

1 Introduced by: Councilmember Dyballa

First Reading: July 22, 2020

2 Second Reading: July 22, 2020

3 Effective Date: August 18, 2020

4
5 **CITY OF TAKOMA PARK, MARYLAND**
6 **ORDINANCE 2020-20**
7

8 **AMENDING THE CITY OF TAKOMA PARK CODE, TITLE 5,**
9 **ELECTIONS TO ADD CHAPTER 5.18 IN ORDER TO ESTABLISH MAIL-**
10 **IN VOTING AND AMENDING CHAPTERS 5.04, 5.16, AND 5.20 TO**
11 **ENSURE PROVISIONS CONTAINED THEREIN ARE CONSISTENT**
12 **WITH THE NEW CHAPTER 5.18.**
13

14 **WHEREAS,** the Maryland Code, Local Government Article, Section 5-202, as amended,
15 authorizes the legislative body of each municipal corporation in the State of
16 Maryland to pass ordinances that such legislative body deems necessary to assure
17 the good government of the municipality, to protect and preserve the
18 municipality's rights, property and privileges, to preserve peace and good order,
19 to secure persons and property from danger and destruction, and to protect the
20 health, comfort, and convenience of the citizens of the municipality; and
21

22 **WHEREAS,** Section 607 of the City Charter states that the Council has the power to provide
23 by Ordinance for the conduct of City elections generally and shall designate a
24 convenient polling place, the manner of holding City elections, and the voting
25 system to be used for the City election; and
26

27 **WHEREAS,** the Council recognizes that there is tremendous uncertainty about the course of the
28 COVID-19 pandemic and that there is presently a resurgence of the disease across
29 the globe and in many states in the United States of America; and
30

31 **WHEREAS,** the Council recognizes the potential for COVID-19 cases to increase when people
32 gather as the fall and winter months approach, which may result in the State and
33 local governments resuming more onerous restrictions on large gatherings; and
34

35 **WHEREAS,** the Council is committed to ensuring the 2020 election is accessible, secure, and
36 safe, while minimizing, to the extent possible, the potential for exposure to
37 COVID-19 to the voting public and City employees and election workers; and
38

39 **WHEREAS,** certain amendments to Title 5, Elections, are needed to accommodate a mail-in
40 ballot election; and
41

42 **WHEREAS,** the Takoma Park Board of Elections recommends adoption of certain
43 amendments prior to the November 3, 2020, City Election; and
44

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

1
2 **WHEREAS,** the Council, after having reviewed the proposed revisions and upon making
3 further modifications, desires to amend Title 5 of the City Code.
4

5 **NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF**
6 **TAKOMA PARK, MARYLAND,** that Title 5, Elections, of the City of Takoma Park Code is
7 hereby amended as follows:
8

9
10 **TITLE 5**
11
12 **ELECTIONS**
13

14 **Chapters:**

- 15 **5.04 General Provisions**
- 16 **5.08 Wards**
- 17 **5.10 Registration and Campaign Finance**
- 18 **5.12 Fair Election Practices**
- 19 **5.16 Voting**
- 20 **5.18 Mail-in Voting**
- 21 **5.20 Absentee Voting**
- 22 **5.22 Provisional Ballots**
- 23 **5.24 Board of Elections**

24
25 **Chapter 5.04**

26
27 **GENERAL PROVISIONS**

28 * * *

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31 **5.04.030 Construction of this Title.**

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33 This Title shall be construed so as to permit fair elections through in person voting, mail-in ballot
34 voting, absentee ballot voting, and provisional voting, or any combination of said voting methods
35 should the Council so determine by ordinance.
36

37 * * *

38
39 **5.12.022 Campaign Finance Reports.**

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41 A. Each candidate or their authorized representative and each authorized representative of any
42 political committee shall file reports with the City Clerk disclosing all contributions and all
43 disbursements in accordance with this section.
44

45 B. Each candidate and political committee, or the authorized representative of each candidate or
46 political committee, shall file the following reports:
47

1 1. A post-nomination report, which shall be filed no later than 4:00 p.m. of the ~~second~~^{third}
2 Monday after the City nominating caucus;

3
4 2. A first pre-election report, which shall be filed no later than 4:00 p.m. ~~on the fourth~~
5 Monday preceding election day ~~at least seven days preceding the start of early voting~~;

6
7 3. A second pre-election report, which shall be filed no later than 4:00 p.m. on the second
8 Monday preceding election day;

9
10 ~~4~~3. A post-election report, which shall be filed no later than 4:00 p.m. of the Monday
11 following the election;

12
13 ~~5~~4. An annual report, which shall be filed no later than January 31st of each year, on the
14 retention or disposition of surplus campaign funds until all such funds are used or distributed;
15 and

16
17 ~~6~~5. The post-nomination report shall include all information required to be reported by this
18 section from the date of the preceding election or the most recent annual report, if applicable,
19 up to and including the full day before the filing of the post-nomination report. All other
20 reports shall include information starting from the full day that the previous report was filed
21 up to and including the full day before the filing of the current report.

