

Regular Meeting

Agenda Item #	3
Meeting Date	July 18, 2015
Prepared By	Jessie Carpenter City Clerk
Approved By	Suzanne Ludlow City Manager

Discussion Item	Second Reading Ordinance Amending Takoma Park Code, Title 5, Elections: Ch. 5.04 General Provisions, Ch. 5.12 Fair Election Practices, Ch. 5.16 Voting, Ch. 5.20 Absentee Voting, and Ch. 5.22 Provisional Ballots
Background	<p>First reading of this ordinance was held on June 22, 2015. A number of typographical errors were noted and have been corrected. The more substantive discussion took place regarding Sections 5.12.020 and 5.12.040. Additional information is provided below with the summary of proposed revisions.</p> <p><u>Summary of Proposed Revisions</u></p> <p>5.04.020 Definitions: A definition of “agent” is added for clarity.</p> <p>5.12.020 Campaign reports: The requirement for a candidate to appoint a representative is removed. The timing of filing is adjusted so that the filing deadline falls on a weekday. The process for handling incomplete and late filing of campaign reports is clarified.</p> <p>As a result of the Council’s discussion at first reading, Section 5.12.020 Campaign reports, subsections D, E, and F have been further reviewed and revisions made. A campaign report must be attested to as complete and accurate to be deemed filed. If a deficiency on the form is noted by the City Clerk, the filer has two weeks from the date of the written notice to correct the deficiency. If the corrected report is not filed or if there is still a deficiency in a report, late filing fees will be assessed and continue to be assessed up to the maximum amount until the corrected campaign report is accepted as filed.</p> <p>5.12.040 Financial disclosure statements: This section is new. It spells out what happens if a candidate is elected but does not file the required statement. A parallel revision to the Ethics Code is recommended.</p> <p>At first reading, a question was raised as to what happens in the event that a candidate does not file a financial disclosure form. If the candidate fails to timely file the form, the candidacy is deemed withdrawn and the candidate’s name may not be placed on the ballot. In the event that a person is elected as a write in, the financial disclosure must be filed or the position will be declared vacant.</p> <p>5.16.030 Instruction and assistance in voting: Children up through age 15 may accompany a voting adult into a voting booth. Persons 16 and older may accompany when an assistance affidavit is filed.</p> <p>5.16.070 – 5.16.080 regarding election challenges: The word “challenge” is substituted for “contest” for clarity.</p>

	5.20.020 – 5.20.030 regarding applications for absentee ballots: The requirement for a voter to include his or her ward on the application is removed because it is not needed. The text reflects the residency requirement for voters which was reduced from 30 to 21 days by an earlier amendment to the Charter.
Policy	The Board of Elections is charged with recommending to the Council amendments to the City’s elections law and regulations when it deems such amendments are necessary and will provide for the improved conduct of elections.
Fiscal Impact	N/A
Attachments	First Reading Ordinance Amending Takoma Park Code, Title 5, Elections
Recommendation	Consider the proposed amendments and approve the ordinance at first reading.
Special Consideration	

1 Introduced by: Councilmember Schultz

First Reading: June 22, 2015

2 Second Reading:

3 Effective Date:

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

7
8 **ORDINANCE NO. 2015-28**

9
10 **AMENDING TAKOMA PARK CODE, TITLE 5, ELECTIONS: CH. 5.04 GENERAL**
11 **PROVISIONS, CH. 5.12 FAIR ELECTION PRACTICES, CH. 5.16 VOTING, CH. 5.20**
12 **ABSENTEE VOTING, AND CH. 5.22 PROVISIONAL BALLOTS**

13
14 WHEREAS, the Takoma Park Board of Elections is charged with recommending to the
15 Council amendments to the City’s elections law and regulations when it deems
16 such amendments are necessary and will provide for the improved conduct of
17 elections; and

18
19 WHEREAS, the Board has recommended adoption of certain amendments prior to the
20 November 3, 2015 City Election; and

21 WHEREAS, while many of the revisions merely clarify provisions of the title, revisions to
22 Chapter 5.12 Fair Election Practices are needed to detail how incomplete and late
23 filing of campaign reports are handled; and

24
25 WHEREAS, also in Chapter 5.12, a revision is needed to clearly state what happens if a
26 candidate is elected but does not file the required financial disclosure statement;
27 and

28
29 WHEREAS, after having reviewed the proposed revisions and making further modifications,
30 the Council desires to amend Title 5.

