appeal, the ballot storage
33 box or voting machine may be opened and the data and figures examined in order to count or
34 recount the votes cast in the race, referendum question, or election being challenged or to
35 determine any matter related to the validity of a ballot. Such ballot count or examination shall be
36 conducted in response to an order of any court of competent jurisdiction or at the direction of the
37 Takoma Park Board of Elections and in the presence of the principals involved in the election
38 challenge or appeal or their authorized representatives. The Takoma Park Board of Elections or an
39 individual appointed by a court of competent jurisdiction shall make a record of the votes for such

1 challenged office or other matter relating to the validity of ballots or votes cast. (Ord. 2020-7,
2 2020/Ord. 2015-28, 2015/Ord. No. 2009-22, 5-19-09/prior code § 4D-17)

3 **5.16.090 Penalties.**

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

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

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

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

9 D. Any other violation of this title, unless the violation has been designated as a Class B
10 offense. (Ord. 2020-7, 2020/Ord. 2015-28, 2015/Ord. No. 2009-22, 5-19-09/prior code § 4D-18)

11

12

Chapter 5.18

13

MAIL-IN BALLOT VOTING

14 Sections:

15 5.18.010 Mail-in ballot voting.

16 5.18.020 Mail-in ballots.

17 5.18.030 Regular participation by mail-in ballot.

18 5.18.040 Mail-in ballot elections.

19 5.18.050 Distribution of mail-in ballots and notices and reminders.

20 5.18.060 Replacement mail-in ballots.

21 **5.18.065 Improper use of mail-in ballots prohibited.**

22 5.18.070 Voter assistance for mail-in ballot voting.

23 5.18.080 Absentee voting and provisional voting.

24 5.18.090 Tabulation of mail-in ballots.

25 5.18.100 Mail-in ballot challenges and appeals.

26 5.18.110 Penalties.

27 **5.18.010 Mail-in ballot voting.**

28 A. City elections may utilize mail-in ballot voting.

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

32 C. In a mail-in ballot election, at least one voting center shall be kept open on election day for
33 in-person voting. The Board of Elections shall keep any such voting center open from 7:00 a.m. to
34 8:00 p.m. on election day. (Ord. 2020-20, 2020)

1 **5.18.020 Mail-in ballots.**

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

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

6 C. At all times, the City Clerk shall ensure adequate procedures are in place to safeguard the
7 mail-in ballots. (Ord. 2020-20, 2020)

8 **5.18.030 Regular participation by mail-in ballot.**

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

12 B. If the election is not a mail-in ballot election pursuant to Section 5.18.010(B), the provisions
13 of this chapter only apply to those voters who participate by mail-in ballot on a regular basis as set
14 forth in subsection (A) of this section. (Ord. 2020-20, 2020)

15 **5.18.040 Mail-in ballot elections.**

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

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

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

- 21 1. The name and home address of the voter;
- 22 2. The action taken with regard to notices, ballots, and reminders sent to the voter;
- 23 3. The date of issuance of notices, ballots, and reminders;
- 24 4. The address to which the notices, ballots, and reminders are sent;
- 25 5. The date and time of the receipt of the voted mail-in ballot; and
- 26 6. Any other information deemed necessary.

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

29 D. Postage for transmitting and return of the mail-in ballot material shall be paid by the City.
30 (Ord. 2020-20, 2020)

31 **5.18.050 Distribution of mail-in ballots and notices and reminders.**

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

34 B. One notice shall be mailed to all households in the City and at least one notice to all

1 registered voters in the City informing them of the mail-in ballot voting deadlines and the date,
2 time, and location of in-person voting on election day. Notice will be mailed or distributed no later
3 than 30 days prior to the election. The notice will be in addition to the mailing of the ballot itself.
4 At least one other form of mass communication informing the public of the City election which
5 must include all of the information required on the notices shall be provided. The Board of
6 Elections may provide for additional notices and reminders. (Ord. 2020-20, 2020)

7 **5.18.060 Replacement mail-in ballots.**

8 A registered voter may obtain a replacement mail-in ballot if the original ballot was destroyed,
9 spoiled, lost or not received by the registered voter. A registered voter who obtains a mail-in ballot
10 in accordance with this section will be required to sign an affidavit, in a form approved by the
11 Board, specifying the reason for requesting the replacement ballot. (Ord. 2020-20, 2020)

