

Public Hearing

Agenda Item	1
Meeting Date	April 8, 2013
Prepared By	Jessie Carpenter City Clerk
Approved By	Suzanne R. Ludlow Acting City Manager

Discussion Item	Public Hearing on Proposed Charter Amendment Resolution “Elections and Voting”
Background	<p>The City Council has been discussing a number of proposals to make voter registration and voting in City elections more accessible for residents and to increase voter turnout. On January 22 and March 4 of this year, the Council discussed these initiatives and indicated an interest in moving forward. A Charter Amendment is required to implement some of the proposals: allowing same day (as voting) voter registration; reduction of the voting age to 16; allowing convicted felons to vote once their incarceration is complete; establishment of early voting; and reduction of the residency requirement for voting from 30 days to 21 days.</p> <p>The Council reviewed draft Charter amendment language at its work session on April 1. The language of the Charter Amendment Resolution has been revised to reflect revisions made as a result of Council’s discussion.</p> <p>A public hearing on the Charter amendment is scheduled for Monday, April 8. The hearing was advertised in The Washington Post on March 21 and March 28, 2013 and in the Takoma Park Newsletter.</p> <p>Substantive revisions to the language of the Charter include:</p> <p>Sections 302 and 304: Clarifies maintenance of the minimum age of 18 for election as Mayor or Councilmember.</p> <p>Section 601(a): 1) Reduces the minimum voting age to 16 on the date of the election; and 2) Reduces the residency requirement for voting from 30 days to 21 days before an election.</p> <p>Section 601(b): Permits voter registration by persons who are no longer imprisoned but remain on parole or probation after having been convicted of a felony.</p> <p>Section 603(c): Establishes a supplemental voter registry for residents convicted of a felony and serving a term of parole or probation (similar to the registry established for non-U.S. Citizen voters).</p> <p>Section 603(d): Closes voter registration through the Montgomery County Board of Elections on the 21st day before an election instead of the 30th day before an election.</p> <p>Section 603(e): Allows for registration for an upcoming election to continue from the 20th day before an election through election day by registering with the City Clerk.</p> <p>Section 604(e): Clarifies that residents not yet registered may participate in the Nominating Caucus by registering to vote with the City Clerk before the Caucus</p>

	<p>begins.</p> <p>Section 609: Establishes early voting for every City election.</p> <p>The schedule for proceeding with the Charter Amendment follows. Except for the public hearing, the schedule is subject to change at the Council’s discretion.</p> <p>April 8 – Charter Amendment Public Hearing</p> <p>April 15 – First Reading Charter Amendment Resolution</p> <p>April 22 – Second Reading Charter Amendment Resolution</p> <p>June 11 – Effective Date of the Charter Amendment (if second reading occurs on April 22 and the amendment is not petitioned to referendum)</p> <p>This Charter Amendment is part of a package of election initiatives proposed by Councilmembers. The other items are to be scheduled for detailed review by the City Council at a later date.</p>
Policy	<p>Takoma Park Charter, Article V, Amendment Procedures; Takoma Park Code, Chapter 5.04 Elections, General Provisions: The City Council provides for the conduct of registration, nominations and voting in City elections and for the prevention of fraud in connection with such elections.</p> <p>The procedure for the Council to initiate a Charter amendment is set forth in Article 23A, Section 13 of the Annotated Code of Maryland and Section 501 of the Municipal Charter.</p> <p>In short, this procedure requires the Council to hold a properly advertised public hearing on the Charter amendment prior to the passage of a Charter Amendment Resolution (this public hearing will take place on April 8, 2013). The Charter Amendment Resolution then must be passed by the Council at two readings. After passage, the Charter Amendment Resolution must be posted at the Takoma Park Community Center (main municipal building) for a period of at least 40 days. A “fair summary” of the Charter amendment also must be published once a week, for four consecutive weeks, within 40 days after the date the Charter Amendment Resolution was adopted by the Council. The Charter amendment becomes effective on the 50th day after passage of the Charter Amendment Resolution—unless a valid Petition for Referendum is received. If a valid petition for referendum is signed by 20% or more of the qualified voters of the City and is presented to the Council on or before the 40th day after passage of the Charter Amendment Resolution, then a referendum election on the Charter amendment must be held.</p>
Fiscal Impact	A Charter Amendment incurs legal expenses, costs for advertising the public hearing and fair summary, and the cost of codification of the amendment.
Attachments	Proposed Charter Amendment Resolution
Recommendation	Hear testimony at the public hearing.
Special Consideration	