31
32 NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF TAKOMA
33 PARK MARYLAND THAT Takoma Park Code, Title 5, Elections is hereby
34 amended as follows:

35
36 **Title 5**
37 **ELECTIONS**

38 **Chapters:**

- 39
- 40 **5.04 General Provisions**
- 41 **5.08 Wards**
- 42 **5.12 Fair Election Practices**
- 43 **5.16 Voting**
- 44 **5.20 Absentee Voting**

1 “Registration” means the act by which a person becomes qualified to vote in any election in
2 the City.

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

5 “Voting system” means a method of casting and tabulating ballots or votes.
6

7 **Chapter 5.08**
8 **WARDS**

9 Sections:

10 5.08.010 Description of ward boundaries.
11

12 **5.08.010 Description of ward boundaries.**

13 A. The City is divided into six wards for purposes of City elections. Each ward shall be
14 compact in form and composed of adjoining territory. The populations of the wards shall be
15 substantially equal.

16 B. The boundary lines of the six wards shall be as they are shown on the map and
17 accompanying street directory designated “2013 District Plan and Street Directory,” dated
18 December 3, 2012, incorporated herein, on file and available for inspection in the office of the
19 City Clerk.
20

21 **Chapter 5.12**
22 **FAIR ELECTION PRACTICES**

23 Sections:

24 5.12.010 Political matter published or distributed.

25 5.12.020 Campaign reports.

26 5.12.030 Surplus campaign funds.

27 5.12.040 Financial disclosure statements.
28

29 **5.12.010 Political matter published or distributed.**

30 A. No person, candidate or political committee shall print, publish, distribute or
31 broadcast or cause to be printed, published, distributed or broadcast any political matter unless
32 such political matter includes the name of the person ~~responsible for~~ who authorized the
33 publication or distribution of the same.

34 B. No person, candidate or political committee shall expend any money for printing,
35 publication or broadcasting of any political matter unless such matter states that it is a paid
36 political advertisement and is printed, published or broadcast by the authority of the person,
37 candidate, political committee or an authorized representative for a candidate or political
38 committee.

39 C. A violation of this section is a Class B offense.
40

41 **5.12.020 Campaign reports.**

42 ~~A. Each candidate and political committee shall appoint an authorized representative.~~

43 B.A. Each candidate or his or her authorized representative and each authorized
44 representative of any political committee shall file a report with the City Clerk disclosing the
45 names and addresses of all persons, other than the candidate or members of his or her immediate

1 family, who contribute anything of value, other than volunteer services, of \$25.01 or more in an
2 election. All campaign reports filed shall be available for public review during the normal office
3 hours of the City Clerk.

4 1. An initial report listing contributions received since the date of the last preceding
5 election to fill the office for which the candidate is running shall be filed with the City Clerk no
6 later than noon of the 10th calendar day than the Monday at least seven days preceding the
7 election.

8 2. A final report of campaign contributions not previously reported shall be filed with
9 the City Clerk no later than 4:00 p.m. of the Monday following the election.

10 3. Even if no contributions have been received since the end of the period for which
11 the last preceding report was filed or due, a statement to that effect must be filed with the City
12 Clerk.

13 C.B. —All campaign reports shall be made on the forms designated by the City Clerk.
14 The campaign reports shall contain a certification by the person responsible for filing the report
15 that the contents of the report are true and complete to the best of ~~their~~ this or her knowledge,
16 information and belief.

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

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

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

27 3. It is the personal responsibility of the candidate, if it is the report of a candidate,
28 and of the authorized representative of a political committee to file all reports in complete and
29 accurate detail and to pay all late filing fees. A late filing fee may not be paid, directly or
30 indirectly, from contributions to the candidate or political committee.

