

**CITY OF TAKOMA PARK, MARYLAND  
SPECIAL SESSION AND WORK SESSION OF THE CITY COUNCIL**

**Wednesday, February 3, 2016 – 7:30 PM  
Auditorium  
Takoma Park Community Center – Sam Abbott Citizens’ Center**

**AGENDA<sup>#</sup>**

*7:30 PM*

**CALL TO ORDER/ROLL CALL**

Mayor Stewart  
Councilmember Kovar, Councilmember Seamens, Councilmember Male,  
Councilmember Smith, Councilmember Qureshi, Councilmember Schultz

**PRELIMINARY MATTERS**

- i. Additional Agenda Items/Agenda Scheduling Update
- ii. Public Comments on Voting Items
- iii. Other Public Comments
- iv. For the Record
- v. Council Comments
- vi. City Manager Comments
- vii. Legislative Update
- viii. Adoption of Minutes

*8:00 PM\**

**SPECIAL SESSION (VOTING ITEMS)**

- 1. Second Reading Ordinance Authorizing FY 2016 Budget Amendment No. 2**

*8:10 PM*

**WORK SESSION**

- 2. Discussion of Possible Zoning Text Amendment on Cannabis Dispensing**

*8:40 PM*

- 3. Discussion of Ordinance Establishing a Vacant and Abandoned Property Registry**

9:15 PM

**4. Discussion of Amendment of City Code Chapter 16.6.090 Fees**

9:30 PM

**ADJOURN**

*#Revised to move update on multi-family and business recycling to 2/10/2016; move discussion of ordinance banning plastic bags to 2/24/2016.*

*\*All times are estimated. (Last updated: 2/2/2016 1:35:57 PM)*

**ADA Compliance Notice**

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# Special Session

<b>Agenda Item #</b>	1
<b>Meeting Date</b>	February 3, 2016
<b>Prepared By</b>	Suzanne Ludlow City Manager

<b>Discussion Item</b>	<b>Second Reading Ordinance Adopting FY 2016 Budget Amendment No. 2</b>
<b>Background</b>	<p>The Fiscal Year (FY) 2016 budget was adopted by the City Council on May 18, 2015 and amended on July 27, 2015. Since that date, certain events have transpired that require modification of the budget.</p> <p>At first reading, funds in the amount of \$48,000 increasing the Legal Contracts line for work related to the Takoma Junction Development were removed.</p> <p><b><u>General Fund-Revenues</u></b></p> <p>The City received \$36,525 from the repayment of a lien on the property of 36 Philadelphia Avenue, which was imposed to cover the cost of demolishing a structure on the property in a prior year that had been paid from Housing and Community Development funds.</p> <p>The City received \$34,469 in insurance payments for two police vehicles that had been in accidents.</p> <p><b><u>General Fund-Expenditures</u></b></p> <p><u>Carry Overs</u></p> <p>The City has a number of purchases or projects that were included in the FY 2015 General Fund budget but were not able to be completed before the end of the fiscal year. These items and the amounts that need to be carried over are:</p> <ul style="list-style-type: none"> <li>• Funds for renovation of the Colby Playground (\$128,157 in Program Open Space Funds and \$42,719 in City matching funds)</li> <li>• Funds for the completion of the Holton Crossroads Green Space project (\$3,200)</li> <li>• Funds for additional expenses involved in enabling the Ethan Allen streetlights to use LED fixtures (\$60,000 from Neighborhood Commercial Center Improvements) and other design and engineering expenses for the Ethan Allen Streetscape Project (\$35,200)</li> <li>• Purchase of benches for Anne Street, the delivery of which had been delayed (\$4,310)</li> </ul> <p><u>Personnel Matters</u></p> <p>The City has several personnel account lines to augment, including the amounts given to employees when they reach their employment anniversaries every five years. As part of the discussions related to the City's collective bargaining agreements, the amount paid at these times as a bonus is being increased. (\$18,450)</p>

in the General Fund and \$1,350 in the Speed Camera Fund)

Funds are needed to pay interns in the Police Department who originally volunteered to work, but the work they are doing requires payment. (\$18,000)

The Human Resources office workload has been heavy this year, during implementation of new time and attendance software and financial system software. Complicating this was the resignation of the City's HR Generalist who, to help with the software transition, continued to work for the City off-site while the new HR Generalist was hired and trained. For this reason, both the salary (\$12,000) and overtime (\$5,000) accounts for the Human Resources division need to be increased.

The overtime budget for the Lifelong Takoma Program needs to be increased by \$10,000 to accommodate unanticipated work needed to prepare for Lifelong Takoma Day and the Snow Angels program.

#### Other Items

The City has a Street Improvement Reserve into which WSSC contributes funds for future street repaving for the damage to roadways caused by doing utility work. Funds in the amount of \$129,339 need to be paid from this reserve for street repaving planned for this year.

Interior space improvements to the Human Resources and Housing and Community Development areas are desired to provide a confidential work space for the HR Generalist and to reorganize work spaces for Housing and Community Development staff. It is desired to use the funds from the lien repayment for this work.

The City wishes to provide a supplement of \$5,500 to a large 21<sup>st</sup> Century Grant for a pilot afterschool program at the Essex House. The supplement would pay for the program to provide services on Fridays; the large grant pays for the Monday through Thursday program.

The City wishes to provide a supplement of \$1,500 to the Independence Day Committee, reflecting an increase in the cost of fireworks.

It is desired to increase the budget for a police/community relations consultant to \$40,000 from the originally-budgeted \$10,000. Excess expected revenue from parking fines should cover the increase.

The Police Department needs to replace two police vehicles that were totaled in accidents. Insurance payments of \$34,469 need to be augmented by \$27,413 from the Equipment Replacement Reserve to replace the vehicles.

The Legal Contracts account needs to be increased by \$2,000 to pay for additional services related to the Washington Adventist Hospital Certificate of Need review.

#### **Special Revenue Fund-Revenues**

The revenue accounts in the Special Revenue Fund need to be adjusted to:

	<ul style="list-style-type: none"> <li>• Reflect the receipt of a Maryland Bikeways Program grant of \$100,000</li> <li>• Reflect the receipt of a Takoma Foundation grant of \$2,000 for the Lifelong Takoma’s Snow Angels and related programs</li> <li>• Reflect the receipt of a Maryland Energy Grant of \$35,000</li> <li>• Reflect the carryover from FY 2015 of \$128,157 in Program Open Space funds for the Colby Playground project.</li> </ul> <p><b><u>Special Revenue Fund-Expenditures</u></b></p> <p>The expenditure accounts in the Special Revenue Fund need to be adjusted to reflect funds for:</p> <ul style="list-style-type: none"> <li>• The use of \$100,000 in funds for the Maryland Bikeways Program</li> <li>• The use of \$2,000 in Takoma Foundation grant funds for the Lifelong Takoma Snow Angels and related programs</li> <li>• The use of \$35,000 in Maryland Energy Grant funds</li> <li>• The use of \$128,157 in Program Open Space funds for the Colby Playground project.</li> <li>• The use of \$5,000 in funds for the purchase and installation of video equipment in the Council Conference Room to allow for use of the space during emergencies and to provide conferencing capabilities. Funds for this purchase would come from the cable capital grant.</li> </ul> <p><b><u>Speed Camera Fund-Expenditures</u></b></p> <p>The Employee Awards and Recognition account needs to be increased by \$1,350 for a tenure award for staff whose salary is paid by from the Speed Camera Fund.</p>
<b>Policy</b>	The Council approves the budget of the City of Takoma Park. The Code of the City of Takoma Park requires budget amendments to be approved by a two-reading ordinance.
<b>Fiscal Impact</b>	<p>General Fund expenditures would increase by \$404,631. Of this, funds in the amount of \$145,429 are carried over from FY 2015, \$129,339 is from the Street Improvement Reserve and \$27,413 is from the Equipment Replacement Reserve. The remaining funds (\$102,450) can be accommodated by unappropriated funds in the FY 2016 budget. In addition, revenue from income tax and passport fees are both higher than projected to date.</p> <p>Revenues for the Special Revenue Fund would increase by \$265,157. Expenditures for the Special Revenue Fund would increase by \$270,157.</p> <p>Speed Camera Fund expenditures would increase by \$1,350.</p>
<b>Attachments</b>	Proposed FY 2016 Budget Amendment Ordinance No. 2.
<b>Recommendation</b>	Staff recommends that the City Council approve the proposed ordinance at first reading.