12 **5.18.065 Improper use of mail-in ballots prohibited.**

13
14 **No person may cast a vote using a mail-in ballot that was issued by the City for another person.**
15

16 **5.18.070 Voter assistance for mail-in ballot voting.**

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

21 B. An agent of a voter:

- 22 1. Must be at least 16 years of age;
- 23 2. Must not be a candidate or an agent of any candidate in that City election;
- 24 3. Must not be the voter's employer or an agent of the employer;
- 25 4. Must not be an officer or agent of the voter's union;
- 26 5. Shall be designated as the agent of the voter in writing signed by the voter under penalty
27 of perjury; and
- 28 6. Shall execute a certification under penalty of perjury that the ballot was marked and
29 placed in a sealed envelope by the voter, or with permitted assistance, in the agent's presence,
30 and the agent complied with the provisions of subsection (C) of this section.

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

- 32 1. Accept only a ballot that is within a sealed envelope; and
- 33 2. Deliver the mail-in ballot in accordance with Section 5.18.090(B).

34 D. No mail-in ballot, completed or otherwise, shall be handled or delivered by a candidate or
35 any individual volunteering or working for a candidate, except for their own ballot or that of their
36 immediate family member or member of their household. (Ord. 2020-20, 2020)

1 **5.18.080 Absentee voting and provisional voting.**

2 A. Any qualified voter who shall be absent from the City during a mail-in ballot voting period
3 may vote as an absentee voter in accordance with the absentee voting chapter of this title (Chapter
4 5.20).

5 B. Provisional voting shall be in accordance with the provisional voting chapter in this title
6 (Chapter 5.22). (Ord. 2020-20, 2020)

7 **5.18.090 Tabulation of mail-in ballots.**

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

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

10 1. Postmarked with a date that is no later than election day; and

11 2. Received via mail by the City Clerk before 5:00 p.m. on the fifth business day after
12 election day; or

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

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

16 C. A mail-in ballot shall be rejected if:

17 1. The election judges determine the voter died before election day;

18 2. The voter failed to sign the oath on the ballot envelope;

19 3. More than one ballot was received from the same voter for the same City election in the
20 same ballot envelope;

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

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

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

29 E. All mail-in ballot envelopes and mail-in ballots shall be retained by the City Clerk for three
30 months after the date of the election and may then be destroyed, unless prior to that time the City
31 Clerk is ordered by a court of competent jurisdiction to keep the same for any longer period. (Ord.
32 2020-20, 2020)

33 **5.18.100 Mail-in ballot challenges and appeals.**

34 Election challenges and appeals relating to mail-in ballots shall be determined as set forth in
35 Section 5.16.070. (Ord. 2020-20, 2020)

1 **5.18.110 Penalties.**

2 A violation of this chapter is a Class B municipal infraction offense. (Ord. 2020-20, 2020)

4 **Chapter 5.20**

5 **ABSENTEE VOTING**

6 Sections:

7 5.20.010 Who may vote.

8 5.20.020 Requests for absentee ballots.

9 **5.20.025 Improper use of absentee ballots prohibited.**

10 5.20.030 Instruction and assistance in absentee voting.

11 5.20.040 Determination of absentee voters' eligibility and delivery of ballots.

12 5.20.050 Absentee ballots.

13 5.20.060 Tabulation of absentee ballots.

14 5.20.070 Absentee ballot challenges and appeals.

15 5.20.080 Penalties.

16 **5.20.010 Who may vote.**

17 A. Any person who is qualified to vote may vote by absentee ballot in City elections.

18 B. In the event an election is conducted by mail-in ballot voting, absentee ballots shall be
19 provided to those eligible pursuant to Chapter 5.18. (Ord. 2020-20, 2020/Ord. 2020-7, 2020/Ord.
20 2015-28, 2015/Ord. No. 2009-22, 5-19-09/prior code § 4D-20)

21 **5.20.020 Requests for absentee ballots.**

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

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

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

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

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

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

29 B. A request for a mailed absentee ballot must be received by the City Clerk no later than 4:00
30 p.m. on the seventh calendar day preceding election day. (Ord. 2020-20, 2020/Ord. 2020-7,
31 2020/Ord. 2015-28, 2015/Ord. No. 2009-22, 5-18-09/prior code §§ 4D-21, 4D-22)

