

Introduced by: Councilmember Smith

**CITY OF TAKOMA PARK, MARYLAND**

**UNCODIFIED EMERGENCY ORDINANCE 2020-19**

**AN EMERGENCY ORDINANCE WHEREBY THE COUNCIL SUSPENDS PORTIONS OF SECTION 11.04.060 AND SECTION 11.24.020 OF THE CITY OF TAKOMA PARK CODE, BOTH OF WHICH RESTRICT POSTING OF SIGNS IN THE CITY, IN ORDER TO PROMOTE FREEDOM OF EXPRESSION DURING A GLOBAL PANDEMIC WHICH LIMITS THE FREEDOM TO ASSEMBLE DUE TO HEALTH RELATED RESTRICTIONS AND GUIDANCE.**

**WHEREAS,** the Council directed the City Attorney to conduct a review of the City Code’s provisions related the posting of signs and that review was in progress prior to the onset of the COVID-19 pandemic in the State of Maryland, at which time the review was halted to address pandemic related issues; and

**WHEREAS,** the Council recognizes and understands that the freedom to assemble is restricted due to health-related considerations and guidance for slowing the spread of the COVID-19 pandemic; and

**WHEREAS,** the Council recognizes and understands that there is an ongoing national dialogue about our country’s history of institutionalized racial discrimination; and

**WHEREAS,** the Council recognizes and understands that a City of Takoma Park law enforcement officer removed signs from a City lamppost that addressed the ongoing national dialogue; and

**WHEREAS,** in response to resident input arising out of the officer’s actions on the night of June 1-2, 2020, and in order to promote public expression when gatherings are limited due to pandemic related restrictions, the City Manager temporarily suspended the enforcement of portions of the City Code related to the posting of signs (hereinafter collectively referred to as the City’s “Sign Ordinance”); and

**WHEREAS,** the City Manager intends to lift the Sign Ordinance suspension by Thursday, July 9, 2020, as Montgomery County now permits groups of up to fifty people to assemble; and

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

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

**WHEREAS,** the Council desires to continue the temporary suspension of the Sign Ordinance in order to provide the residents of the City of Takoma Park with an additional means for expression that is consistent with pandemic related health considerations that limit the size of gatherings when the national dialogue regarding this country's history institutionalized racial discrimination continues and in anticipation of the upcoming national and local elections in early November 2020; and

**WHEREAS,** section 309(e) of the City Charter permits the Council to suspend the provision prohibiting the passing of an ordinance at the meeting at which it is introduced upon a finding that an emergency exists; and

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

**NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF TAKOMA PARK, MARYLAND, THAT** certain provisions of the City of Takoma Park Code restricting the posting of signs are temporarily modified as follows:

**Section 1.** The following provisions of the City of Takoma Park's Code are hereby suspended:

- a. Section 11.04.060A, except as it relates to section 11.04.060C,
- b. Section 11.04.060B,
- c. Section 11.04.060D, except as it relates to section 11.04.060C, and
- d. Section 11.24.020.

**Section 2.** During the suspension of the City's Sign Ordinance, the City shall have the authority to move or remove any sign that obscures, blocks, or otherwise interferes with a traffic sign, a vehicle sight line, or a sign put in place by a unit of government.

**Section 3.** During the suspension of the City's sign ordinance, signs that damage any building, structure, or fixture, shall not be permitted. The City shall have the authority to take action to address any sign posted in violation of this Section 3.

**Section 4.** This ordinance shall be construed so as to promote freedom of expression when public gatherings are limited due to COVID-19 health related considerations provided said expression is consistent with reasonable safety and property protection considerations.

**Section 5.** The suspension of the City’s Sign Ordinance shall last until June 30, 2021, or until the thirty days after the state of emergency related to the COVID-19 pandemic is lifted, whichever is later.

**Section 6.** The Council may rescind, modify, or extend this ordinance at any time.

**Section 7.** For the reasons set forth in the recitals and elsewhere herein, the Council finds that an emergency exists within the meaning of Section 309(e) of the City of Takoma Park’s Charter.

**Section 8.** This ordinance shall take effect on the 1st day of July, 2020.

THIS ORDINANCE IS ADOPTED BY THE COUNCIL OF THE CITY OF TAKOMA PARK, MARYLAND, THIS 1ST DAY OF JULY, 2020, BY ROLL-CALL VOTE AS FOLLOWS:

AYE:	Stewart, Kovar, Dyballa, Kostiuk, Seamens, Smith, Searcy
NAY:	None
ABSTAIN:	None
ABSENT:	None