<b>Special Consideration</b>	
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**CITY OF TAKOMA PARK, MARYLAND  
ORDINANCE NO. 2016-**

**FY 2016 BUDGET AMENDMENT NO. 2**

- WHEREAS, the Fiscal Year (FY) 2016 budget was adopted by the City Council on May 18, 2015 and amended on July 27, 2015; and
- WHEREAS, since this date, certain events have transpired that require modification to the FY 2016 budget; and
- WHEREAS, the City has received grants that need to be recorded, including a Maryland Bikeways Grant of \$100,000, a Snow Angels Grant of \$2,000; and a Maryland Energy Grant of \$35,000 and
- WHEREAS, the City received a payment of \$36,525 from a lien related to the demolition of a structure at 36 Philadelphia Avenue; and
- WHEREAS, it is desired that the funds from the lien repayment be used for interior space modifications in the Human Resources and Housing and Community Development area of the Community Center; and
- WHEREAS, the City will provide a supplement of \$5,500 to a large 21<sup>st</sup> Century Grant for an afterschool program at the Essex House contribute funds; and
- WHEREAS, the City will provide a supplement of \$1,500 to the grant to the Independence Day Committee for the increased cost of fireworks; and
- WHEREAS, the budget for Employee Recognition tenure awards needs to be increased by \$19,800 to reflect a change complementing provisions of the City's collective bargaining agreements; and
- WHEREAS, the budget for the Human Resources Division needs to be increased by \$17,000 reflecting expenses related to a staffing transition and the implementation of new software systems; and
- WHEREAS, the budget for the Police Department needs to be increased by \$18,000 to pay interns; and
- WHEREAS, the budget for Police contracts needs to be increased by \$30,000 for the Police / Community relations consultant contract; and
- WHEREAS, monies in the amount of \$5,000 are needed from cable capital grant funds to pay for video equipment in the Council Conference Room; and

WHEREAS, monies in the amount of \$27,413 from the Equipment Replacement Reserve is needed to be added to an insurance pay out for the purchase of two replacement police vehicles that were involved in accidents; and

WHEREAS, monies in the amount of \$129,339 need to be used from the Street Improvement Reserve to pay for street resurfacing due to damage from WSSC utility work; and

WHEREAS, monies for the Colby Playground project need to be carried over from FY 2015, including \$128,157 in Program Open Space funds and \$42,719 in City matching funds; and

WHEREAS, monies in the amount of \$3,200 need to be carried over from FY 2015 to pay for completion of the Holton Crossroads Green Space project; and

WHEREAS, monies in the amount of \$60,000 need to be carried over from the FY 2015 line for Neighborhood Commercial Center Improvements to pay for the additional expenses required to allow the Ethan Allen Streetlights to be able to use LED fixtures; and

WHEREAS, monies in the amount of \$35,200 need to be carried over from FY 2015 for the completion of design and engineering work for the Ethan Allen Streetscape project; and

WHEREAS, monies in the amount of \$4,310 need to be carried over from FY 2015 Placemaking funds to pay for the delayed delivery of the Anne Street benches; and

WHEREAS, the contract line in the Legal budget needs to be increased by \$2,000 to accommodate additional legal expenses related to the Washington Adventist Hospital Certificate of Need review; and

WHEREAS, additional monies are needed to pay for overtime (\$10,000) and printing costs (\$5,000) related to the Lifelong Takoma Day and Snow Angels program; and

WHEREAS, additional monies in the amount of \$10,000 are needed to pay for the publication costs of the City Guide.

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF TAKOMA PARK, MARYLAND THAT:

SECTION 1. The Fiscal Year 2016 Budget is amended as follows:

**General Fund – Revenues**

1. Appropriate \$36,525 to account 0001-36800, Miscellaneous Revenue, for the payment of a lien concerning 36 Philadelphia Avenue.
2. Appropriate \$34,469 to account 0001-36830, Insurance Claims, for two police vehicles that had been involved in accidents.



## General Fund – Expenditures

1. Appropriate \$129,339 from account 9100-80007, Street Improvement to pay for street resurfacing due to damage from WSSC utility work.
2. Appropriate \$36,525 to account 5500-61040, HCD Contracts, for interior space modifications in the Human Resources and Housing and Community Development areas.
3. Appropriate \$5,500 to account 9000-71500, Grants, to supplement a 21<sup>st</sup> Century Grant for an afterschool program at Essex House.
4. Appropriate \$1,500 to account 9000-71150, Fourth of July Expenses, to supplement the grant to the Independence Day Committee for fireworks.
5. Appropriate \$18,450 to the various Employee Awards and Recognition accounts as follows, for employee tenure awards:
  - a. Finance 1130-40540 \$ 900
  - b. City Clerk 1170-40540 \$1,350
  - c. Police Patrol 2300-40540 \$6,750
  - d. Public Works ROW 3400-40540 \$3,150
  - e. Recreation Admin 4100-40540 \$ 270
  - f. Recreation Comm Pgm 4400-40540 \$ 117
  - g. Recreation Camps 4600-40540 \$ 90
  - h. Recreation Afterschool 4700-40540 \$ 63
  - i. Recreation Comm Ctr 4800-40540 \$1,260
  - j. Media 6000-40540 \$ 450
  - k. Library 7000-40540 \$3,150
  - l. Computer Center 7200-40540 \$ 900
6. Appropriate \$12,000 to account 1160-40010, Human Resources Salaries, for overlap of the HR Generalist position.
7. Appropriate \$5,000 to account 1160-40030, Human Resources Overtime, for additional work due to software systems installation.
8. Appropriate \$18,000 to account 2500-40011, Police Intern Salaries, to pay interns.
9. Appropriate \$30,000 to account 2100-61040, Police Contracts, for increased funds needed for a police/community relations consultant contract.
10. Appropriate \$34,469 to account 9100-80000, Capital Equipment Expenditure and \$27,413 to account 9100-80003, Equipment Replacement Reserve Expenditure, for purchase of two replacement police vehicles.
11. Appropriate \$42,719 to account 9100-80000, Capital Expenditures, as match for Program Open Space funds for the Colby Playground Renovation.
12. Appropriate \$3,200 to account 9100-80000, Capital Expenditures, to carry over unexpended FY 2015 funds for the completion of the Holton Crossroads Green Space improvements.
13. Appropriate \$60,000 to account 9100-80000, Capital Expenditures, to carry over FY 2015 Neighborhood Commercial Center Improvement funds to pay for Ethan Allen LED Streetlight work.

14. Appropriate \$35,200 to account 9100-80000, Capital Expenditures, to carry over unexpended FY 2015 funds for the completion of design and engineering work for the Ethan Allen Streetscape Project.
15. Appropriate \$4,310 to account 5400-53070, Site Improvements (Placemaking), to carry over FY 2015 funds to pay for the delayed delivery of street benches for Anne Street.
- ~~16. Appropriate \$50,000 to account 1140-61040, Legal Contracts, to pay for additional services related to the Takoma Junction Development and the Washington Adventist Hospital Certificate of Need review.~~
17. Appropriate \$2,000 to account 1140-61040, Legal Contracts, to pay for additional services related to the Washington Adventist Hospital Certificate of Need review.
18. Appropriate \$10,000 to account 1120-40030 General Government Overtime, to pay for work related to preparation for Lifelong Takoma Day and the Snow Angels program.
19. Appropriate \$5,000 to account 1120-65015, General Government Printing, for printing of materials for the Lifelong Takoma program.
20. Appropriate \$10,000 to account 6000-65015, Media Printing, for printing of the City Guide.

#### **Special Revenue Fund – Revenues**

1. Appropriate \$100,000 to account 0010-39160, Transportation Grants, for the Maryland Bikeways Program.
2. Appropriate \$2,000 to account 0010-71770, Takoma Foundation, for a grant for the Snow Angels program and similar work.
3. Appropriate \$35,000 to account 0010-33520, Maryland Energy Assistance Grant, for an energy grant.
4. Appropriate \$128,157 to account 0010-38330, POS Park Grants, for the Colby Playground project.

#### **Special Revenue Fund – Expenditures**

1. Appropriate \$100,000 to account 0010-68026, Transportation Grants, for the Maryland Bikeways Program.
2. Appropriate \$2,000 to account 0010-38320, Takoma Foundation, for the Snow Angels program and similar work.
3. Appropriate \$35,000 to account 0010-71730, Maryland Energy Grant, for an energy grant.
4. Appropriate \$128,157 to account 0010-71910, POS Park Projects, for the Colby Playground project.
5. Appropriate \$5,000 to account 0010-72410, Cable Grant Fund, for purchase and installation of video equipment for the Council Conference Room.

#### **Speed Camera Fund – Expenditures**

1. Appropriate \$1,350 to account 0060-40540, Employee Awards and Recognition, for a tenure award for staff in the Speed Camera program.

SECTION 2. The City's Capital Improvement Program for FY 2016 shall be amended to reflect the aforementioned changes in the General Fund budget.

SECTION 4. This Ordinance shall become effective upon adoption.

Adopted this \_\_\_\_ day of \_\_\_\_, 2016 by Roll Call vote as follows:

AYE:

NAY:

ABSTAIN:

ABSENT:

# Work Session

<b>Agenda Item #</b>	2
<b>Meeting Date</b>	February 3, 2016
<b>Prepared By</b>	Rosalind Grigsby, Community Development Manager
<b>Approved By</b>	Suzanne R. Ludlow City Manager