32 **5.20.025 Improper use of absentee ballots prohibited.**

34 **No person may cast a vote using an absentee ballot that was issued by the City for another person.**

1 **5.20.030 Instruction and assistance in absentee voting.**

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

3 B. An agent of a voter:

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

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

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

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

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

10 6. Shall execute a certification under penalty of perjury that the ballot was delivered to the
11 voter who submitted the request, was marked and placed in a sealed envelope by the voter, or
12 with permitted assistance, in the agent's presence, and was returned to the City Clerk by the
13 agent.

14 C. Any voter who requires assistance in casting an absentee ballot by reason of disability,
15 inability to write, or inability to read the ballot may be given assistance by an agent of the voter.
16 An agent giving assistance to a voter pursuant to this subsection shall include a certification of
17 assistance to be included with the absentee ballot. (Ord. 2020-7, 2020/Ord. 2015-28, 2015/Ord.
18 No. 2009-22, 5-18-09. Formerly 5.20.035)

19 **5.20.040 Determination of absentee voters' eligibility and delivery of ballots.**

20 A. Upon receipt of a request for an absentee ballot containing a voter's certification, the City
21 Clerk shall determine if the requestor is qualified to vote in the City election for which the absentee
22 ballot is requested.

23 B. If the requestor is a qualified voter in the City, the City Clerk shall promptly deliver or mail
24 the absentee ballot to the requestor.

25 1. Postage for transmitting and return of the absentee ballot material shall be paid by the
26 City.

27 2. The City Clerk shall endeavor to send the absentee ballots to applicants not later than
28 five days before the election date.

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

30 1. The date of receipt of the request for an absentee ballot;

31 2. The name and home address of the voter;

32 3. The action taken with regard to the request;

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

- 1 5. If mailed, the address to which the absentee ballot is sent;
- 2 6. The date and time of the receipt of the voted absentee ballot; and
- 3 7. Any other information deemed necessary.

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

6 D. Only one absentee ballot shall be issued to a voter unless the City Clerk has reasonable
7 grounds to believe that the absentee ballot previously issued to the voter has been lost, destroyed
8 or spoiled. (Ord. 2020-7, 2020/Ord. 2015-28, 2015/Ord. No. 2009-22, 5-18-09/prior code § 4D-
9 23)

10 **5.20.050 Absentee ballots.**

11 A. Prior to any City election, the City Clerk shall print or cause to be printed an adequate
12 number of absentee ballot request forms, absentee ballots, envelopes and instructions for absentee
13 voters.

14 B. The form and arrangement of all absentee ballot request forms, absentee ballots, ballot
15 instructions, covering envelopes, ballot envelopes, and return envelopes shall be as determined by
16 the Takoma Park Board of Elections.

17 C. At all times, the City Clerk shall ensure adequate procedures are in place to safeguard the
18 absentee ballots. (Ord. 2020-7, 2020/Ord. 2015-28, 2015/Ord. No. 2009-22, 5-18-09/prior code §
19 4D-24)

20 **5.20.060 Tabulation of absentee ballots.**

21 A. No absentee ballots shall be tabulated before the official closing of the polls on election day.

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

- 23 1. Postmarked with a date that is no later than election day; and
- 24 2. Received via mail by the City Clerk before 5:00 p.m. on the fifth business day after
25 election day; or
- 26 3. Received by other means established by the City Clerk; provided, that the absentee
27 ballots received by other means are received prior to the closing of the polls on election day.

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

29 C. An absentee ballot shall be rejected if:

- 30 1. The election judges determine the voter died before election day;
- 31 2. The voter failed to sign the oath on the ballot envelope;
- 32 3. More than one absentee ballot was received from the same voter for the same City
33 election in the same ballot envelope; or

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

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

7 E. All absentee voters' requests, ballot envelopes and ballots shall be retained by the City Clerk
8 for three months after the date of the election and may then be destroyed, unless prior to that time
9 the City Clerk is ordered by a court of competent jurisdiction to keep the same for any longer
10 period. (Ord. 2020-20 (part), 2020/Ord. 2020-7, 2020/Ord. 2015-28, 2015/Ord. No. 2009-22, 5-
11 18-09/prior code § 4D-25)

