

1 Introduced by: Councilmember Dyballa

First Reading: July 1, 2024

2 Second Reading: July 10, 2024

3 Effective Date: July 10, 2024

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5 **CITY OF TAKOMA PARK, MARYLAND**  
6 **ORDINANCE 2024-19**

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

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31 **WHEREAS,** the Takoma Park Board of Elections has recommended adoption of certain  
32 amendments prior to the November 5, 2024, City Election;

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34 **WHEREAS,** the Council last amended Takoma Park Code, Title 5, Elections on July 27, 2022,  
35 by Ordinance No. 2022-30; and

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

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

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

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## ELECTIONS

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### Chapters:

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**5.04 General Provisions**

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**5.08 Wards**

6

**5.10 Registration and Campaign Finance Limitations**

7

**5.12 Fair Election Practices**

8

**5.16 Voting**

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**5.18 Mail-In Ballot Voting**

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**5.20 Absentee Voting**

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**5.22 Provisional Ballots**

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**5.24 Board of Elections**

**Chapter 5.04**  
**GENERAL PROVISIONS**

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Sections:

5.04.010

5.04.020

5.04.030

5.04.020 Definitions

\* \* \*

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

\* \* \*

1 **Chapter 5.12**

2 **FAIR ELECTION PRACTICES**

3 **Sections:**

- 4 5.12.010 Campaign material published or distributed.
- 5 5.12.020 Campaign contributions and expenditures.
- 6 5.12.021 Use of contributed amounts for certain purposes.
- 7 5.12.022 Campaign finance reports.
- 8 5.12.030 Surplus campaign funds, dispositions, and reports.
- 9 5.12.040 Financial disclosure statements.

10 \* \* \*

11 **5.12.020 Campaign contributions and expenditures.**

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

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

18 C. For purposes of this section:

19 1. Contributions to a named candidate or political committee made to any person authorized  
20 by such candidate or political committee to accept contributions on the candidate's or political  
21 committee's behalf shall be considered to be contributions made to such candidate or political  
22 committee;

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

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

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

- 33 1. An anonymous contributor;
- 34 2. A corporation, including labor unions and political committees;
- 35 3. A person making a contribution in the name of another; or

- 1 4. A foreign national, which includes:
- 2 a. A person outside of the United States who is not a citizen of the United States;
- 3 b. An individual within the United States who is not a citizen of the United States and
- 4 who is not lawfully admitted for permanent residence;
- 5 c. A government of a foreign country;
- 6 d. A political party of a foreign country;
- 7 e. Any partnership, association, corporation, organization, or other combination of
- 8 persons organized under the laws of, or having its principal place of business in, a foreign
- 9 country; or
- 10 f. Any other foreign person that is prohibited from making contributions by Federal law,
- 11 including 52 U.S.C. § 30121 and 11 C.F.R. § 110.20, which may be amended from time
- 12 to time.

13 E. If a candidate receives an anonymous contribution, the amount shall be declared in campaign

14 reports and contributed to the City's general fund no later than 4:00 p.m. on the Monday following

15 the election.

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

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

20 G. A candidate may make unlimited expenditures from the candidate's personal funds, or from

21 assets jointly owned with their spouse or domestic partner.

22 H. No candidate or political committee shall knowingly accept any contribution or make any

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

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

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

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

27 under this section.

28 I. Campaign Loans.

29 1. Except as provided in subsection (B) of this section, the total amount of all loans to a

30 candidate for any election shall not exceed \$5,000, and no one person or entity may loan a

31 candidate more than \$1,000.

32 2. A loan to a candidate is considered a contribution unless:

- 33 a. The loan is from a financial institution or other entity in the business of making
- 34 loans; or

b. The loan is to the candidate and repayment is personally guaranteed by the candidate and is due within one year of the date of the loan.

3. If the amount of interest actually charged on a loan to a candidate is less than the prime rate on the day the loan is made, the difference between the actual interest charged and that prime rate shall constitute a contribution.