<b>Discussion Item</b>	Possible Zoning Text Amendment on Cannabis Dispensing
<b>Background</b>	<p>Zoning Text Amendment (ZTA) 15-13 was introduced by County Council member, Tom Hucker, to establish standards for the location of medical cannabis dispensaries in the Takoma Park/East Silver Spring Commercial Revitalization Overlay Zone. Under the provisions of Section 59-4.9.14 of the Montgomery County Zoning Ordinance, the purpose of the TP/ESS CROZ is to 1) foster economic vitality and attractive community character in areas needing revitalization; 2) promote an enhanced pedestrian environment and an improved circulation system; 3) substantially conform with the master plan vision for specific existing commercial areas; and 4) provide for the combination of residential with commercial uses.</p> <p>ZTA 15-13 would have allowed a cannabis dispensary to locate in the CRT and NR zones of the TP/ESS CROZ only if the facility is at least 500 feet from the property line of any lot on which an elementary, middle or high school is located. According to the Montgomery Planning staff report, “GIS data depicts no CRT or NR zoned properties within the Overlay Zone and within 500 feet of a school.” The Planning staff report and proposed ordinance language is attached.</p> <p>The State of Maryland has legalized medical cannabis and regulations went into effect in September 2015. Only two medical cannabis dispensary licenses will be issued for each Senatorial district in Maryland. Information is available from the Maryland Medical Cannabis Commission (MMCC): <a href="http://mmcc.maryland.gov">http://mmcc.maryland.gov</a>. MMCC’s website states, “Pursuant to statute and/or regulation, an entity seeking licensure with the Commission as a grower, processor, or a dispensary is required to meet all local zoning and planning requirements. There is no further formal procedure set out for input by local government.”</p> <p>In Takoma Park, zoning and planning authority rest with Montgomery County. The Montgomery County Planning Department regards medical cannabis dispensaries as a retail use, permitted in the CRT and NR zones in Takoma Park.</p> <p>ZTA 15-13 has been withdrawn, pending action by the Takoma Park City Council. Council may choose to take no action or to adopt a resolution on ZTA 15-13 with one of the following options:</p> <ol style="list-style-type: none"> <li>1. In support of ZTA 15-13 as written;</li> <li>2. In support of ZTA 15-13, on condition that specific revisions be made;</li> <li>3. In opposition to ZTA 15-13.</li> </ol> <p>Regarding option 2, revisions that have been discussed include making the distance</p>

	requirement 1,000 feet, instead of 500 feet, and including preschools in the list of schools.
<b>Policy</b>	<p>Work in partnership with others to create and maintain a livable community that is vibrant, healthy, and safe for all of its residents.</p> <p style="text-align: right;"><i>-- Takoma Park Strategic Plan FY 2010 – FY 2015</i></p>
<b>Fiscal Impact</b>	None at this time
<b>Attachments</b>	<ol style="list-style-type: none"> <li>1. Montgomery Planning Staff Review and Proposed Ordinance and map of 500 foot buffer around public schools</li> <li>2. Map of Takoma Park with 1,000 buffer from K-12 Schools</li> </ol>
<b>Recommendation</b>	Review and give direction to staff regarding Council's next step.
<b>Special Consideration</b>	



City of Takoma Park, Maryland  
Housing and Community Development Department

# Memorandum

**TO:** Suzanne Ludlow, City Manager

**FROM:** Rosalind Grigsby, Community Development Manger

**DATE:** February 3, 2016

**SUBJECT:** Update on medical cannabis zoning and Maryland municipal initiatives

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The Maryland Municipal League provided the following summary of the actions taken in selected jurisdictions in Maryland regarding zoning and the siting of medical cannabis facilities.

**Anne Arundel County:**

Zoning ordinance: passed 2015-12-21

<http://www.aacounty.org/CountyCouncil/Resources/2015/97-15.pdf>

**Baltimore County Council:**

Bill 61-15: Approved

<http://resources.baltimorecountymd.gov/Documents/CountyCouncil/bills/bills%202015/b06115.pdf>

Bill 83-15: Approved

<http://resources.baltimorecountymd.gov/Documents/CountyCouncil/bills/bills%202015/b08315.pdf>

**Baltimore County Council:**

News report of legislation regarding medical cannabis and zoning.

<http://www.baltimoresun.com/news/maryland/baltimore-county/bs-md-co-marijuana-zoning-20150908-story.html>

**Cambridge:**

Ordinance amending City's Unified Development Code

<http://www.choosecambridge.com/uploads/ordinances/Proposed/Ordinance%201061%20--%20UDC%20Medical%20Cannabis.pdf>

**Charles County:**

Zoning Text Amendment #15-138; Planning Board has approved, Council hasn't scheduled it yet on their agenda.

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[www.takomaparkmd.gov](http://www.takomaparkmd.gov)

<http://m.charlescountymd.gov/public-notices/6-pm-public-hearing-medical-cannabis-medical-marijuana>

**Cumberland:**

“Cumberland Backs Medical Marijuana Manufacturing Plant,” 8/5/2015

[http://www.times-news.com/news/cumberland-backs-medical-marijuana-manufacturing-plant/article\\_f08e7b0a-3ade-11e5-940c-c7185f47950e.html](http://www.times-news.com/news/cumberland-backs-medical-marijuana-manufacturing-plant/article_f08e7b0a-3ade-11e5-940c-c7185f47950e.html)

**Easton:**

“Zoning Use Determination for CBD Wellness in Easton: Letter from Town Planner,” 6/11/2015

<http://eastonmd.gov/TempMedia/MedicalCannabisGrowFacilityUseDetermination.pdf>

**Easton:**

“Easton Approves Building for Marijuana Growing Facility,” 6/19/2015

<http://www.wmdt.com/news/more-local-news/Easton-approves-building-for-marijuana-growing-facility/33677344>

**Easton:**

“Easton Follows Law on Medical Marijuana,” 6/19/2015

[http://www.stardem.com/opinion/editorials/article\\_8833d3fe-c2c9-54dc-8da2-f316a941e509.html](http://www.stardem.com/opinion/editorials/article_8833d3fe-c2c9-54dc-8da2-f316a941e509.html)

**Hancock:**

“Maryland Town Might be a Part Owner in Cannabis Company,” 11/9/2015

<https://cannabiswire.com/maryland-town-might-be-a-part-owner-in-cannabis-company/>

**Mount Airy:**

“Mount Airy Moves Toward Allowing Medical Marijuana Dispensaries,” 10/5/2015

[http://www.fredericknewspost.com/places/local/frederick\\_county/mount-airy-moves-toward-allowing-medical-marijuana-dispensaries/article\\_18d4dee8-7a1a-5cba-85ec-950e4b419a66.html](http://www.fredericknewspost.com/places/local/frederick_county/mount-airy-moves-toward-allowing-medical-marijuana-dispensaries/article_18d4dee8-7a1a-5cba-85ec-950e4b419a66.html)

**Washington County:**

“Plan Approved for Medical-Marijuana Facility in Washington County,” 10/6/2015

[http://www.heraldmillmedia.com/news/local/plan-approved-for-medical-marijuana-facility-in-washington-county/article\\_11cf5f82-6c7b-11e5-83e1-fbc768c6dcfb.html](http://www.heraldmillmedia.com/news/local/plan-approved-for-medical-marijuana-facility-in-washington-county/article_11cf5f82-6c7b-11e5-83e1-fbc768c6dcfb.html)

**Westminster:**

Ordinance creating Floating Medical Cannabis Overlay District. Adopted 10/26/2015

<http://www.westgov.com/AgendaCenter/ViewFile/Item/978?fileID=1417>



**Zoning Text Amendment (ZTA) No. 15-13, Takoma Park Overlay – Cannabis Dispensing**

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Gregory Russ, Planner Coordinator, FP&P, [gregory.russ@montgomeryplanning.org](mailto:gregory.russ@montgomeryplanning.org), 301-495-2174



Pam Dunn, Chief, FP&P, [pamela.dunn@montgomeryplanning.org](mailto:pamela.dunn@montgomeryplanning.org), 301-650-5649

**Completed:** 12/31/15

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**Description**

Zoning Text Amendment (ZTA) No. 15-13 would establish standards for the location of medical cannabis dispensing facilities in the Takoma Park Overlay Zone. Specifically, ZTA No. 15-13 would allow Cannabis Dispensing in the CRT and NR zones of the Takoma Park/East Silver Spring (TPESS) Commercial Revitalization Overlay Zone only if the facility is located at least 500 feet from the property line of any lot on which any elementary school, middle school, or high school is located. Cannabis Dispensing is a facility where medical marijuana, in any form or formulation, is sold or otherwise legally distributed to individual consumers under Maryland law.

**Summary**

**Staff provides the following comments on ZTA No. 15-13. Staff does not believe that it is necessary to place a 500-foot distance between a medical cannabis dispensary and any elementary school, middle school, or high school since the use would fall within the same category as other legal medicinal substances monitored and regulated by the State of Maryland. The Zoning Ordinance provides adequate setback compatibility requirements for retail uses in Commercial/Residential, Employment, or Industrial zones that abut property in an Agricultural, Rural Residential, Residential Detached, or Residential Townhouse zone that is vacant or improved with an agricultural or residential use.**

**GIS data depicts no CRT or NR zoned properties within the Overlay Zone and within 500 feet of a school.**

**Background/Analysis**

A facility in the Overlay Zone, where medical marijuana is dispensed to individual consumers under Maryland law, would be allowed in the CRT and NR zones if the facility is located at least 500 feet from any school. The sponsor of ZTA No. 15-13 believes that cannabis dispensing facilities should not be located near schools in Takoma Park. The idea of keeping adult vices away from impressionable school age children is consistent with federal drug laws, zoning regulations on the location of adult



entertainment facilities, and state provisions governing permissible locations for the issuance of alcohol licenses. The sponsor believes that this regulation leaves an ample number of locations in the County and in Takoma Park where medical marijuana can be dispensed appropriately. In the absence of this ZTA, state licensed medical cannabis dispensing would be allowed in Takoma Park anywhere retail uses are allowed.