31 E.D. For purposes of this section, the failure to provide complete and accurate
32 information on the campaign report forms is a failure to file, provided that the City Clerk has
33 notified the candidate and his or her authorized representative or the authorized representative of
34 a political committee, in writing, of the deficiency and a properly corrected report has not been
35 filed within 2 weeks of the date of the written notice. After 2 weeks, and in the absence of a filed
36 corrected report, daily late filing fees are thereafter payable. —A campaign report must be
37 attested to as complete and accurate to be deemed “filed.” If there is a deficiency in a campaign
38 report, the City Clerk will notify the candidate and his or her authorized representative or the
39 authorized representative of a or political committee, in writing, of the deficiency. —The
40 candidate will or political committee campaign then have two weeks from the date of that notice
41 to file a corrected report. —If, after that two week period ends, no a corrected report is has been
42 not filed received, within two weeks or if a corrected report is not attested to as approved as
43 complete and accurate, then daily late filing fees will be assessed.

44 E. If the City Clerk determines that there is a deficiency in a corrected report ~~is not complete~~
45 and accurate, then the candidate or political committee must continue to correct and resubmit the

1 campaign report to the City Clerk until such campaign report is accepted~~approved~~. In this case,
2 daily late filing fees will continue to be assessed.

3 F.F.E. A person may not receive any salary or benefits from the office of the Mayor or
4 Councilmember until all required campaign reports have been attested to as complete and
5 accurate, accepted as filed, and approved as complete and accurate and all late filing fees have
6 been paid.

7 G.G.F. A violation of this section is a Class B offense.
8

9 **5.12.030 Surplus campaign funds.**

10 A. Surplus campaign funds may be used at the discretion of the candidate for any
11 community or political purpose, except:

12 1. The personal use of the candidate, the treasurer or any member of the candidate's
13 campaign staff, or the immediate family members of those individuals (however, use of surplus
14 funds to hold a party for campaign supporters ~~is shall be considered~~ a permitted political purpose);
15 or

16 2. A transfer to a ~~registered political action~~ committee or a candidate other than the
17 individual for whom the funds were raised.

18 B. A violation of this section is a Class B offense.
19

20 **5.12.040 Financial Disclosure Statements.**

21
22 A. Candidates must have timely filed financial disclosure statements in proper form
23 as required by section 3.04.080 of the Ethics Elections Title of the Takoma Park Code to be
24 eligible to assume office.~~A. Before any candidate to be an elected official can serve as Mayor~~
25 ~~or Councilmember, the candidate must have filed all required Financial Disclosure Statements.~~

26 B. If a candidate elected to a position on the Council is unable to take office because
27 he or she has failed to file to file all required a Financial Disclosure Statements as required by
28 section 3.04.080, then the Clerk may refer the matter to the Ethics Commission or shall declare
29 the position to be vacant as provided by in accordance with Section 301(b) of the Takoma Park
30 Municipal Charter.

33 **Chapter 5.16** 34 **VOTING**

35 Sections:

- 36 5.16.010 Voting systems.
37 5.16.020 Ballots.
38 5.16.030 Instruction and assistance in voting.
39 5.16.040 Time allowed for voting.
40 5.16.050 Closing of polls.
41 5.16.060 Tabulation of votes.
42 5.16.070 Election ~~contest~~ challenges and appeals.
43 5.16.080 Inspection of ballots in the event of an election ~~contest~~ challenge or _____
44 appeal.
45 5.16.090 Penalties.

1
2 **5.16.010 Voting systems.**

3 A. Only one voting system may be used in any City election.

4 B. The City Council may purchase, rent, lease or otherwise acquire such voting systems
5 and related equipment as may be required for an election.
6

7 **5.16.020 Ballots.**

8 A. The City Clerk shall provide ballots for all elections which shall contain:

9 1. The name of every candidate who has been nominated in accordance with the
10 provisions of the Charter and with this title;

11 2. A description of every question which is to be submitted to a vote.

12 B. All ballots shall be printed in plain clear type in black ink upon material of such size
13 and shape to fit the construction of the voting system.

14 C. The form and arrangement of all ballots shall be determined by the City Clerk in
15 accordance with the following requirements:

16 1. In all elections, the names of candidates shall be arranged alphabetically on the
17 ballots according to their surname, under the designation of office. The names of the candidates
18 for Mayor shall appear first on the ballots, followed by the names of the candidates for
19 Councilmember according to the numeric designation of the ward.

20 2. No ballot shall contain a party designation of a candidate.