22
23 C. Each report under this section shall disclose:

24
25 * * *

26
27 **Chapter 5.16**

28
29 **VOTING**

30
31
32 **5.16.070 Election challenges and appeals.**

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34 * * *

35
36 B. Within 10 business days after certification of an election, the Council shall convene a
37 special meeting to determine all election challenges.

38
39 * * *

40
41 **Chapter 5.18**

42
43 **MAIL-IN BALLOT VOTING**

44
45 **Sections:**

46
47 **5.18.010 Mail-in ballot voting.**

- 1 5.18.020 Mail-in ballots.
- 2 5.18.030 Regular participation by mail-in ballot.
- 3 5.18.040 Mail-in ballot elections.
- 4 5.18.050 Distribution of mail-in ballots and notices and reminders.
- 5 5.18.060 Replacement mail-in ballots.
- 6 5.18.070 Voter assistance for mail-in ballot voting.
- 7 5.18.080 Absentee voting and provisional voting.
- 8 5.18.090 Tabulation of mail-in ballots.
- 9 5.18.100 Mail-in ballot challenges and appeals.
- 10 5.18.110 Penalties.

11

12 **5.18.010 Mail-in ballot voting.**

- 13 A. City elections may utilize mail-in ballot voting.
- 14
- 15 B. The Council may determine by ordinance whether mail-in ballot voting shall be the primary
- 16 means of voting. In the event the Council determines that mail-in ballot voting shall be the primary
- 17 means of voting, such an election shall be called a “mail-in ballot election.”
- 18
- 19 C. In a mail-in ballot election, at least one voting center shall be kept open on election day for
- 20 in-person voting. The Board of Elections shall keep any such voting center open from 7:00 a.m.
- 21 to 8:00 p.m. on election day.

22

23 **5.18.020 Mail-in ballots.**

- 24 A. Prior to any City election, the City Clerk shall print or cause to be printed an adequate
- 25 number of mail-in ballots, envelopes, and instructions for mail-in voters.
- 26
- 27 B. The form and arrangement of all mail-in ballots, ballot instructions, covering envelopes,
- 28 ballot envelopes, and return envelopes shall be as determined by the City Clerk.
- 29
- 30 C. At all times, the City Clerk shall ensure adequate procedures are in place to safeguard the
- 31 mail-in ballots.

32 **5.18.030 Regular participation by mail-in ballot.**

- 33 A. Voters qualified to vote in City elections may participate in any City election by mail-in
- 34 ballot on a regular basis by completing the requisite form established by the City Clerk. At any
- 35 time, the voter may rescind the decision to participate regularly in City elections by mail-in ballot.
- 36
- 37 B. If the election is not a mail-in ballot election pursuant to Section 5.18.010(B), the
- 38 provisions of this Chapter only apply to those voters who participate by mail-in ballot on a regular
- 39 basis as set forth in Section 5.18.030(A).

40

41 **5.18.040 Mail-in ballot elections.**

- 42 A. The City Clerk shall determine who is qualified to vote in the City election for which the
- 43 mail-in ballot will be sent.
- 44
- 45 B. Except as elsewhere provided in this Chapter, the City Clerk shall cause to be mailed to all
- 46 qualified voters in the City a mail-in ballot.

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

2
3 1. The name and home address of the voter;

4
5 2. The action taken with regard to notices, ballots, and reminders, sent to the voter;

6
7 3. The date of issuance of notices, ballots, and reminders;

8
9 4. The address to which the notices, ballots, and reminders are sent;

10
11 5. The date and time of the receipt of the voted mail-in ballot; and

12
13 6. Any other information deemed necessary.

14
15 Such mail-in voting record shall be available for public review during the normal office hours of
16 the City Clerk.

17
18 D. Postage for transmitting and return of the mail-in ballot material shall be paid by the City.

19
20 **5.18.050 Distribution of mail-in ballots and notices and reminders.**

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

23
24 B. One notice shall be mailed to all households in the City and at least one notice to all
25 registered voters in the City informing them of the mail-in ballot voting deadlines and the date,
26 time, and location of in-person voting on election day. Notice will be mailed or distributed no
27 later than thirty (30) days prior to the election. The notice will be in addition to the mailing of the
28 ballot itself. At least one other form of mass communication informing the public of the City
29 election which must include all of the information required on the notices. The Board of Elections
30 may provide for additional notices and reminders.

31
32 **5.18.060 Replacement mail-in ballots.**

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

37
38 **5.18.070 Voter assistance for mail-in ballot voting.**

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

43
44 B. An agent of a voter:

45
46 1. Must be at least 16 years of age;

1
2 2. Must not be a candidate or an agent of any candidate in that City election;

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

5
6 4. Must not be an officer or agent of the voter's union;

7
8 5. Shall be designated as the agent of the voter in writing signed by the voter under
9 penalty of perjury; and

10
11 6. Shall execute a certification under penalty of perjury that the ballot was marked and
12 placed in a sealed envelope by the voter, or with permitted assistance, in the agent's presence, and
13 the agent complied with the provisions of Section 5.18.070(C).