#### Natalie M. LaPrade Maryland Medical Cannabis Commission

The State of Maryland, Department of Health and Mental Hygiene Natalie M. LaPrade Maryland Medical Cannabis Commission (“The Commission”) develops policies, procedures and regulations to implement programs that ensure medical cannabis is available to qualifying patients in a safe and effective manner. The Commission oversees all licensing, registration, inspection and testing measures pertaining to Maryland’s medical cannabis program and provides relevant program information to patients, physicians, growers, *dispensers*, processors, testing laboratories and caregivers. ***The Commission intends to award licenses to Applicants that most efficiently and effectively ensure public safety and safe access to medical cannabis.***

A *licensed grower* is an entity licensed by the Commission that cultivates, manufactures, packages or distributes medical cannabis to licensed processors, licensed dispensaries or registered independent testing laboratories.

A *licensed processor* is one who manufactures usable medical cannabis into a medical cannabis concentrate, or a medical cannabis-infused product.

A ***licensed dispensary*** is an entity licensed by the Commission that acquires, possesses, repackages, transfers, transports, sells, distributes, or dispenses, products containing medical cannabis, related supplies, related products including tinctures, aerosols, oils, or ointments, or educational materials ***for use by a qualifying patient or caregiver***. ZTA No. 15-13 pertains to the location of licensed dispensaries in the Takoma Park/East Silver Spring (TPESS) Commercial Revitalization Overlay Zone.

#### Number of Dispensary Licenses and Timeline for Licensing

The Commission may issue pre-approvals of up to two licensed dispensaries per Senatorial district (47 Legislative Districts), other than the number of licensed grower dispensary facilities located in the Senatorial district.

Under the updated timeline, the Commission anticipates issuing Stage One approvals for grower and processor applicants by ***Summer 2016***. The schedule for Stage One approval of dispensary applicants is anticipated to occur in January. According to the Commission’s Executive Director, before medicine can be dispensed, it has to be grown, processed, tested and packaged. Therefore, Stage One approvals will be first issued for grower and processor licenses, with Stage One approval for dispensary licenses to

follow, mirroring the operational needs of the program and representing the most efficient means of processing each category of application.

### Zoning Regulations

An entity seeking licensure with the Commission as a grower, processor, or a dispensary is required to meet all local zoning and planning requirements. In the case of a dispensary in Montgomery County, it must follow the zoning requirements of a Retail/Service Establishment (similar to that of a pharmacy). Based on the building size and zone where proposed, a retail use (including a dispensary) can be permitted, limited, require conditional use approval or not be allowed. In some instances, uses may be modified in Overlay zones. Such is the case in ZTA No. 15-13 where the sponsor proposes to modify the allowed locations of licensed dispensaries within the Takoma Park/East Silver Spring Overlay Zone.

Staff, however, does not believe that it is necessary to place a 500-foot distance between a medical cannabis dispensary and any elementary school, middle school, or high school since the use would fall within the same category as other legal medicinal substances monitored and regulated by the State of Maryland. The Zoning Ordinance provides adequate setback compatibility requirements for retail uses in Commercial/Residential, Employment, or Industrial zones that abut property in an Agricultural, Rural Residential, Residential Detached, or Residential Townhouse zone that is vacant or improved with an agricultural or residential use.

### GIS Data of 500-foot Buffer

ZTA 15-13 would allow a medical cannabis dispensing facility within in the CRT and NR zones of the Takoma Park/East Silver Spring Overlay Zone only if the facility is located at least 500 feet from the property line of any lot on which any elementary school, middle school, or high school is located. The GIS map in Attachment 2 depicts no CRT or NR zoned properties within the Overlay Zone and within 500 feet of a school. It has been further determined that the closest distance of a school to a property zoned CRT or NR within the Overlay Zone is over 1300 feet. As such, the proposed legislation would be applicable only if an application for a Local Map Amendment is approved for the CRT or NR zone.

### **Attachments**

1. ZTA No. 15-13 as introduced
2. GIS Map Depicting CRT and NR zones within Takoma Park/East Silver Spring Commercial Revitalization (TPESS) Overlay Zone

# ATTACHMENT 1

Zoning Text Amendment No.: 15-13  
Concerning: Takoma Park Overlay –  
Cannabis Dispensing  
Draft No. & Date: 1 - 12/1/15  
Introduced: December 8, 2015  
Public Hearing:  
Adopted:  
Effective:  
Ordinance No.:

**COUNTY COUNCIL FOR MONTGOMERY COUNTY, MARYLAND  
SITTING AS THE DISTRICT COUNCIL FOR THAT PORTION OF  
THE MARYLAND-WASHINGTON REGIONAL DISTRICT WITHIN  
MONTGOMERY COUNTY, MARYLAND**

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Lead Sponsor: Councilmember Hucker

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**AN AMENDMENT** to the Montgomery County Zoning Ordinance to:

- Establish standards for the location of cannabis dispensing facilities in the Takoma Park Overlay Zone

By amending the following sections of the Montgomery County Zoning Ordinance, Chapter 59 of the Montgomery County Code:

DIVISION 59-4.9. “Overlay Zones”  
Section 59-4.9.14. “Takoma Park/East Silver Spring Commercial Revitalization (TPESS) Overlay Zone”

**EXPLANATION:** ***Boldface** indicates a Heading or a defined term.*  
*Underlining indicates text that is added to existing law by the original text amendment.*  
*[Single boldface brackets] indicate text that is deleted from existing law by original text amendment.*  
*Double underlining indicates text that is added to the text amendment by amendment.*  
*[[Double boldface brackets]] indicate text that is deleted from the text amendment by amendment.*  
*\* \* \* indicates existing law unaffected by the text amendment.*

*ORDINANCE*

*The County Council for Montgomery County, Maryland, sitting as the District Council for that portion of the Maryland-Washington Regional District in Montgomery County, Maryland, approves the following ordinance:*

1           **Sec. 1. DIVISION 59-4.9 is amended as follows:**

2   **DIVISION 4.9. Overlay Zones**

3   \*   \*   \*

4   **Section 4.9.14. Takoma Park/East Silver Spring Commercial**  
5                   **Revitalization (TPESS) Overlay Zone**

6   **A. Purpose**

7           The purpose of the TPESS Overlay zone is to:

- 8           1. Foster economic vitality and attractive community character in areas  
9                 needing revitalization.
- 10          2. Promote an enhanced pedestrian environment and an improved  
11                 circulation system to pedestrians and bicycles as well as motor  
12                 vehicles.
- 13          3. Substantially conform with the master plan vision for specific existing  
14                 commercial areas.
- 15          4. Provide for the combination of residential with commercial uses.

16   **B. Land Uses**

17   \*   \*   \*

- 18          2. In the CRT and NR zones, the following additional Recreation and  
19                 Entertainment Facility, Indoor (Capacity up to 1,000 Persons) uses are  
20                 permitted: bowling alley and theater.
- 21          3. In the CRT and NR zones, the following uses, as allowed in the  
22                 underlying zone, are allowed in the Overlay zone only if the use does  
23                 not abut or confront land in a Residential Detached zone:
  - 24                 a. Car Wash;
  - 25                 b. Filling Station;
  - 26                 c. Funeral Home, Undertaker;
  - 27                 d. Light Vehicle Sales and Rental (Indoor);

- 28 e. Light Vehicle Sales and Rental (Outdoor);
- 29 f. Repair (Major); and
- 30 g. Repair (Minor).
- 31 4. In the NR zone, the following additional uses are permitted:
  - 32 a. Clinic (More than 4 Medical Practitioners);
  - 33 b. Cultural Institution;
  - 34 c. Research and Development; and
  - 35 d. Artisan Manufacturing and Production.
- 36 5. In CRT and NR zones, Cannabis Dispensing, a facility where
- 37 marijuana, in any form or formulation, is sold or otherwise legally
- 38 distributed to individual consumers under Maryland law, is allowed if
- 39 the facility is located at least 500 feet from the property line of any lot
- 40 on which any elementary school, middle school, or high school is
- 41 located.