Introduced by:
REVISION DATE: 4-5-2013

Introduction and First Reading:
Adoption:

CITY OF TAKOMA PARK, MARYLAND

CHARTER AMENDMENT RESOLUTION NO. 2013-1

VOTING AND ELECTIONS

- WHEREAS,** Takoma Park has a long history of innovative voting policies to allow access to City elections and encourage participation by candidates, including allowing non-U.S. citizen residents to register and vote in municipal elections and adoption of instant runoff voting; and
- WHEREAS,** in November 2011, Takoma Park voter registrations totaled 6,744 in Wards 1, 2, and 3, which have a high proportion of single-family homes, and 4,024 in Wards 4, 5, and 6, which have many multi-family buildings; and
- WHEREAS,** expanding opportunities for non-partisan voter registration beyond the requirements of the National Voter Registration Act would promote greater electoral participation by City residents in both municipal and county, state, and national elections; and
- WHEREAS,** awareness of municipal elections is often low, building only in the weeks immediately before a municipal election; and
- WHEREAS,** the City's voter-registration deadline is currently 30 days before an election; and
- WHEREAS,** Takoma Park has a compressed official municipal election season of five weeks, between the biennial nominating caucus and the November municipal election, placing four-fifths of the campaign period for nominated candidates after the current voter registration cutoff date; and
- WHEREAS,** it is during this campaign period when those new to Takoma Park and to voting are most likely to become aware of City elections and to meet candidates; and
- WHEREAS,** ten states and the City of Rockville, Maryland, offer election day voter registration to allow eligible individuals to register just prior to voting; and
- WHEREAS,** the City Council seeks to increase participation in municipal elections by allowing for residents to register after the voter registration deadline up to and including election day; and
- WHEREAS,** to further increase interest and participation in City elections, the City Council wishes to extend the vote in municipal elections to individuals aged 16 and 17 years; and

WHEREAS, allowing 16 and 17 year olds to register and vote will enable them to fully participate in City elections while in high school and before leaving home, thereby encouraging the establishment of a life-long habit of voting; and

WHEREAS, the State of Maryland already allows 16 year olds to register to vote, and allows registered 17-year-olds to vote in primary elections if they will be 18 at the time of the following general election; and

WHEREAS, Maryland municipalities may enact laws and procedures for conduct of their own municipal elections.

SECTION 1. NOW, THEREFORE, BE IT RESOLVED BY THE COUNCIL OF THE CITY OF TAKOMA PARK, pursuant to Article XI-E of the Constitution of the State of Maryland, Article 23A of the Annotated Code of Maryland, and Article V, Amendment Procedures of the City of Takoma Park Municipal Charter, that the City of Takoma Park Municipal Charter is amended as follows:

ARTICLE III THE COUNCIL

Section 301 Number, Selection, Term, Wards

(a) All legislative powers of the City are vested in a body designated as the Council of the City of Takoma Park, consisting of seven (7) members. Six (6) of these members are elected by ward and are called Councilmembers, and one (1) is elected at large and is called the Mayor. The regular term of the Councilmembers and the Mayor is two (2) years or until their successors have been elected and duly sworn. Newly elected Councilmembers and the Mayor take office on the second Monday following their election. Each Councilmember and the Mayor holding office at the time this Charter becomes effective will continue to hold office for the term for which the Councilmember or the Mayor was elected and until a successor takes office under the provisions of this Charter.

(b) If no one is elected to fill any position on the Council, or if the candidate elected for any position on the Council is unable to take office, the Clerk shall declare the position to be vacant.

(c) The City of Takoma Park shall be divided into six (6) wards for municipal voting purposes. The ward boundaries shall be established by ordinance and shall be reviewed after each decennial census. The boundary descriptions of the six (6) wards shall be kept on file for public view at all times in the office of the City Clerk.