12 **5.20.070 Absentee ballot challenges and appeals.**

13 Election challenges and appeals relating to absentee ballots shall be determined as set forth in
14 Section 5.16.070. (Ord. 2020-7, 2020/Ord. 2015-28, 2015/Ord. No. 2009-22, 5-18-09/prior code
15 § 4D-26)

16 **5.20.080 Penalties.**

17 A violation of this chapter is a Class B municipal infraction offense. (Ord. 2020-7, 2020/Ord.
18 2015-28, 2015/Ord. No. 2009-22, 5-18-09/prior code § 4D-27)

19
20 **Chapter 5.22**

21 **PROVISIONAL BALLOTS**

22 **Sections:**

- 23 5.22.010 Casting provisional ballots.
24 5.22.020 Provisional ballot application.
25 5.22.030 Assistance casting provisional ballot.
26 5.22.040 Provisional ballots.
27 5.22.050 Tabulation of provisional ballots.

28 **5.22.010 Casting provisional ballots.**

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

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

32 B. The individual's name does not appear on the voter registry; and

- 33 1. A City election official asserts that the individual is not eligible to register to vote; or
34 2. The individual does not have the necessary identification for registration to vote. (Ord.
35 2020-7, 2020/Ord. 2015-28, 2015/Ord. No. 2009-22, 5-18-09)

1 **5.22.020 Provisional ballot application.**

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

4 B. At the time the provisional ballot is issued, the election official shall give the individual
5 written information advising the individual that, and describing how, the individual will be able to
6 ascertain whether the vote was counted and, if the vote was not counted, the reason it was not.
7 (Ord. 2020-7, 2020/Ord. 2015-28, 2015/Ord. No. 2009-22, 5-18-09)

8 **5.22.030 Assistance casting provisional ballot.**

9 Any voter who requires assistance in casting a provisional ballot by reason of disability, inability
10 to write, or inability to read the ballot may be given assistance by an individual of the voter's
11 choice, not to include any candidate or an agent of any candidate in that City election, the voter's
12 employer or agent of the employer, or an officer or agent of the voter's union. Any person giving
13 assistance to a voter pursuant to this section shall include an affidavit of assistance to be included
14 with the provisional ballot. (Ord. 2020-7, 2020/Ord. 2015-28, 2015/Ord. No. 2009-22, 5-18-09)

15 **5.22.040 Provisional ballots.**

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

18 B. The form and arrangement of all provisional ballot applications, instructions, and ballot
19 envelopes shall be as determined by the Takoma Park Board of Elections. (Ord. 2020-7, 2020/Ord.
20 2015-28, 2015/Ord. No. 2009-22, 5-18-09)

21 **5.22.050 Tabulation of provisional ballots.**

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

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

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

28 D. The Takoma Park Board of Elections may not reject a provisional ballot except by majority
29 vote of the Board. Grounds for rejection of a provisional ballot include, but are not limited to:

- 30 1. The individual who cast the provisional ballot is not a qualified voter in the City.
- 31 2. The individual returned a voted absentee ballot in that City election.
- 32 3. The individual cast more than one ballot in that City election.
- 33 4. The individual failed to sign the oath on the provisional ballot application.
- 34 5. The provisional ballot is intentionally marked with an identifying mark that is clearly
35 evident and placed on the ballot for the purpose of identifying the ballot.
- 36 6. The individual failed to provide required identification or the identification submitted

- 1 did not satisfy the identification requirements.
- 2 7. The individual provided incomplete or inaccurate information on the provisional ballot
3 application.
- 4 8. An identity or residency challenge of the individual was upheld.
- 5 E. The Takoma Park Board of Elections, in coordination with the City Clerk, shall establish a
6 system that any individual who casts a provisional ballot may access without cost to discover
7 whether the ballot was counted and, if not counted, the reason it was not. The system shall ensure
8 the confidentiality of the individual who accesses the system and the secrecy of each ballot. (Ord.
9 2020-7, 2020/Ord. 2015-28, 2015/Ord. No. 2009-22, 5-18-09)

10

11 **Chapter 5.24**

12 **BOARD OF ELECTIONS**

13 Sections:

- 14 5.24.010 Establishment of Board of Elections.
15 5.24.020 Membership and term of office.
16 5.24.030 Administration.
17 5.24.040 Duties of the Board of Elections.