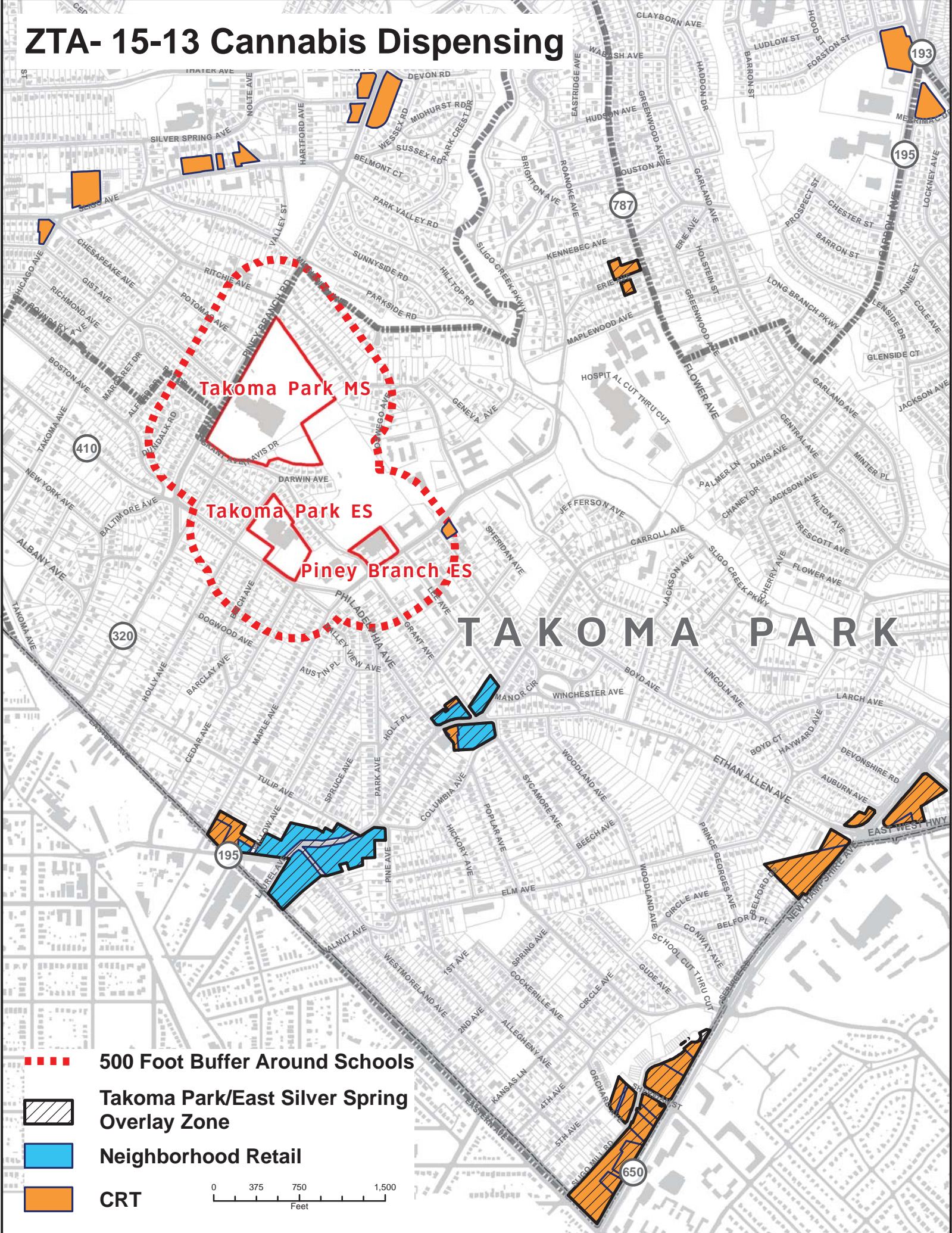
42 \* \* \*

43 **Sec. 2. Effective date.** This ordinance becomes effective 20 days after the  
44 date of Council adoption.

45  
46 This is a correct copy of Council action.

47  
48 \_\_\_\_\_  
49 Linda M. Lauer, Clerk of the Council

# ZTA- 15-13 Cannabis Dispensing



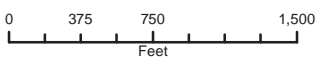
Takoma Park MS

Takoma Park ES

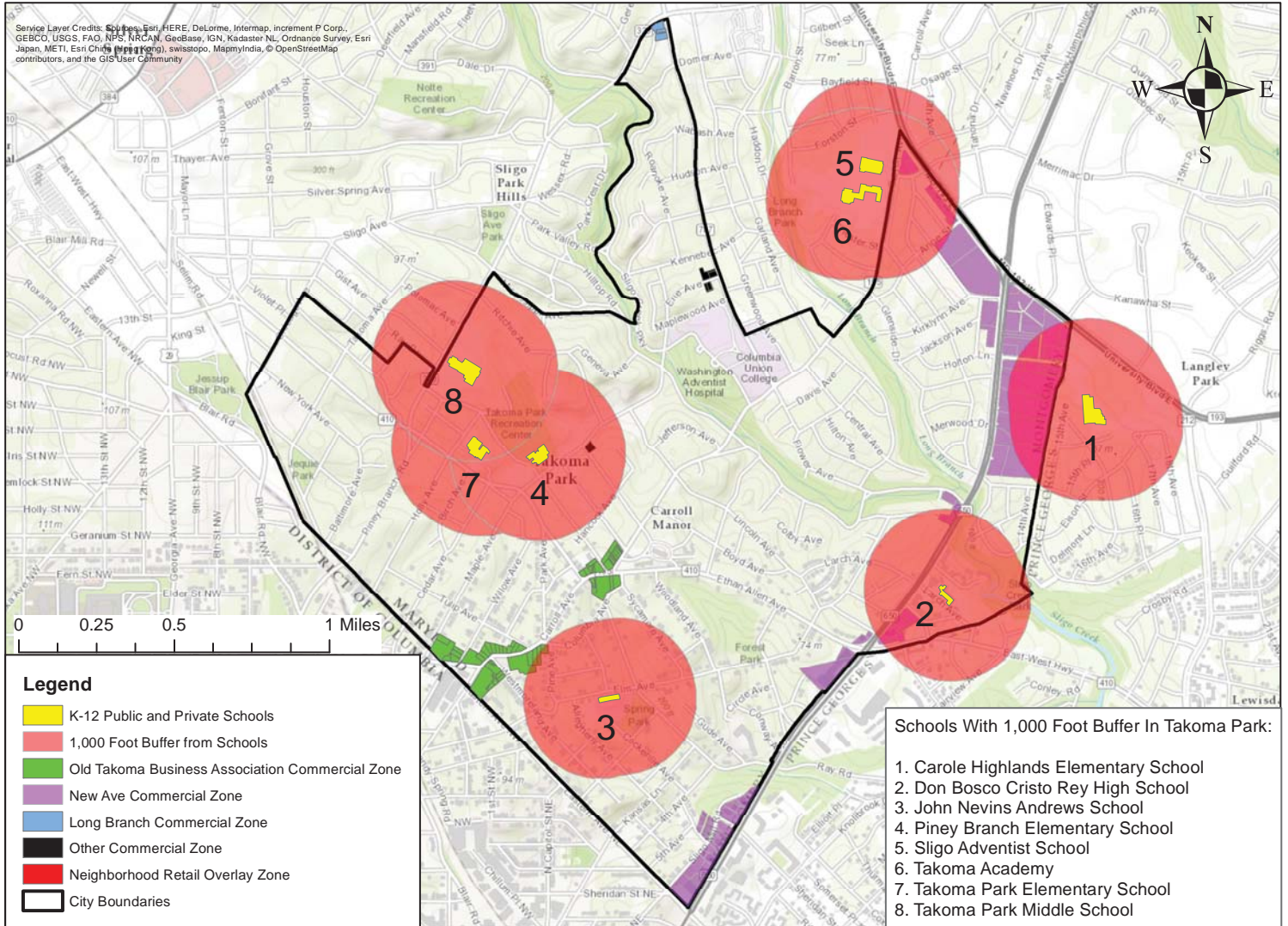
Piney Branch ES

TAKOMA PARK

- - - - 500 Foot Buffer Around Schools
- Takoma Park/East Silver Spring Overlay Zone
- Neighborhood Retail
- CRT



## Commercial Zones and 1,000 Foot Buffer From Schools





# Work Session

<b>Agenda Item #</b>	3
<b>Meeting Date</b>	February 3, 2016
<b>Prepared By</b>	Linda S. Perlman Assistant City Attorney
<b>Approved By</b>	Suzanne Ludlow City Manager

<b>Discussion Item</b>	Ordinance Requiring the Registration of Vacant Properties and Establishing Vacant Property Maintenance and Security Standards
<b>Background</b>	<p>This draft Ordinance is intended to address the problem of vacant properties (both residential and commercial) in the City by requiring the registration of vacant properties and imposing maintenance and security requirements for vacant properties.</p> <p>“Distressed” properties—<i>i.e.</i>, those that are pending foreclosure or tax lien sale or have been the subject of a foreclosure, but title was retained by the lender, etc.—are to be registered as a vacant property within 30 days after the property is found to be vacant. For distressed property, the “responsible party” must register the property as vacant. The responsible party may be the lender who is pursuing foreclosure or a mortgage servicer, property preservation or property management company responsible for securing and maintaining the property for the lender or beneficiary of the deed of trust/mortgage that is in default.</p> <p>Other vacant property in the City must be registered by the owner (or owner’s agent) within 30 days of the vacancy. <u>All</u> vacant properties are subject to the vacant property maintenance and security requirements set forth in 6.38.100 of the draft Ordinance. Property that remains furnished, has utilities connected or in use, and is maintained while the owner is absent is not considered “vacant property” and does not need to be registered. Similarly, buildings under active construction or renovation do not need to be registered as vacant property. <i>See</i> definition of “vacant property” in 6.38.030.</p>
<b>Policy</b>	The City wants to discourage the neglect of vacant properties in the City and to maintain a livable community that is vibrant, healthy, and safe for all of its residents.
<b>Fiscal Impact</b>	To be determined.
<b>Attachments</b>	<ol style="list-style-type: none"> <li>1. Ordinance Requiring the Registration of Vacant Properties and Establishing Vacant Property Maintenance and Security Standards</li> <li>2. <i>Montgomery County Code</i>, sec. 26-15 – Severe conditions and corrective action.</li> </ol>
<b>Recommendation</b>	Review and discuss. Determine whether the attached Ordinance should proceed to a first reading of the Council.
<b>Special Consideration</b>	

## *Montgomery County Code*

### **Sec. 26-15. Severe conditions and corrective actions.**

(a) *Severe conditions.* If the enforcing agency finds that immediate action is needed to protect the public health and safety as a result of a violation of this Chapter, Chapter 22, Chapter 8, or Chapter 17, the enforcing agency may, without notice, conference, or hearing, order the owner to correct or abate the violation.

(1) The order must be hand-delivered to the owner. If the order cannot be hand-delivered, the order must be posted on the property in a conspicuous location on or near each dwelling or nonresidential structure affected by the order.