21 3. Each ballot shall contain an appropriate instruction to the voter informing him or
22 her of the offices for which he or she may vote and the number of persons for whom he or she
23 may lawfully vote for each office.

24 4. All ballots shall contain a statement in understandable language of every question
25 to be submitted to a vote at any election.

26 5. The City Clerk shall prepare and certify the form in which a question shall appear,
27 and each question may be captioned with a descriptive title containing not more than 5 words.

28 6. Each ballot question shall be printed on the ballots following the name of the
29 candidates and shall be accompanied by the words "For" and "Against."

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

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

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

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

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

44 E. The City Clerk may cause to be printed copies of the form of the ballot to be used for
45 an election, to be in type of suitable size and designated as "specimen ballots." Any such

1 specimen ballots shall be conspicuously posted at each polling place and may be distributed to
2 voters.

3
4 **5.16.030 Instruction and assistance in voting.**

5 A. Upon request, election judges shall instruct a voter regarding the operation of the
6 particular voting system.

7 B. Any voter who requires assistance in voting by reason of disability, inability to write,
8 or inability to read the ballot may be given assistance by an individual of the voter's choice. A
9 voter may not choose any candidate or an agent of any candidate in that City election, the voter's
10 employer or agent of the employer, or an officer or agent of the voter's union. In the event a
11 voter chooses no one, ~~two election judges~~ an election judge may assist the voter. Any person
12 giving assistance to a voter pursuant to this subsection shall complete an affidavit of assistance to
13 be filed with the Chief Judge.

14 1. After such an affidavit has been made and filed, the voter may enter into a voting
15 machine, booth or other place set aside for voting with the person of the voter's choice. The
16 person whom the voter has selected or, in the case the voter has selected no one, ~~one of the~~
17 ~~election judges, in the presence of the other,~~ the election judge shall mark the ballot or operate
18 the voting machine as the voter shall direct.

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

22 3. A voter may not be accompanied into a voting machine, booth or other place set
23 aside for voting by any person over the age of ~~12~~ 15-years, unless the affidavit required by
24 subsection (B) of this section has been accepted by ~~the~~ an election judges.

25
26 **5.16.040 Time allowed for voting.**

27 Each voter is expected to mark the ballot or operate the voting machine expeditiously and
28 may be required to leave the voting machine, booth or other place set aside for voting after 5
29 minutes.

30
31 **5.16.050 Closing of polls.**

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

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

37 C. The election judges shall then record the number of votes cast, and compare the
38 number of votes cast with the number of voters who have checked in to vote.

39
40 **5.16.060 Tabulation of votes.**

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

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

45 1. The secrecy of the ballot;

1 2. Correct counting of votes on ballots on which the proper number of votes has been
2 indicated;

3 3. If the intent of the voter with respect to a particular contest or question is not
4 clearly demonstrated, then only the vote for that contest or question shall be rejected;

5 4. The tabulating and recording of votes by ward for or against any candidate,
6 candidates or question;

7 5. Prompt reporting of election returns after the official closing of the polls.

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

10 D. All paper ballots and any printed or ~~photographic~~ electronic record from voting
11 machines shall be safely kept by the City Clerk for 3 months after the date of the election at
12 which the ballots were cast and may then be destroyed, unless prior to that time the City Clerk is
13 ordered by a court of competent jurisdiction to keep the same for any longer period.

14 E. A violation of subsections (B) or (C) of this section is a Class B offense.

15
16 **5.16.070 Election ~~contests~~ challenges and appeals.**

17 A. Any candidate or voter who wishes to ~~contest~~ challenge the results of an election or
18 any matter relating to the validity of a ballot shall give written notice to the City Clerk within 2
19 days after the date the results of the election are certified to the Council.

20 1. The written notice of election challenge shall be made under penalty of perjury
21 and include a complete statement of all facts on which the candidate or voter relies to support his
22 or her election ~~contest~~ challenge.

23 2. The City Clerk shall immediately refer the notice of election ~~contest~~ challenge to
24 the Takoma Park Board of Elections, ~~who~~ which shall investigate the facts of the
25 ~~contest~~ challenge.