Section 302 Qualifications and Salary of the Mayor

(a) The Mayor must have resided in the City for at least six (6) months immediately preceding his/her election, must be at least 18 years of age by the date of his/her election, and must be a qualified voter of the City. The Mayor must maintain his/her principal residence in the City during his/her term of office. If the Mayor changes his/her principal residence from the City, the Mayor's term shall be immediately terminated and the vacancy shall be filled as provided in

Section 308 of this Charter. The Mayor is prohibited from holding other publicly elective offices during his/her term of office, and is prohibited from serving on any City board, commission, or other body that has authority to adjudicate or otherwise resolve disputes.

(b) The Mayor, who during his/her term of office is convicted of or enters a plea of nolo contendere to any crime which is a felony or which is a misdemeanor related to the Mayor's public duties and responsibilities and involves moral turpitude for which the penalty may be incarceration in any penal institution, shall be removed from office pursuant to Section 2 of Article XV of the Constitution of Maryland.

(c) The Mayor may receive an annual salary as set from time to time by an ordinance passed by the Council in regular course of business; provided, however, that no change may be made in the salary of the Mayor, either by increase or decrease during the term for which he/she was elected. The ordinance making any change in the salary paid to the Mayor, either by way or increase or decrease, shall be adopted prior to the next municipal election and shall take effect only as to the next succeeding Mayor.

Section 303 Powers and Duties of the Mayor.

(a) General. As the chief elected official of the City, the Mayor shall be recognized as head of the City government for all intergovernmental affairs and ceremonial purposes, by the Courts for service and receipt of civil process, and by the governor for purpose of military law.

(b) Council meetings. The Mayor shall be a member of the Council and shall set an agenda in accordance with the Council rules and preside at all meetings of the Council.

(c) Mayor Pro Tempore. The Mayor shall appoint a member of the Council as the Mayor Pro Tempore who shall serve as the Mayor in the absence of the Mayor.

Section 304 Qualifications and Salary of [the]Councilmembers

(a) [The] Councilmembers must [~~shall~~] have resided in the City (and the ward from which they are elected) for at least six (6) months immediately preceding their election, must be at least 18 years of age by the date of their election, and must [~~shall~~] be qualified voters of the City. [The] Councilmembers must [~~shall~~] maintain their principal residence in the City and in their ward during their term of office. If a Councilmember changes his/her principal residence from the City or from the ward from which the Councilmember was elected, the Councilmember's term shall be immediately terminated and the vacancy shall be filled as provided in Section 308 of this Charter. [The] Councilmembers are prohibited from holding other publicly elected offices during their term of office, and are prohibited from serving on any City board, commission, or other body that has authority to adjudicate or otherwise resolve disputes.

(b) Any Councilmember, who during his/her term of office is convicted of or enters a plea of nolo contendere to any crime which is a felony or which is a misdemeanor related to the Councilmember's public duties and responsibilities and involves moral turpitude for which the penalty may be incarceration in any penal institution, shall be removed from office pursuant to Section 2 of Article XV of the Constitution of Maryland.

(c) Each Councilmember may receive an annual salary which shall be equal for all Councilmembers and may be as specified from time to time by an ordinance passed by the Council in the regular course of its business; provided, however, that the salary specified at the time any Council takes office may not be changed during the period for which the Council was elected. The ordinance making any change in the salary paid to the Councilmembers either by way of increase or decrease shall be adopted prior to the next municipal election, and shall take effect only as to the members of the next succeeding Council.

ARTICLE VI REGISTRATION, NOMINATIONS, AND ELECTIONS

Section 601 Qualifications of Voters

(a) Every person who (1) is a resident of the City of Takoma Park, (2) is at least sixteen (16) ~~[eighteen]~~ years of age or will be sixteen (16) ~~[eighteen]~~ years of age on or before the date of the next City election, (3) has resided within the corporate limits of the City for ~~[30]~~ 21 days immediately preceding the City election, (3) does not claim voting residence or the right to vote in another jurisdiction, ~~[(4) has not been convicted of a felony without having completed any court ordered sentence of imprisonment, including any term of parole or probation, for the conviction,~~ (5) has not been convicted of buying or selling votes, (6) is not under guardianship for mental disability, and (4) [7] is registered to vote in accordance with the provisions of this charter, is a qualified voter of the City except as provided in subsection (b) of this section. Every qualified voter of the City is entitled to vote in all City elections, to participate in the nominating meeting, and to sign nominating, referendum, recall and other petitions authorized by this charter.