(2) If the owner does not abate or correct the violation as directed after the order is delivered or posted, the enforcing agency may take any action reasonably necessary to abate or correct the condition or may contract to have the necessary action taken.

(3) If an enforcing agency proposes to take any action under this subsection that would directly affect any building or structure which has been designated on the master plan for historic preservation as a historic site or a historic resource in a historic district, the enforcing agency must make its best effort to consult with the Chair of the Planning Board or the Chair's designee before the enforcing agency removes the building or structure, substantially alters any exterior feature, or contracts to do either.

(b) *Violation, affect on adjacent property.* If an enforcing agency finds that any violation of this Chapter affects neighboring properties or the health or safety of the occupants or the public, the enforcing agency may order necessary actions by notice and service under subsection (a). If the actions are not taken in the time and manner prescribed, the enforcing agency may authorize an officer, agent or employee of the County, or a contractor, to execute the order.

(c) *Costs charged to owner.* The owner is liable to the County for all reasonable and necessary costs the County incurs as a result of an action taken under subsection (a) or (b). The costs constitute a debt owed the County and may be placed on the tax bill as a lien on the property and collected as ordinary taxes are collected, or collected as any other debt.

**NOTE: *Takoma Park Code §6.36.020.C. incorporates and adopts Montgomery County Code §26-15, Severe conditions and corrective actions, as part of Takoma Park Code Chapter 6.36, Unsafe Buildings – Public Nuisance Abatement. By Takoma Park Code §6.36.030, the word “County” is amended to read “City” and “Enforcing Agency” is defined as the Department of Housing and Community Affairs, as the City of Takoma Park, or as the City Manager or his or her designee.***

1 Introduced by:

First Reading:

2 Second Reading:

3 Effective Date:

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

6  
7 **ORDINANCE NO. 2016-\_\_**

8  
9 **AN ORDINANCE REQUIRING THE REGISTRATION OF VACANT**  
10 **PROPERTIES AND ESTABLISHING VACANT PROPERTY**  
11 **MAINTENANCE AND SECURITY STANDARDS**  
12

13 **WHEREAS**, the presence of vacant, abandoned, unsafe, and foreclosed properties can lead  
14 to neighborhood decline, create an attractive public nuisance, contribute to lower property values,  
15 and discourage potential buyers from purchasing a property adjacent to or in neighborhoods with  
16 the aforementioned properties; and

17 **WHEREAS**, the City of Takoma Park wishes to protect its neighborhoods from decline and  
18 devaluation; and

19 **WHEREAS**, the City of Takoma Park wishes to establish a vacant property registration  
20 program as a mechanism to protect residential and commercial neighborhoods from becoming  
21 blighted through lack of adequate maintenance and for the security of vacant and abandoned  
22 properties.

23 **NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF**  
24 **TAKOMA PARK, MARYLAND.**

25 **SECTION ONE.** Title 6, Housing, of the *Takoma Park Code* is amended by adding a new  
26 Chapter 6.38, Vacant Property Registration, as follows:

27 **6.38.010 Purpose.**

28 It is the purpose and intent of the City of Takoma Park, through the adoption of this Chapter,  
29 to establish a vacant property registration program as a mechanism to protect residential and  
30 commercial neighborhoods from becoming blighted through the lack of adequate maintenance and  
31 for the security of distressed properties and vacant properties.

32 **6.38.020 Scope.**

33 The provisions of this Chapter shall apply to all existing, residential, commercial, industrial,  
34 and institutional properties and structures. This Chapter does not relieve an owner from compliance  
35 with all applicable City ordinances and regulations or all applicable Montgomery County and State  
36 of Maryland laws and regulations.

38           **6.38.030       Definitions.**

39           **“Beneficiary”** means a lender or other entity under a note secured by a deed of trust or  
40 mortgage lien.

41           **“Building”** means a structure with a roof supported by columns or walls to serve as a shelter  
42 or enclosure.

43           **“Default”** means the failure to perform a contractual obligation, monetary or conditional.

44           **“Distressed property”** means a property that is under a current (1) notice of default or  
45 delinquent on the mortgage; (2) pending foreclosure or tax lien sale; (3) properties that have been  
46 the subject of foreclosure sale where the title was retained by the lender or beneficiary of a deed of  
47 trust involved in the foreclosure; and/or (4) any properties transferred under a deed in lieu of  
48 foreclosure. “Distressed property” also can include property that is vacant as a result of probate or  
49 the death of the owner of record.

50           **“Evidence of vacancy”** means any condition that on its own, or combined with other  
51 conditions present would lead a reasonable person to believe that the property is vacant. Such  
52 conditions include but are not limited to: overgrown and/or dead vegetation; accumulation of  
53 newspapers, circulars, flyers and/or mail; past due utility notices and/or disconnected utilities;  
54 accumulation of trash, junk and/or debris; broken or boarded windows; abandoned vehicles and/or  
55 auto parts or materials; the absence of window coverings such as curtains, blinds and/or shutters;  
56 the absence of furnishings and/or personal items consistent with habitation; and/or statements by  
57 neighbors, passersby, delivery agents, or government employees that the property is vacant.

58           **“Foreclosure”** means the process by which a property, placed as security for a real estate  
59 loan, is sold through the courts at auction to satisfy the debt if the owner/borrower/mortgagor  
60 defaults.

61           **“Lender/Mortgagee”** means the person or entity who is the secured party under any  
62 mortgage or deed of trust instrument, or who has a fiduciary interest in the property, which can  
63 include the mortgage servicer.

64           **“Notice of Default”** means a notice that a default has occurred under a mortgage or deed of  
65 trust and that the beneficiary intends to proceed with a trustee’s or foreclosure sale.

66           **“Owner”** means any person, partnership, corporation, unincorporated association, limited  
67 liability entity, trust, estate, or fiduciary having legal or equitable title to or interest in any real  
68 property.

69           **“Owner of record”** means the person having record title to the property as shown in the  
70 Land Records of Montgomery County, Maryland.

71           **“Property”** means any unimproved or improved real property, or portion thereof, situated in  
72 the City and includes the buildings or structures located on the property regardless of condition.

73           **“Responsible party”** means the beneficiary that is pursuing foreclosure of a property  
74 subject to this Chapter secured by a mortgage, deed of trust or similar instrument or a property that

75 has been acquired by the lender or beneficiary of a deed of trust involved in the foreclosure.  
76 Responsible party may also include a mortgage servicer or the property preservation company or  
77 property management company instructed with the security and maintenance of the property.

78 **“Securing”** means such measures as may be directed by the City Manager, or his or her  
79 designee, that assist in rendering the property inaccessible to unauthorized persons, including but  
80 not limited to the repairing of fences and walls, chaining/padlocking of gates, the repair or boarding  
81 of door, window and/or other openings. Boarding shall be completed to a minimum of the securing  
82 standards set forth in *Takoma Park Code* section 6.36.060.C, as amended, at the time the boarding  
83 is completed or required. Locking includes measures that require a key, keycard, tool or special  
84 knowledge to open or gain access.

85 **“Vacant”** means no person or persons currently conduct a lawful business or lawfully reside  
86 or live in any part of the building or structure as the legal or equitable owner(s) or tenant-  
87 occupant(s) on a permanent, non-transient basis. A property is vacant when there is no habitual  
88 presence of persons who have a legal right to be on the premises, or all lawful business or  
89 construction activity or residential occupancy has substantially ceased, or which is substantially  
90 devoid of contents. In the case of mixed-use buildings, a separate tenanted portion of the building  
91 which meets these criteria may also be deemed vacant.

92 **“Vacant property”** means a lot or parcel of real property with at least one building,  
93 structure, or portion that is not currently used or occupied for a period in excess of thirty (30) days.  
94 A building or structure that remains furnished, has utilities connected or in use, and on property that  
95 is maintained while the owner is absent shall not be considered vacant. A building or structure that  
96 is under active construction or undergoing active rehabilitation, renovation or repair, and there is a  
97 building permit to make the building fit for occupancy that was issued, renewed or extended within  
98 six (6) months of the date of vacancy shall not be subject to the vacant property registration  
99 requirement of this Chapter; provided, however, that the cessation of active construction,  
100 rehabilitation, repair or demolition activity for more than 30 days will result in the property being  
101 deemed a vacant property and subject to the registration, security, and maintenance requirements of  
102 this Chapter.

#### 103 **6.38.040 Inspections of Distressed Property.**

104 A. Prior to filing a complaint of foreclosure or notice of default or accepting a deed in  
105 lieu of foreclosure, the responsible party, or their designee, shall inspect a distressed property to  
106 determine whether the property is vacant. If the distressed property is found to be vacant or shows  
107 evidence of vacancy, the responsible party shall, within 30 days, register the property as a vacant  
108 distressed property with the City for the purpose of minimizing hazards to persons and property as a  
109 result of the vacancy.

110 B. If a distressed property is occupied, but remains in default, it shall be inspected by  
111 the responsible party, or their designee, monthly until: (1) the default is remedied; or (2) the  
112 property is found to be vacant or shows evidence of vacancy. The responsible party or their  
113 designee shall, within 30 days after obtaining knowledge of vacancy, register the property as a  
114 vacant distressed property with the City for the purpose of minimizing hazards to persons and  
115 property as a result of the vacancy.

116 **6.38.050 Registration of Vacant Distressed Property.**

117

118 A. The responsible party or their designee shall register a vacant distressed property by  
119 completing and submitting the Vacant Distressed Property Registration form and submitting the  
120 registration form to the City, along with the required fee.