26 3. Within 4 days after the City Clerk receives the written notice of election
27 ~~contest~~ challenge, the Takoma Park Board of Elections shall ~~make a report of their~~ issue a report
28 of its factual investigation, together with a recommendation for action to the Council.

29 B. Within 10 days after an election, the Council shall convene a special meeting to
30 determine all election ~~contest~~ challenges.

31 C. The candidate or voter who submitted the election ~~challenge~~ contest notice shall be
32 given a reasonable opportunity to be heard at the special meeting of the Council in regard to his
33 or her election ~~contest~~ challenge.

34 D. Any candidate or voter aggrieved by any decision or action of the Council on an
35 election challenge shall have the right to appeal to the Circuit Court for Montgomery County,
36 ~~and jurisdiction to hear and determine such appeals is hereby conferred upon the Circuit Court.~~

37 E. Appeals shall be taken by way of petition filed with the Circuit Court for Montgomery
38 County within 5 days from the date of the decision of the Council ~~on~~ at any election challenge.
39 Appeals shall be heard de novo and without a jury by the Circuit Court as soon as possible.

40
41 **5.16.080 Inspection of ballots in the event of an election ~~contest~~ challenge or appeal.**

42 A. All ballots cast in any election shall remain locked and sealed for 3 months after
43 the certification of election results or for as ~~much longer~~ long as may be necessary or advisable
44 because of any ~~contest~~ challenge ~~to~~ over a result of ~~an~~ the election or the validity of a ballot.

1 B. As part of the investigation and report of an election ~~contest~~challenge or appeal,
2 the ballot storage box or voting machine may be opened and the data and figures examined in
3 order to count or recount the votes cast in the race, referendum question, or election being
4 ~~contested~~challenged or to determine any matter related to the validity of a ballot. Such ballot
5 count or examination shall be conducted in response to an order of any court of competent
6 jurisdiction or at the direction of the Takoma Park Board of Elections and in the presence of the
7 principals involved in the election ~~contest~~challenge or appeal or their authorized representatives.
8 The Takoma Park Board of Elections or an individual appointed by a court of competent
9 jurisdiction shall make a record of the votes for such challenged office or other matter relating to
10 the validity of ballots or votes cast.

11 1. ~~The Takoma Park Board of Elections or an individual appointed by a~~
12 ~~court of competent jurisdiction shall make a record of the votes for such~~
13 ~~contested office or other matter relating to the validity of ballots or votes cast.~~

14 2. ~~Such record shall be received as evidence as fully as if proved by the~~
15 ~~oral testimony of the persons who shall sign the record of votes, or by the~~
16 ~~production of said ballot storage box or system in court or before the Council.~~

17
18 **5.16.090 Refusal or inability to serve.**

19 ~~If an elected candidate is unwilling to serve or ineligible to hold the office to which he or~~
20 ~~she is elected, the City Clerk shall declare the seat vacant and the Board of Elections shall~~
21 ~~conduct a special election.~~
22

23 **5.16.09010090 Penalties.**

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

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

26 B. ~~Intentionally a~~Allowing a person who is not a qualified voter to vote in a City election.
27 ~~who is not a resident of the City or whose name has not been certified as a voter who is otherwise~~
28 ~~ineligible to vote;~~

29 B. Tampering with, damaging, breaking or attempting to tamper with, damage or break
30 any voting machine, ballot or other voting system or equipment used or to be used in any City
31 election.~~;~~
32

32 C. Any other violation of Title 5, Elections,~~this chapter,~~ unless the violation has been
33 designated as a Class B offense.
34

35 **Chapter 5.20**
36 **ABSENTEE VOTING**

37 Sections:

- 38 5.20.010 Who may vote.
39 5.20.020 Applications for absentee ballots.
40 5.20.030 Late applications for absentee ballots.
41 5.20.035 ~~Use of an agent in absentee ballot process~~Instruction and assistance in
42 absentee voting.
43 5.20.040 Determination of absentee voters' eligibility and delivery of ballots.
44 5.20.050 Absentee ballots.
45 5.20.060 Tabulation of absentee ballots.

1 | 5.20.070 Absentee ballot ~~contest~~challenges and appeals.

2 | 5.20.080 Penalties.

3 |
4 | **5.20.010 Who may vote.**

5 | ~~An individual may vote by a~~ Any person who is otherwise qualified to vote may vote by an
6 | absentee ballot in City elections.