(b) An individual is not eligible to be a registered voter of the City if the individual: (1) has been convicted of a felony and is actually serving a court-ordered sentence of imprisonment for the conviction; (2) is under guardianship for mental disability and a court of competent jurisdiction has specifically found by clear and convincing evidence that the individual cannot communicate, with or without accommodations, a desire to participate in the voting process; or (3) has been convicted of buying or selling votes.

~~[(b) —The City of Takoma Park shall be divided into six (6) wards for municipal voting purposes. The ward boundaries shall be established by ordinance and shall be reviewed after each decennial census. The boundary descriptions of the six (6) wards shall be kept on file for public view at all times in the office of the City Clerk.]~~

Section 602 Lists of Registered Voters: Certification by Montgomery County Board of Elections

- (a) Prior to each City election, the City Clerk shall request from the Montgomery County Board of Elections a certified list of the names and addresses of those people residing in the City and registered to vote.
- (b) On or before one week before each City election, the Montgomery County Board of Elections shall ~~[certify to]~~ provide the City with any revisions to the list of registered voters in the City previously provided to the City.
- (c) Names of persons added by such revisions shall be deemed to have been certified originally, and those persons shall be entitled to vote in the next succeeding City election; and names of persons removed by such revisions shall be deemed not to have been certified originally, and those persons shall not be entitled to vote in the next succeeding City election.
- (d) A person who feels aggrieved by an action of the Montgomery County Board of Elections regarding voter registration for a City election may file an administrative complaint with the Montgomery County Board of Elections under the procedures established by the State Board of Elections.

Section 603 Voter Registration

- (a) Except as set forth in subsection (e), [A]ny resident of the City who is a United States citizen, is at least 16 years of age, and is eligible to register to vote in the State of Maryland must be properly registered to vote with the Montgomery County Board of Elections in accordance with state law in order to vote in City elections.
- (b) Any resident of the City who is not a United States citizen, but who is otherwise ~~[qualified]~~ to be a registered voter in the State of Maryland may register with the City Clerk to vote in City elections. The City Clerk shall maintain a supplemental voter ~~[roll]~~ registry, separate from the list of registered voters in the City generated by the Montgomery County Board of Elections, which shall include the names of those non-United States citizens who are registered to vote in City ~~[E]~~elections. The City Clerk shall promptly send notice to any jurisdiction in the United States where the new registrant was formerly registered to vote, requesting the cancellation of said voter's prior registration.
- (c) Any United States citizen or non-United States citizen resident of the City who has been convicted of a felony and is serving a term of parole or probation for the conviction but who meets the voter qualifications set forth in Section 601 may register with the City Clerk to vote in City elections. The City Clerk shall maintain a supplemental voter registry, separate from the list of registered voters in the City generated by the Montgomery County Board of Elections, which shall include the names of those registered under this subsection. The City Clerk shall promptly send notice to any jurisdiction in the United States where the new registrant was formerly registered to vote, requesting the cancellation of said voter's prior registration.
- (d) **Voter registration through Montgomery County Board of Elections.** Voter registration for City elections with the Montgomery County Board of Elections shall close at ~~[5]~~9:00 p.m. on the ~~[30th]~~ 21st day preceding a City election.

(e) Late registration; same day voter registration. City residents who are eligible to register to vote pursuant to this Charter, but who are not registered to vote, may register to vote in a City election by completing a voter registration application and registering to vote with the City Clerk, or a representative designated by the City Clerk, from the 20th day before a City election until the close of voting on the day of the City election.