18 **5.24.010 Establishment of Board of Elections.**

19 The City of Takoma Park Board of Elections is established. The Board of Elections shall be
20 composed of up to seven members who shall be appointed by the Council. The Council shall make
21 every effort to ensure that the Board of Elections includes representatives from each Council ward.
22 (Ord. 2020-7, 2020/Ord. 2015-28, 2015/Ord. 2007-36 § 1, 2007: Ord. 2006-36 (part), 2006)

23 **5.24.020 Membership and term of office.**

24 A. Qualifications. Members of the Board of Elections shall be qualified voters of the City and
25 shall not hold or be a candidate for any elective office in government (Federal, State, County, or
26 local) during their term on the Board. Members of the Board of Elections also shall not serve as
27 the treasurer or campaign manager for any candidate for City elective office or be an advocate for
28 or against any campaign or ballot referendum question in a regular or special City election. Any
29 member who ceases to meet the qualifications for membership on the Board of Elections shall
30 automatically forfeit his or her membership on the Board and the Council may act to fill the
31 vacancy.

32 B. Term. Members of the Board of Elections shall serve staggered three-year terms. All terms
33 shall begin on July 1st and end on June 30th. Midterm vacancies on the Board of Elections shall
34 be filled by the Council for the remainder of the unexpired term.

35 C. Oath of Office. A member of the Board of Elections shall take an oath of office upon
36 assuming their initial term.

1 D. Removal. Any member of the Board of Elections may be removed by the Council before
2 the member's term has expired if the Council determines that the member has become
3 incapacitated, has failed to reasonably perform their duties as a member of the Board of Elections,
4 or for other good cause. Before removal, a member of the Board of Elections who is proposed to
5 be removed shall be given written notice of the proposed removal and the reasons for such action.
6 If the Board member requests a public hearing on the proposed removal within 10 days after receipt
7 of the written notice, then the Council shall conduct a hearing before acting on the proposed
8 removal. Any member who fails to attend, without being properly excused by the Chairperson,
9 three or more consecutive meetings of the Board, or a majority of five consecutive meetings, shall
10 be deemed to have provided good cause for removal by the Council. (Ord. 2020-7, 2020/Ord.
11 2015-28, 2015/Ord. 2006-36 (part), 2006)

12 **5.24.030 Administration.**

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

15 B. Quorum. A majority of the members of the Board of Elections shall constitute a quorum for
16 the transaction of business.

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

20 D. Administrative Regulations and Rules of Procedure. The Board of Elections may adopt
21 administrative regulations and rules of procedure to further regulate the activities of the Board.

22 E. The City Attorney shall be the legal advisor to the Board of Elections. (Ord. 2020-7,
23 2020/Ord. 2015-28, 2015/Ord. 2006-36 (part), 2006)

24 **5.24.040 Duties of the Board of Elections.**

25 The Board of Elections shall:

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

27 B. Encourage voter registration in the City;

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

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

31 E. Periodically review City elections procedures;

32 F. Serve as election judges in City elections;

33 G. Identify additional qualified individuals for appointment as election judges and workers
34 during a regular or special City election;

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

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

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

5 K. Perform such other duties as may be assigned to the Board of Elections by Charter,
6 ordinances and resolutions, and by the direction of the Council. (Ord. 2020-7, 2020/Ord. 2015-28,
7 2015/Ord. 2006-36 (part), 2006)

8 **SECTION 2. This ordinance shall be effective upon adoption.**

9 THIS ORDINANCE IS ADOPTED BY THE COUNCIL OF THE CITY OF TAKOMA PARK,
10 MARYLAND, THIS _____ DAY OF July, 2022, BY ROLL-CALL VOTE AS FOLLOWS:

11

12 AYE:

13 NAY:

14 ABSENT:

15 ABSTAIN:

16

Explanatory Note

17

- 18 1. Underlining indicates language being added to the Code.
- 19 2. ~~Strikethrough~~ indicates language being deleted from the Code.
- 20 3. Double underlining indicates additions to the ordinance since first reading.
- 21 4. ~~Double strikethrough~~ indicates language deleted from the ordinance since first reading.

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