7 |
8 | **5.20.020 Applications for absentee ballots.**

9 | A. An application for absentee ballot, signed by the voter under penalty of perjury, may
10 | be made:

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

12 | 2. In a signed, written request that includes:

13 | a. the voter's name and home address;

14 | b. ~~the ward in which the voter resides to the best of the voter's knowledge;~~

15 | e. —a certification that the voter is registered to vote and has been or will be a
16 | resident of the City for at least ~~30-21~~immediately days immediately preceding the date of the
17 | City election; and

18 | c. the address to which the absentee ballot is to be mailed or delivered, if
19 | different from the voter's home address.

20 | B. Applications for absentee ballots must be received by the City Clerk not later than
21 | 4:00 p.m. on the 7th calendar day preceding the election.

22 |
23 | **5.20.030 Late applications for absentee ballots.**

24 | A. After the 7th calendar day preceding an election, through the official closing of the
25 | polls on election day, a qualified voter or the voter's authorized agent may apply in person to the
26 | City Clerk for an absentee ballot.

27 | B. Late applications for absentee ballots must be delivered to the City Clerk by the
28 | applicant, or his or her authorized agent, in writing and include the voter's certification made
29 | under penalty of perjury setting forth the following:

30 | 1. the voter's name and home address;

31 | 2. ~~the ward in which the voter resides to the best of the voter's knowledge;~~

32 | 3. that the voter is registered to vote and has been or will be a resident of the City
33 | for at least ~~30-21~~ days immediately preceding the date of the City election.

34 | C. Upon receiving a late application for an absentee ballot, the City Clerk, if satisfied
35 | that the applicant is a qualified City voter and entitled to vote by absentee ballot, shall give the
36 | applicant, or his or her authorized agent, an absentee ballot to be marked by the voter, placed in a
37 | sealed envelope and returned to the City Clerk.

38 |
39 | **5.20.035 ~~Use of an agent in absentee ballot process.~~Instruction and assistance in absentee**
40 | **voting.**

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

42 | B. An agent of a voter:

43 | 1. Must be at least ~~18-16~~ years of age;

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

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

- 1 4. Must not be an officer or agent of the voter's union;
- 2 5. Shall be designated as the agent of the voter in writing signed by the voter under
- 3 penalty of perjury; and
- 4 6. Shall execute a certification under penalty of perjury that the ballot was delivered
- 5 to the voter who submitted the application, was marked and placed in a sealed envelope by the
- 6 voter, or with permitted assistance, in the agent's presence, and was returned to the City Clerk by
- 7 the agent.
- 8 C. Any voter who requires assistance in casting an absentee ballot by reason of
- 9 disability, inability to write, or inability to read the ballot may be given assistance by an agent of
- 10 the voter. An agent giving assistance to a voter pursuant to this subsection shall include a
- 11 certification of assistance to be included with the absentee ballot.

12
13 **5.20.040 Determination of absentee voters' eligibility and delivery of ballots.**

- 14 A. Upon receipt of an application for an absentee ballot containing a voter's certification,
- 15 the City Clerk shall determine if the applicant is qualified to vote in the City election for which
- 16 the absentee ballot is requested.
- 17 B. If the applicant is a qualified voter in the City, the City Clerk shall promptly deliver or
- 18 mail the absentee ballot to the applicant.
 - 19 1. Postage for transmitting the absentee ballot material to the applicant shall be paid
 - 20 by the City and postage for the return of the ballot and related material shall be paid by the voter.
 - 21 2. The City Clerk shall endeavor to send the absentee ballots (except in the case of
 - 22 late applications for absentee ballot) to applicants not later than 5 days before the election date.
- 23 C. The City Clerk shall keep a full record of absentee voting, including for each absentee
- 24 voter:
 - 25 1. The date and time of receipt of an application for an absentee ballot;
 - 26 2. The name and home address of the applicant;
 - 27 3. The action taken with regard to the application;
 - 28 4. The date of issuance of an absentee ballot;
 - 29 5. If mailed, the address to which the ballot is sent;
 - 30 6. The date and time of the receipt of a voted absentee ballot; and
 - 31 7. Any other information deemed necessary.