Section 604 Nominations

(a) Nominations for Mayor and Councilmembers shall be made at a meeting of citizens called by the City Clerk at the direction of the Council. Such meeting shall be held at a convenient place within the City to be designated by the Council and notice thereof shall be given through a newspaper or newspapers of general circulation within the City and/or by handbills generally distributed and posted throughout the City. The meeting shall be held on the Tuesday evening five weeks prior to the election, but if this date conflicts with Rosh Hashanah (Jewish New Year) or with Yom Kippur (Jewish Day of Atonement), then the meeting shall be scheduled for the next weekday evening after the end of the second day of Rosh Hashanah or after the end of Yom Kippur. The City Clerk shall preside at the meeting; a qualified voter of the City shall be chosen as secretary of the meeting by the qualified voters of the City present; the secretary shall keep a record of the proceedings of the meeting and file the same in the office of the City Clerk.

(b) Nominations of candidates for Mayor shall be made on motion by any qualified voter of the City, and if such nomination is seconded by a qualified voter of the City, the persons so nominated shall be considered a candidate. Nomination of each candidate for Councilmember shall be made on motion of any qualified voter of her/his ward, and if such nomination is seconded by a qualified voter of his/her ward, the person so nominated shall be considered a candidate. Any nominated candidate may decline a nomination during the nomination meeting. A person may only accept a nomination of one City office. The name of each person nominated for the office of Mayor and Councilmember shall be placed upon the official ballot unless he/she shall file a declination with the City Clerk within three (3) days after his/her nomination.

(c) The Council shall develop such rules and procedures as are necessary relating to nomination proceedings consistent with the provisions of this Charter.

(d) Any person nominated as a candidate must meet the qualifications of the office for which she/he is nominated.

(e) City residents who are eligible to vote in the next City election pursuant to this Charter, but who are not registered to vote, may participate in the nominating meeting by completing a voter registration application and registering to vote with the City Clerk, or a representative designated by the City Clerk, on the day of the nominating meeting, before the start of the meeting.

Section 605 Write-In Candidates

(a) Any write-in candidate for Mayor or Councilmember who wishes to be pre-registered as a write-in candidate and to have her/his name posted in the voting booth for the purpose of

identifying her/him as a candidate for office, must file her/his name with the City Clerk by 5:00 p.m. on the Friday prior to the election.

(b) A voter in a City election may write-in the name of any ~~[candidate]~~ person for the office of Mayor or Councilmember in the method provided by the City Clerk on election day.

(c) A voter may only write-in one candidate for each office.

(d) Only those write-in candidates who are qualified to serve for the office for which they are written-in as Mayor or Councilmember as provided by this Charter shall be eligible to hold said office.

Section 606 Election of Mayor and Councilmembers

(a) On the first Tuesday after the first Monday in November in every odd-numbered year, the qualified [certified] voters of the City shall elect its governing body of seven (7) members. Six (6) of these members are elected by ward and are called Councilmembers, and one (1) is elected at large and is called Mayor. Each of those elected shall reside in the City and be voters of the City, and in the case of the Councilmembers, be residents of the areas from which they are so elected consistent with the provisions of Section 304, Article III of this Charter.

(b) The candidate receiving a majority of votes for Mayor shall be declared elected. The candidate for Council receiving a majority of votes in each ward shall be declared elected.

(c) An instant runoff voting system shall be used in order to elect the Mayor and Councilmembers with a majority of votes by allowing voters to rank candidates in order of choice. Instructions on instant runoff voting provided to voters shall conform substantially to the following specifications, although subject to modification based on ballot design and voting system: "Vote for candidates by indicating your first-choice candidate, your second-choice candidate, and so on. Indicate your first choice by marking the number '1' beside a candidate's name, your second choice by marking the number '2' beside that candidate's name, your third choice by marking the number '3,' and so on, for as many choices as you wish. You are free to rank only one candidate, but ranking additional candidates cannot help defeat your first-choice candidate. Do not mark the same number beside more than one candidate. Do not skip numbers."

(d) The first choice marked on each ballot shall be counted initially by the judges of election as one vote. If any candidate receives a majority of the first choices, that candidate shall be declared elected.