14
15 C. An individual that is permitted to receive or collect a registered voter's mail-in ballot must:

16
17 1. Accept only a ballot that is within a sealed envelope; and

18
19 2. Deliver the mail-in ballot in accordance with Section 5.18.090(B).

20
21 D. No mail-in ballot, completed or otherwise, shall be handled or delivered by a candidate or
22 any individual volunteering or working for a candidate, except for their own ballot or that of their
23 immediate family member or member of their household.

24
25 **5.18.080 Absentee voting and provisional voting.**

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

28
29 B. Provisional voting shall be in accordance with the provisional voting chapter in this Title.

30
31 **5.18.090 Tabulation of mail-in ballots.**

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

33
34 B. An otherwise legally sufficient mail-in ballot shall be tabulated only if it is:

35
36 1. Post-marked with a date that is no later than election day; and

37
38 2. Received via mail by the City Clerk before five o'clock in the afternoon on the fifth
39 business day after election day; or

40
41 3. Received by other means established by the City Clerk provided that the mail-in
42 ballots received by other means are received prior to the closing of the polls on
43 election day.

44
45 A mail-in ballot that does not meet these requirements shall not be counted.

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

- 1 1. The election judges determine the voter died before election day;
- 2
- 3
- 4 2. The voter failed to sign the oath on the ballot envelope;
- 5
- 6 3. More than one ballot was received from the same voter for the same City election
- 7 in the same ballot envelope;
- 8
- 9 4. The election judges determine that the ballot is intentionally marked with an
- 10 identifying mark that is clearly evident and placed on the ballot for the purpose of
- 11 identifying the ballot; or
- 12
- 13 5. Election judges determine the mail-in ballot was issued to a person other than the
- 14 person utilizing it to cast a vote.
- 15

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

19

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

23

24 **5.18.100 Mail-in ballot challenges and appeals.**

25 Election challenges and appeals relating to mail-in ballots shall be determined as set forth in
 26 Section 5.16.070.

27

28 **5.18.110 Penalties.**

29 A violation of this chapter is a Class B municipal infraction offense.

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31 * * *

32 **Chapter 5.20**

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34 **ABSENTEE VOTING**

35

36 * * *

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38 **5.20.010 Who may vote.**

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40 A. Any person who is qualified to vote may vote by absentee ballot in City elections. This
 41 process may also be referred to as “vote by mail.”

42

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

45

46 * * *

47 **5.20.020 Requests for absentee ballots.**

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

3
4 1. On a form provided by the City Clerk to the voter upon request; or

5
6 2. In a signed, written request that includes:

7
8 a. The voter's name and home address;

9
10 b. A certification that the voter is registered to vote and is a resident of the
11 City; and

12
13 c. The address to which the absentee ballot is to be mailed or delivered, if
14 different from the voter's home address.
15

16 B. A request for a mailed absentee ballot must be received by the City Clerk no later than 4:00
17 p.m. on the seventh calendar day preceding Election Day.
18

19 ~~C. After the seventh calendar day preceding Election Day, through the official closing of the~~
20 ~~polls, a qualified voter or the voter's authorized agent may submit a written request in person to~~
21 ~~the City Clerk for an absentee ballot.~~
22

23 ~~D. Upon receiving the request, the City Clerk, if satisfied that the voter is a qualified City~~
24 ~~voter and entitled to vote by absentee ballot, shall give the applicant, or their authorized agent, an~~
25 ~~absentee ballot to be marked by the voter, placed in a sealed envelope and returned to the City~~
26 ~~Clerk.~~
27

28 **5.20.060 Tabulation of absentee ballots.**

29
30 * * *

31
32 ~~B. Only absentee ballots received by the City Clerk prior to the official closing of the polls on~~
33 ~~election day shall be tabulated. An absentee ballot that is received after the official closing of the~~
34 ~~polls on election day shall not be counted.~~
35

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

37
38 1. Post-marked with a date that is no later than election day; and

39
40 2. Received via mail by the City Clerk before five o'clock in the afternoon on the fifth
41 business day after election day; or

42
43 3. Received by other means established by the City Clerk provided that the absentee
44 ballots received by other means are received prior to the closing of the polls on
45 election day.
46

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

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D. If more than one legally sufficient absentee ballot is received in separate envelopes from the same voter, then the election judges shall count only the first legally sufficient ballot ~~with the latest properly signed oath~~ and shall reject any other absentee ballot received from the voter.

* * *

THIS ORDINANCE IS ADOPTED BY THE COUNCIL OF THE CITY OF TAKOMA PARK, MARYLAND, THIS 29TH DAY OF JULY, 2020, BY ROLL-CALL VOTE AS FOLLOWS:

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

Explanatory Note

- 1. Underlining indicates language being added to the Code.
- 2. ~~Strikethrough~~ indicates language being deleted from the Code.