32 Such absentee voting record shall be available for public review during the normal office

33 hours of the City Clerk.

- 34 D. Only one absentee ballot shall be issued to a voter unless the City Clerk has
- 35 reasonable grounds to believe that the absentee ballot previously issued to the voter has been
- 36 lost, destroyed or spoiled.

37
38 **5.20.050 Absentee ballots.**

- 39 A. Prior to any City election, the City Clerk shall print or cause to be printed an adequate
- 40 number of applications for absentee ballots, absentee ballots, envelopes and instructions for
- 41 absentee voters.
- 42 B. The form and arrangement of all absentee ballot applications, certification forms,
- 43 absentee ballots, ballot instructions, covering envelopes, ballot envelopes, and return envelopes
- 44 shall be as determined by the Takoma Park Board of Elections.

1 **5.20.060 Tabulation of absentee ballots.**

2 A. No absentee ballots shall be opened before the official closing of the polls on election
3 day.

4 B. Following the official closing of the polls on election day, the election judges shall
5 proceed to open the absentee ballot envelopes and count the absentee ballots.

6 1. Only absentee ballots received by the City Clerk prior to the official closing of the
7 polls on election day shall be tabulated. An absentee ballot that is received after the official
8 closing of the polls on election day shall not be counted.

9 C. An absentee ballot shall be rejected if:

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

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

12 3. More than one absentee ballot was received from the same voter for the same City
13 election in the same ballot envelope; or

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

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

20 E. All absentee voters' applications, ballot envelopes and ballots shall be ~~kept separate~~
21 ~~from the ballots cast at the polls and~~ retained by the City Clerk for 3 months after the date of the
22 election and may then be destroyed, unless prior to that time the City Clerk is ordered by a court
23 of competent jurisdiction, to keep the same for any longer period.

24
25 **5.20.070 Absentee ballot ~~contest~~ challenges and appeals.**

26 Election ~~contest~~ challenges and appeals relating to absentee ballots shall be determined as set
27 forth in section 5.16.070.

28
29 **5.20.080 Penalties.**

30 A violation of this chapter is a Class ~~BA misdemeanor offense or a Class A municipal~~
31 ~~infraction offense.~~

32
33 **Chapter 5.22**
34 **PROVISIONAL BALLOTS**

35
36 Sections:

- 37 5.22.010 Casting provisional ballots.
- 38 5.22.020 Provisional ballot application.
- 39 5.22.030 Assistance casting provisional ballot.
- 40 5.22.040 Provisional ballots.
- 41 5.22.050 Tabulation of provisional ballots.

42
43 **5.22.010 Casting provisional ballots.**

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

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

4 B. 1. the individual's name does not appear on either the list of registered voters in the
5 City provided by the Montgomery County Board of Elections or the supplemental list of
6 non-United States citizens who are registered to vote in City elections;

7 or

- 8 2. a. ~~_____~~ A City election official asserts that the individual is not eligible to vote; or
9 3. the individual does not have the necessary identification, if any.

10
11 **5.22.020 Provisional ballot application.**

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

14 B. At the time the provisional ballot is issued, the election official shall give the
15 individual written information advising the individual that, and describing how, the individual
16 will be able to ascertain whether the vote was counted and, if the vote was not counted, the
17 reason it was not.

18
19 **5.22.030 Assistance casting provisional ballot.**

20 Any voter who requires assistance in casting a provisional ballot by reason of disability,
21 inability to write, or inability to read the ballot may be given assistance by an individual of the
22 voter's choice, not to include any candidate or an agent of any candidate in that City election, the
23 voter's employer or agent of the employer, or an officer or agent of the voter's union. Any
24 person giving assistance to a voter pursuant to this subsection shall include an affidavit of
25 assistance to be included with the provisional ballot.