121 B. The Vacant Distressed Property Registration form shall include the following:

122 1. The address of the vacant distressed property.

123 2. The name, current street/office mailing address (no post office boxes),  
124 telephone number, and email of all owners of the vacant distressed property.

125 3. The name of the responsible party, the street/office mailing address of the  
126 responsible party (no post office boxes), a responsible party direct contact name, telephone number  
127 and email, and the name, address, telephone number, and email of the property management  
128 company, field service provider, property preservation or real estate owned (REO) section or  
129 department responsible for inspecting, securing, and maintaining the property.

130 4. An explanation as to the reason for the vacancy of the property.

131 C. If a vacant distressed property is not registered, then the City may give the  
132 responsible party or their designee a written notice of vacancy and the responsible party or their  
133 designee shall register the vacant distressed property with the City within 30 days of receipt of a  
134 notice of vacancy from the City.

135 D. Registration of a vacant distressed property shall be valid and effective for a period  
136 not to exceed one (1) year, beginning July 1 and ending the next June 30, and shall be renewed  
137 annually thereafter until the property is no longer a vacant distressed property.

138 E. Vacant distressed property shall remain under the registration requirement, security  
139 and maintenance standards of this Chapter so long as the property is distressed property.

140 F. The responsible party shall inform the City of any pending action, such as a  
141 bankruptcy or other court or administrative action that would prohibit the responsible party from  
142 taking any of the actions required by this Chapter. The responsible party shall provide the City with  
143 complete information about any pending action that it alleges prevents the responsible party from  
144 complying with this Chapter, including the security and maintenance standards set forth herein.

145 G. Failure to register a vacant distressed property is a Class C municipal infraction  
146 offense.

147 **6.38.060 Owner Registration of Vacant Property.**

148 A. An owner of vacant property located in the City shall register the vacant property  
149 with the City within 30 days of the vacancy.

150 B. If a vacant property is not registered, then the City may give the owner of record a  
151 written notice of vacancy and the owner shall register the vacant property with the City within 30  
152 days of receipt of the notice of vacancy from the City.

153 C. Owners who are required to register their vacant properties pursuant to this Chapter  
154 shall do so by completing and submitting the Vacant Property Registration form to the City, along  
155 with the required fee. The Vacant Property Registration form may be signed by an agent for an  
156 owner provided the agent's written authorization from the owner is also provided. The Vacant  
157 Property Registration form shall include the following:

158 1. The name, current street/office mailing address (no post office boxes),  
159 telephone number, and email of all owners of the vacant property. If any owner of the vacant  
160 property is not the same as the owner of record, then an explanation of the reasons for the difference  
161 in ownership shall be provided.

162 2. The name of an individual or legal entity responsible for the care and control  
163 of the vacant property. Such individual may be the owner, if the owner is an individual, or may be  
164 someone other than the owner provided that the owner has contracted with such a person or entity to  
165 act as his or her agent for purposes of this Chapter.

166 3. A current street/office mailing address (no post office boxes), telephone  
167 number and email of the owner's agent, along with a direct contact name, telephone number, and  
168 email for the direct contact of the owner's agent.

169 4. A certificate of property insurance in an amount equal to or greater than the  
170 tax assessed value of the property.

171 5. An explanation as to the reason for the vacancy of the property.

172 D. Registration of a vacant property shall be valid and effective for a period not to  
173 exceed one (1) year, beginning July 1 and ending the next June 30, and shall be renewed annually  
174 thereafter until the property is no longer a vacant distressed property.

175 E. Vacant property shall remain under the registration requirement, security and  
176 maintenance standards of this Chapter so long as the property is vacant.

177 F. The owner or owner's agent shall inform the City of any pending action, such as a  
178 bankruptcy or other court or administrative action, that would prohibit the owner or owner's agent  
179 from taking any of the actions required by this Chapter. The owner or owner's agent shall provide  
180 the City with complete information about any pending action that it alleges prevents the owner or  
181 owner's agent from complying with this Chapter, including the security and maintenance standards  
182 set forth herein.

183 G. Failure to register a vacant distressed property is a Class C municipal infraction  
184 offense.

185  
186

187           **6.38.070       Fire Damaged Property.**

188           If a building or structure is damaged in a fire or other casualty, the owner has 90 days from  
189 the date of the fire or other casualty to apply for a permit to start construction, rehabilitation, repair  
190 or demolition and 30 days after the date of permit issuance to commence construction,  
191 rehabilitation, repair or demolition of the fire damaged building or structure. Failure to do or the  
192 cessation of active construction, rehabilitation, repair or demolition activity for more than 30 days  
193 will result in the property being deemed a vacant property and subject to the registration, security,  
194 and maintenance requirements of this Chapter.

195           **6.38.080       Registration Fee.**

196           The annual fee for registering a Vacant Distressed Property or a Vacant Property shall be  
197 \$200.00 payable to the City of Takoma Park and submitted to the City, along with the required  
198 registration form and all supporting information and documentation. Registration of a Vacant  
199 Distressed Property or a Vacant Property is for the fiscal year beginning July 1 and ending the next  
200 June 30. Unpaid registration fees shall be charged a late fee of 2% for each month or portion of a  
201 month that the registration fee remains unpaid. Registration fees are non-refundable and are not  
202 prorated in the event a registration fee is paid for a partial year. Unpaid registration fees are a lien  
203 on the property and may be collected in the same manner as taxes are collected.

204           **6.38.090       Requirement to Keep Information Current.**

205           If at any time the information contained in the responsible party's Vacant Distressed  
206 Property Registration or the owner's Vacant Property Registration form is no longer valid, then the  
207 responsible party or owner, as applicable, has 15 days to file a new form containing valid, current  
208 information. There shall be no fee to update an existing registered responsible party's or owner's  
209 current information.

210           **6.38.100       Vacant Property Maintenance and Security Requirements.**

211           A.    *Maintenance Requirements.* The responsible party of a vacant distressed property  
212 and the owner or owner's agent of a vacant property shall comply with the following maintenance  
213 requirements:

214                   1.    The exterior of the property shall be kept free of weeds, dry bush, dead  
215 vegetation, trash, junk, debris, building materials, any accumulation of newspapers, circulars, flyers,  
216 notices (except those required by federal, state or local law), discarded personal items including but  
217 not limited to, furniture, clothing, large and small appliances, printed material or any other items  
218 that give the appearance that the property is vacant and abandoned.

219                   2.    The property shall be maintained free of graffiti, tagging or similar markings  
220 by removal or painting over with an exterior grade paint that matches the color of the exterior of the  
221 structure.

222                   3.    All visible front and side yards shall be landscaped and properly maintained  
223 during the vacancy of the property. Landscaping includes, but is not limited to, grass, ground



224 covers, bushes, shrubs, hedges or similar plantings. Maintenance includes, but is not limited to  
225 cutting, pruning and mowing of required landscaped and removal of all trimmings.

226 4. Pools, spas, and other water features shall be kept in working order so the  
227 water remains clear and free of pollutants and debris or drained and kept dry. Properties with pools  
228 and/or spas must comply with applicable security fencing requirements.

229 5. Adherence to the maintenance requirements of this section does not relieve  
230 the responsible party, owner or owner's agent of any obligations set forth in any Covenants,  
231 Conditions, and Restrictions and/or Homeowners Association rules and regulations which may  
232 apply to the property.

233 **B. Security Requirements.** The responsible party of a vacant distressed property and the  
234 owner or owner's agent of a vacant property shall maintain the property in a secure manner so as  
235 not to be accessible to unauthorized persons. All vacant property shall be deemed adequately  
236 protected from intrusion by trespassers and from deterioration by the weather if:

237 1. *Building openings:* Doors, windows, areaways and other openings are  
238 weather tight and secured against entry by birds, vermin, and trespassers. Missing or broken doors,  
239 windows and opening coverings are covered with at least one-half inch of CDX plywood  
240 completely painted in accordance with the predominant tone of the building, weather protected,  
241 tightly fitted to the opening and secured by screws or bolts.

242 2. *Roofs:* The roof and flashings are sound, tight, will not admit moisture, and  
243 drained to prevent dampness or deterioration in the walls or interior.

244 3. *Drainage:* The building gutters and downspouts are watertight and entire  
245 storm drainage system is adequately sized, installed in an approved manner, functional and  
246 discharged in an approved manner.

247 4. *Exterior Building Structure:* The building is maintained in good repair,  
248 structurally sound, free from debris, rubbish and garbage, and sanitary, walking surfaces and stairs  
249 are structurally sound, so as not to pose a threat to the public health or safety.

250 5. *Structural Members:* The structural members are free of deterioration and  
251 capable of safely bearing imposed dead and live loads.

252 6. *Foundation Walls:* The foundation walls are plumb, free from open cracks  
253 and breaks, and rat-proof.

254 7. *Exterior Walls:* The exterior walls are free of holes, breaks, and loose or  
255 rotting materials. Exposed metal and wood surfaces are protected from the elements and against  
256 decay or rust by periodic application of weather coating materials, such as paint or similar surface  
257 treatment.

258 8. *Structure Extensions:* All balconies, porches, canopies, marquees, signs,  
259 metal awnings, cornices, stairways, fire escapes, standpipes, exhaust ducts and similar features are  
260 in good repair, anchored, safe and sound. Exposed metal and wood surfaces are protected from the

261 elements and against decay or rust by periodic application of weather coating materials, such as  
262 paint or similar surface treatment.