(e) If no candidate receives a majority of first choices, the judges of election shall conduct an instant runoff consisting of additional rounds of ballot counting. In every round of counting, each ballot is counted as one vote for that ballot's highest ranked advancing candidate. "Advancing candidate" means a candidate for that office who has not been eliminated. A candidate receiving a majority of valid votes in a round shall be declared elected. If no candidate receives a majority of valid votes in a round, the candidate with the fewest votes shall be eliminated, and all ballots shall be recounted. This process of eliminating the candidate with the fewest votes and

recounting all ballots shall continue until one candidate receives a majority of the valid votes in a round.

(f) To facilitate ballot counting in any round, the judges of election may eliminate all candidates with no mathematical chance of winning. A candidate has no mathematical chance of winning if the sum total of all votes credited to that candidate and all candidates with fewer votes is less than the number of votes credited to the candidate with the next greatest number of votes.

(g) If a ballot has no more available choices ranked on it, that ballot shall be declared “exhausted” and not counted in that round or any subsequent round. Ballots skipping one number shall be counted for that voter’s next clearly indicated choice, but ballots skipping more than one number shall be declared exhausted when this skipping of numbers is reached. Ballots with two or more of the same number shall be declared exhausted when such duplicate rankings are reached unless only one of the candidates with the duplicate ranking is an advancing candidate.

(h) In the event of a tie that affects the outcome of the election, the tie shall be broken by comparing the votes of the tied candidates in the previous rounds of counting, starting with the count immediately preceding the round in which the tie occurs. If one of the tied candidates had more votes than the remaining tied candidates in the preceding round or an earlier round of counting, then that candidate shall advance and the others shall be eliminated. If the candidates were tied in each preceding round, then the tie shall be resolved by lot. In the event that this tie occurs between or among all remaining candidates, then a runoff election between or among the tied candidates shall be held within forty-five (45) days after the date of the election.

(i) The Council may modify the form of the ballots, the instructions to voters, and the details with respect to the method of marking, sorting, counting, invalidating, and retaining ballots and the tabulating and recounting of votes pursuant to this section, provided that no change shall be made that will alter the intent or principles of instant runoff voting as set forth in this section.

Section 607 Conduct of Elections Generally

(a) The Council, by ordinance, shall provide for said elections; shall designate in said ordinance a convenient polling place or places; shall appoint judges of election; shall designate the manner of holding said election; shall designate and provide the voting system to be used; and shall conduct said elections in accordance with the provisions of this section.

(b) Elections shall be conducted by the judges appointed by the Council under the supervision of the City Clerk, and shall be held at some convenient place or places to be designated by the Council; any vacancy in the list of judges occurring between their appointment and the election shall be filled by the Mayor. The polls shall be opened at 7:00 A.M. and closed at 8:00 P.M.

Section 608 Absentee Voting

Any qualified voter may vote by absentee ballot in a City election.

Section 609 Early Voting

The Council shall, by ordinance, establish locations, days, hours and mechanisms for early voting in all City elections.

Section 610 [609] Provisional Voting

A person may cast a provisional ballot in a City election if the person's name does not appear on the lists of qualified voters of the City or if the person's eligibility to register to vote and/or to vote, City residency, identification or identity is challenged.

Section 611 [610] Special Elections

All special City elections shall be conducted by the Council in the same manner, as far as practicable, as set forth in this Charter.

Section 612 [611] Advisory Referendums

(a) A question for referendum or a legislative initiative, not otherwise provided for in this Charter and regarding a matter over which the Council has authority, may be placed on the ballot in any regular or special City election. All such referendum questions or initiatives, unless they are made binding on the Council by any other section of this Charter or by other applicable city, county, state or federal law, shall be advisory only and shall not bind or obligate the Council or the City to enact any ordinance or resolution or to perform any act or function.

(b) Advisory referendum questions or legislative initiatives may be placed on the ballot in any City election in the following manner:

(1) The Council may, by resolution passed by a majority of the Council, provide for an advisory referendum question or legislative initiative to be placed on the ballot at any regular municipal election or at a special election.

(2) Twenty percent (20%) or more of the qualified voters of the City may sign a petition to the Council to place an advisory referendum question or legislative initiative on the ballot. The petition shall contain the language to be placed on the ballot. Each qualified voter signing the petition shall indicate on the petition the person's name and residence address. Within thirty (30) days after receiving the petition, the City Clerk shall verify that any person who signed the petition is a qualified voter of the City and that the petition contains the required number of signatures.