26
27 **5.22.040 Provisional ballots.**

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

31 B. The form and arrangement of all provisional ballot applications, provisional ballots,
32 instructions, and ballot envelopes shall be as determined by the Takoma Park Board of Elections.
33

34 **5.22.050 Tabulation of provisional ballots.**

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

38 B. Evaluation of provisional ballot applications shall be conducted ~~by a panel of no less~~
39 ~~than three members of the~~ by the Takoma Park Board of Elections, ~~appointed by the Chairperson~~
40 ~~of the Board.~~

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

43 D. The Takoma Park Board of Elections may not reject a provisional ballot except by
44 majority vote of ~~the~~ a panel appointed by the Chairperson of the Board. Grounds for rejection of
45 a provisional ballot include, but are not limited to:

- 1 1. The individual who cast the provisional ballot is not a qualified voter in the City.
- 2 2. The individual returned a voted absentee ballot in that City election.
- 3 3. The individual cast more than one ballot in that City election.
- 4 4. The individual failed to sign the oath on the provisional ballot application.
- 5 5. The provisional ballot is intentionally marked with an identifying mark that is
- 6 clearly evident and placed on the ballot for the purpose of identifying the ballot.
- 7 6. The individual failed to provide required identification or the identification
- 8 submitted did not satisfy the identification requirements.
- 9 7. The individual provided incomplete or inaccurate information on the provisional
- 10 ballot application.
- 11 8. An identity or residency challenge of the individual was upheld.
- 12 9. The individual was not eligible to receive a provisional ballot.
- 13 E. If the intent of the provisional voter with respect to a particular contest or question is
- 14 not clearly demonstrated, then only the vote for that contest or question shall be rejected.
- 15 F. The Takoma Park Board of Elections, in coordination with the City Clerk, shall
- 16 establish a system that any individual who casts a provisional ballot may access without cost to
- 17 discover whether the ballot was counted and, if not counted, the reason it was not. The system
- 18 shall ensure the confidentiality of the individual who accesses the system and the secrecy of each
- 19 ballot.

Chapter 5.24
BOARD OF ELECTIONS

Sections:

- | | |
|-----------------------|--------------------------------------|
| 24 5.24.010 | Establishment of Board of Elections. |
| 25 5.24.020 | Membership and term of office. |
| 26 5.24.030 | Administration. |
| 27 5.24.040 | Duties of the Board of Elections. |

5.24.010 Establishment of Board of Elections.

The City of Takoma Park Board of Elections is established. The Board of Elections shall be composed of up to 7 members who shall be appointed by the Council. The Council shall make every effort to ensure that the Board of Elections includes representatives from each Council ward.

5.24.020 Membership and term of office.

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

B. Term. Members of the Board of Elections shall serve staggered 3-year terms. Initial appointments to the Board shall be for one, 2 or 3 years. All terms shall begin on July 1st and

1 end on June 30th. Midterm vacancies on the Board of Elections shall be filled by the Council for
2 the remainder of the unexpired term.

3 C. Removal. Any member of the Board of Elections may be removed by the Council
4 before the member's term has expired if the Council determines that the member has become
5 incapacitated, has failed to reasonably perform his or her duties as a member of the Board of
6 Elections, or for other good cause. Before removal, the member of the Board of Elections who is
7 proposed to be removed shall be given written notice of the proposed removal and the reasons
8 for such action. If the Board member requests a public hearing on the proposed removal within
9 10 days after receipt of the written notice, then the Council shall conduct a hearing before acting
10 on the proposed removal. Any member who fails to attend, without being properly excused by
11 the Chairperson, 3 or more consecutive meetings of the Board, or a majority of 5 consecutive
12 meetings, shall be deemed to have provided good cause for removal by the Council.
13

14 **5.24.030 Administration.**

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

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

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

22 D. Adoption of Bylaws and Rules of Procedure. The Board of Elections may adopt
23 bylaws and rules of procedure to further regulate the activities of the Board.
24

25 **5.24.040 Duties of the Board of Elections.**

26 The Board of Elections shall:

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

29 B. Encourage voter registration in the City;

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

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

35 E. Periodically review City elections procedures;

36 F. Serve as election judges in City elections;

37 G. Recommend additional qualified individuals to the Council for appointment as
38 election judges during a regular or special City election;

39 H. Perform such other duties as may be assigned to the Board of Elections by Charter,
40 ordinances and resolutions, and by the direction of the Council.
41
42
43

44 This ordinance is adopted this ____ day of _____, 2015 by roll-call vote as follows:
45

- 1 AYE:
- 2 NAY:
- 3 ABSTAIN:
- 4 ABSENT:
- 5