4. All campaign loans shall be documented on campaign finance reports in a format provided by the City Clerk.

J. A violation of this section is a Class B offense. (Ord. 2022-30 § 1, 2022/Ord. 2020-7, 2020/Ord. 2015-28, 2015/prior code § 4D-7)

\* \* \*

**5.12.022 Campaign finance reports.**

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

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

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

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

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

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

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

C. Each report under this section shall disclose:

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

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

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

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

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

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

11 7. The date, location, and nature of any safe harbor events and a certification by the candidate  
12 that all reported safe harbor events comply with the City's election code.;

13 8. The total and individual amounts of all loans the candidate or candidate's treasurer  
14 received; and

15 9. Documentation indicating the nature, terms, and status of each loan.

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18 **5.12.030 Surplus campaign funds, dispositions, and reports.**

19 A. Surplus campaign funds may be retained after an election and used by the candidate to  
20 support that same candidate's election or reelection to any City office or any other elected office.

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

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

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

26 2. Donating the funds to the City's general fund; or

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

33 D. Prohibited uses of surplus campaign funds include:

34 1. The personal use of the candidate, the treasurer or any member of the candidate's or  
35 political committee's staff, or the immediate family members of those individuals (however,

1 use of surplus funds to hold a party for campaign supporters is a permitted political purpose);  
2 or

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

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

8 F. Within 30 days of paying off a campaign loan, a candidate shall cause to be filed an affidavit  
9 stating that the loan is paid in full with supporting documentation from the lender.

10 G. A violation of this section is a Class B offense. (Ord. 2022-30 § 1, 2022/Ord. 2020-7,  
11 2020/Ord. 2015-28, 2015/prior code § 4D-8)

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1 **Chapter 5.18**

2 **MAIL-IN BALLOT VOTING**

3 Sections:

- 4 5.18.010 Mail-in ballot voting.
- 5 5.18.020 Mail-in ballots.
- 6 5.18.030 Regular participation by mail-in ballot.
- 7 5.18.040 Mail-in ballot elections.
- 8 5.18.050 Distribution of mail-in ballots and notices and reminders.
- 9 5.18.060 Replacement mail-in ballots.
- 10 5.18.065 Improper use of mail-in ballots prohibited.
- 11 5.18.070 Voter assistance for mail-in ballot voting.
- 12 5.18.080 Absentee voting and provisional voting.
- 13 5.18.090 Tabulation of mail-in ballots.
- 14 5.18.100 Mail-in ballot challenges and appeals.
- 15 5.18.110 Penalties.

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17 **5.18.090 Tabulation of mail-in ballots.**

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

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

20 1. Postmarked with a date that is no later than election day or otherwise contains official data  
21 from the United States Postal Service that allows the Board to determine that the ballot was  
22 mailed no later than election day; and

23 2. Received via mail by the City Clerk before 5:00 p.m. on the ~~fifth~~ fourth business day after  
24 election day; or

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

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

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

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

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

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

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

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

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

6 E. All mail-in ballot envelopes and mail-in ballots shall be retained by the City Clerk for three  
7 months after the date of the election and may then be destroyed, unless prior to that time the City  
8 Clerk is ordered by a court of competent jurisdiction to keep the same for any longer period. (Ord.  
9 2022-30 § 1, 2022/Ord. 2020-20, 2020)

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

14 **THIS ORDINANCE IS ADOPTED BY THE COUNCIL OF THE CITY OF TAKOMA**  
15 **PARK, MARYLAND, THIS 10TH DAY OF JULY, 2024, BY ROLL-CALL VOTE AS**  
16 **FOLLOWS:**

17  
18 AYE: Fulcher, Dyballa, Gibson, Seamens, Honzak, Small, Searcy  
19 NAY: None  
20 ABSENT: None  
21 ABSTAIN: None

22 **Explanatory Note**

- 23 1. Underlining indicates language being added to the Code.  
24 2. ~~Strikethrough~~ indicates language being deleted from the Code.  
25 3. \*\*\* Asterisks indicate language contained in the existing law that remains unchanged that  
26 is not reproduced in this ordinance as it is not substantively relevant to the changes being  
27 made and including it would make the ordinance overly long.  
28

29 Link to Title 5 (last visited June 14, 2024):  
30 <https://www.codepublishing.com/MD/TakomaPark/#!/TakomaPark05/TakomaPark05.html>

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