(3) Provided the City Clerk has certified that the petition contains the required number of signatures, the Council shall, by resolution passed by a majority of the Council, order the advisory referendum question or legislative initiative to be placed on the ballot and specify the

day and hours for the election at which the advisory referendum question or legislative initiative shall be voted on. This may be either at the next regular municipal election or at a special election, in the discretion of the Council.

(4) In the event a special election is designated, the special election shall be held within a period of not less than forty (40) days nor more than sixty (60) days after the final passage of the resolution providing for the advisory referendum question or legislative initiative.

(5) Any resolution providing for the placement of an advisory referendum question or initiative on a ballot shall specify the exact wording which is to be submitted to the voters of the City.

Section 613 [612] Vote Count

(a) Within twenty-four (24) hours after the closing of the polls, the judges of the election shall canvass the voting machines or other voting system, and count any paper ballots, regular and absentee, to determine the vote cast for each candidate or any questions on the ballot.

(b) The judges of the election shall meet the day following the election, and shall therefore determine and declare what persons have been elected, issue certificates of election to such persons, and certify the results to the Council.

Section 614 [613] Recall Elections

(a) **Removal of Elected Officials.** The Mayor and any Councilmember of the City of Takoma Park may be removed from office by the affirmative vote of a majority of those voting in a special recall election.

(b) **Recall Petition.** A petition for the removal of the Mayor or any Councilmember from office (a “recall petition”) shall state the name, office, and/or ward of the elected official whose recall is sought and that its purpose is to require a special recall election to vote on whether that elected official should be removed from office. A recall petition may, but does not have to, state a reason or reasons for the recall.

(1) A recall petition for the Mayor must have the signatures of at least 1,500 qualified voters of the City of Takoma Park or at least 20% of the qualified voters of the City, whichever is greater.

(2) A recall petition for a Councilmember must have the signatures of at least 100 qualified voters of the ward the Councilmember represents or at least 20% of the qualified voters of that ward, whichever is greater.

(3) A qualified voter of the City may sign a recall petition for the removal of more than one elected official. Each qualified voter shall print his/her name under the signature and shall include his/her address and the date of his/her signature on the recall petition.

(c) **Recall Election.** A special recall election shall be held not less than thirty (30) days and not more than forty-five (45) days from the date the City Clerk determines that a valid recall petition containing a sufficient number of signatures from qualified voters has been submitted. The

Council shall establish the date for the recall election by resolution. If the elected official who is sought to be removed is a Councilmember, then only qualified voters of that Councilmember's ward may vote in the recall election.

(d) **Form of Question on Ballot.** The ballot for a special recall election shall have the following question: "Should [name of elected official] be removed from the office of [name of office]? Vote 'yes' or 'no'."

(e) **Results of Recall Election.** If a majority of those voting in the special recall election vote "yes," the elected official shall be removed from office immediately without the necessity of further Council action and the office shall be considered vacant. The resulting vacancy on the Council shall be filled in accordance with Section 308. An elected official who has been removed from the Council in a recall election may apply for reappointment to the Council or may petition to be listed as a candidate on a special election ballot to fill a vacancy on the Council. In the event the number of "yes" and "no" votes in the special recall election are the same, or a majority of those voting in the recall election vote "no," then the recall shall fail and the elected official shall remain in office.

Section 615 [614] Regulation and Control by Council

The Council has the power to provide by ordinance in every respect not covered by the provisions of this charter for the conduct of registration, nomination, and City elections and for the prevention of fraud in connection therewith, and for a recount of ballots in case of doubt or fraud. The Council further has the power to create and appoint an Elections Board and to specify the functions and duties of an Elections Board. The Election Board's functions may include enforcing the City's elections laws and resolving complaints, disputes, and challenges on election matters. Ordinances heretofore adopted by the Council pertaining to election matters shall remain in force and effect until repealed or amended by the Council but only as to such provisions as are not inconsistent with the provisions of this Article.

Section 616 [615] Penalties

Any person who (1) fails to perform any duty required of him/her under the provisions of this subheading or any ordinances passed thereunder, (2) in any manner willfully or corruptly violates any of the provisions of this subheading or any ordinances passed thereunder, or (3) willfully or corruptly does anything which will or will tend to affect fraudulently any registration, nomination, or City election, is guilty of a misdemeanor. Any official, officer or employee of the City government who is convicted of a misdemeanor under the provisions of this section shall immediately upon conviction thereof cease to hold office or employment.

SECTION 2. BE IT FURTHER RESOLVED BY THE COUNCIL OF THE CITY OF TAKOMA PARK, that the date of adoption of this Charter Amendment Resolution is _____, 2013, and the amendment of the City of Takoma Park Municipal Charter enacted by this Resolution shall become effective on _____, 2013 (50 days after its passage), unless a proper petition for referendum shall be filed as permitted by Section 502 of the City of Takoma Park Municipal Charter and Annotated Code of Maryland, Article 23A, Section 13. A complete and exact copy of this Charter Amendment Resolution shall be continuously posted on

a bulletin board at the Takoma Park Community Center and Sam Abbott Citizens' Center from _____, 2013, until _____, 2013, (a period of at least 40 days following its adoption), and a fair summary of the proposed Charter amendment shall be published in a newspaper of general circulation in the City of Takoma Park once a week for four weeks within 40 days after passage of this Charter Amendment Resolution.

SECTION 3. AND BE IT FURTHER RESOLVED BY THE COUNCIL OF THE CITY OF TAKOMA PARK, that the City Clerk is specifically directed to carry out the provisions of Section 2 of this Resolution and, as evidence of this compliance, the City Clerk shall maintain appropriate certificates of the publication of the newspaper in which the fair summary of the Charter Amendment Resolution shall have been published. If a favorable referendum is held on the proposed amendment, the Council shall proclaim the proposed Charter Amendment hereby enacted to have been approved by the voters and the Charter Amendment shall become effective on the date provided by law.

SECTION 4. AND BE IT FURTHER RESOLVED BY THE COUNCIL OF THE CITY OF TAKOMA PARK, that as soon as the Charter Amendment enacted by this Resolution shall become effective, either as provided in this Resolution or following a referendum, the City Clerk shall send to the Department of Legislative Services of Maryland the following information concerning the Charter Amendment Resolution: (1) the complete text of this Charter Amendment Resolution; (2) the date of the referendum election, if any; (3) the number of votes, whether in the Council or in a referendum, cast for or against the Charter Amendment enacted by this Resolution; and (4) the effective date of the Charter Amendment.

THE ABOVE CHARTER AMENDMENT was enacted by the foregoing Charter Amendment Resolution No. 2013-1 which was passed at a meeting of the Council of the City of Takoma Park, Maryland, on the ____ day of _____, 2013, ____ members of the Council voting in the affirmative, ____ members of the Council voting in the negative, ____ members of the Council abstaining, and ____ members of the Council absent, and the said Charter Amendment Resolution becomes effective in accordance with the law on the ____ day of _____, 2013.

THIS CHARTER AMENDMENT RESOLUTION IS ADOPTED BY THE COUNCIL OF THE CITY OF TAKOMA PARK THIS ____ DAY OF _____, 2013, BY ROLL CALL VOTE AS FOLLOWS:

Aye:

Nay:

Abstain:

Absent:

Explanatory Note

1. Underlining indicates language being added to the Charter.
2. [Brackets and ~~striketrough~~] indicates language being deleted from the Charter.
3. ***** indicates sections of the Charter that are not being amended and are not reproduced here.

[Signature page for Charter Amendment Resolution No. 2013-1.]

COUNCIL OF THE CITY OF TAKOMA PARK

Bruce R. Williams, Mayor

Seth Grimes, Councilmember, Ward 1

Tim Male, Councilmember, Ward 2

Kay Daniels-Cohen, Councilmember, Ward 3

Terry J. Seamens, Councilmember, Ward 4

Jarrett K. Smith, Councilmember, Ward 5

Frederick L. Schultz, Councilmember, Ward 6

ATTEST:

Jessie Carpenter, City Clerk

Date: _____

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