263           9.     *Chimneys and Towers:* Chimneys, cooling towers, smokestacks, and similar  
264 appurtenances are structurally safe. Exposed metal and wood surfaces are protected from the  
265 elements and against decay or rust by periodic application of weather coating materials, such as  
266 paint or similar surface treatment.

267           10.    *Sidewalk Openings:* Yard, walks, steps, and openings in sidewalks are safe  
268 for pedestrian travel.

269           11.    *Accessory and Appurtenant Structures:* Accessory and appurtenant structures  
270 such as garages, sheds, and fences are free from safety and health hazards.

271           12.    *Premises:* The premises on which a structure is located is clean, safe and  
272 sanitary, maintained free of weeds, junk cars, and litter, and does not pose a threat to the public  
273 health or safety.

274           C.     *Inspections.* Vacant property and vacant distressed property required to be registered  
275 in accordance with this Chapter shall be inspected by the owner or owner’s agent or by the  
276 responsible party on a monthly basis to determine if the property is in compliance with the  
277 requirements of this Chapter.

278           **6.38.110     Posting of Notices.**

279           Vacant property and vacant distressed property required to be registered in accordance with  
280 this Chapter shall be posted with the name and a 24-hour contact telephone number of the  
281 owner/owner’s agent or responsible party, including any local property management company. The  
282 posting shall contain along with the contact name and contact telephone number, words  
283 substantially similar to “THIS PROPERTY PRESERVED BY \_\_\_\_\_” and “TO REPORT  
284 PROBLEMS OR CONCERNS CALL \_\_\_\_\_”. The notice shall be placed on the interior of a  
285 window facing the street to the front of the property so it is visible from the street, or secured to the  
286 exterior of the building/structure facing the street to the front of the property so it is visible from the  
287 street or if no such area exists, on a stake of sufficient size to support the posting in a location that is  
288 visual from the street to the front of the property but not readily accessible to vandals. Exterior  
289 postings must be constructed of and printed with weather resistant materials. The owner or owner’s  
290 agent or the responsible party, property preservation company or property management company  
291 shall inspect the vacant or distressed property on at least a monthly basis to determine if the  
292 property remains in compliance with the notice posting requirements of this section.

293           **6.38.120     Additional Authority.**

294           In addition to the enforcement remedies established in this Chapter, the City Manager or his  
295 or her designee shall have the authority to require the lender/mortgagee and/or owner or owner’s  
296 agent of any property affected by this Chapter, to implement additional maintenance and/or security  
297 measures including but not limited to, securing any and all doors, windows or other openings,  
298 installing additional security lighting, increasing on-site inspection frequency, employment of on-

299 site security guard or other measures as may be reasonably required to arrest the decline of the  
300 vacant property.

301 **6.38.130 Violations and Enforcement.**

302 A. If the City Manager or his or her designee determines that the vacant property or  
303 vacant distressed property is in violation of any provision of: (1) this Chapter; (2) Chapter 6.36,  
304 Unsafe Buildings--Public Nuisance Abatement; (3) Chapter 6.12, Property Maintenance Code; or  
305 (4) other *Takoma Park Code* provisions, then the City Manager or his or her designee shall notify  
306 the owner/owner's agent or the lender/mortgagee/responsible party of the violation by providing  
307 notice of the violation to the person identified in the Registration Application, and shall require the  
308 owner/owner's agent or the lender/mortgagee/responsible party to correct the violation.

309 B. A Notice of Violation shall include a description of the violation and, except for  
310 severe conditions where immediate action is needed to protect the public health and safety (*see*  
311 Montgomery County Code §26-15 incorporated as part of Chapter 6.36, Unsafe Buildings--Public  
312 Nuisance Abatement, by *Takoma Park Code* §6.36.020.C) or failure to secure the vacant property,  
313 shall provide a period of not less than twenty (20) days from the mailing or delivery of the notice  
314 for the owner/owner's agent or the lender/mortgagee/responsible party to remedy the violation. If  
315 the responsible party fails to remedy the violation within the stated period, the City may issue a  
316 citation for a Class C violation and impose penalties against the owner/owner's agent or the  
317 lender/mortgagee/responsible party for the violation.

318 **SECTION TWO.** This Ordinance shall be effective on \_\_\_\_\_

319  
320 **ADOPTED BY THE COUNCIL OF THE CITY OF TAKOMA PARK, MARYLAND,**  
321 **THIS \_\_\_\_\_ DAY OF \_\_\_\_\_, 2016, BY ROLL-CALL VOTE AS FOLLOWS:**

- 322 **AYE:**
- 323 **NAY:**
- 324 **ABSENT:**
- 325 **ABSTAIN:**

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# Work Session

<b>Agenda Item #</b>	4
<b>Meeting Date</b>	February 3, 2016
<b>Prepared By</b>	Sara Anne Daines HCD Director
<b>Approved By</b>	Suzanne R. Ludlow City Manager

<b>Discussion Item</b>	Discussion of Amendment of City Code Chapter 16.6.090 Fees
<b>Background</b>	<p>The Council is asked to consider an amendment to the Landlord Tenant Relations Code, providing for minor modifications of the language regarding the assessment of fees to tenants for services and amenities previously included in the rent for the rental unit or provided to current or prior tenants at no cost.</p> <p>The amendment is intended to clarify when a fee may be assessed to a tenant, address the assessment of extermination fees and to consolidate specific fees such as pet fees and replacement key fees into the Administrative Regulations.</p> <p>A first reading of the proposed amendment is tentatively scheduled for February 10, 2016.</p>
<b>Policy</b>	To provide diverse and affordable housing options for community residents.
<b>Fiscal Impact</b>	N/A
<b>Attachments</b>	<ul style="list-style-type: none"> <li>• Chapter 6.16.090 Fees—General provision, permitted fees, optional fees, prohibited fees (11.25.2015)</li> <li>• Administrative Regulations: Residential Rental Facilities—Fees (11-25-15)</li> </ul>
<b>Recommendation</b>	To discuss proposed modifications and provide direction to staff.
<b>Special Consideration</b>	

## 6.16.090 Fees—General provision, permitted fees, optional fees, prohibited fees.

### A. General Provisions—Restrictions and Disclosure Requirements.

1. The provisions of this section apply to all fees assessed to a tenant ~~in addition to the~~ monthly rental charge.
2. Lawful fees shall not be considered a part of the monthly rental charge for the rental unit.
3. Fees shall not be charged for services and amenities previously included in the rent for the rental unit or provided to current or prior tenants at no cost.
4. Fees shall not be charged for improvements to the rental unit or rental facility or for additional operating expenses incurred by the landlord.

#### 5. Extermination Fees.

a. Multifamily facilities. Fees for routine and emergency extermination services are prohibited at all units in multifamily buildings.

b. Single family facilities. Landlords may only charge tenants of single-family rental facilities for extermination services for infestations caused by the tenant. The charge must not exceed the actual cost of the extermination services incurred by the landlord.

6. Fees may be assessed to the tenant for optional services and amenities such as furnishings, garage parking, off-street parking, Internet access, storage, and pets. Tenants shall have the right to refuse optional services and amenities ~~and services~~.

a. Prior to the provision of any optional service or amenity by the landlord and the assessment of any fee to the tenant, the tenant must provide written confirmation that they understand that they have the right to decline the optional service or amenity and that they voluntarily accept the optional service or amenity.

b. Fees for optional services and amenities shall not be assessed to tenants who have refused said services and amenities or provided the landlord with written notice of their intent to discontinue such service or amenity.

c. Tenants may terminate access to accepted services or amenities by giving a one-month written notice to the landlord.

d. Landlords may terminate a tenant's access to optional services or amenities by giving a one-month written notice to the tenant prior to the termination date.

~~76.~~ Fees shall be assessed on a uniform basis throughout a rental facility and shall not exceed maximum fees established by administrative regulations.

~~87.~~ Fees shall be disclosed by the landlord prior to the commencement of the tenant's tenancy. Landlords may increase fees by giving two months' written notice to the tenant prior to the expiration of the tenant's lease term, or, for month-to-month tenants, by giving two months' written notice.

B. Permitted ~~Fees—Leasing Fees, Late Fees and Short Term Lease Fees.~~

1. No fees may be charged unless authorized by this section or administrative regulation.

2. Leasing Fees. Leasing fees shall include, but not be limited to: application fees, key fees, document preparation fees, brokerage fees, and credit check fees.

~~32.~~ Late Fees. Late fees shall not be charged if the rent is received within 10 calendar days of the rent due date. A late fee shall not exceed 5% of the amount of rent due for the rental period.

~~43.~~ Short-Term Lease Fees. A short-term lease fee may be assessed to a tenant who has requested an initial lease of less than 12 months in accordance with the provisions set forth in Section 6.16.070(A), Initial Leases.

a. A short-term lease fee shall not be assessed to a tenant when the landlord has offered the tenant an initial lease term of less than 12 months.

b. Short-term lease fees shall not be assessed beyond the initial term of the lease.

~~c. Landlords shall not charge a fee for month-to-month tenancies.~~ C. Optional Fees—Pet Fees, Air Conditioning Fees.

~~1. Pet Fees.~~ A pet fee may be assessed to the tenant upon the initial occupancy of the rental unit or in the event a pet is obtained following the commencement of the tenancy, when the pet begins to reside in the unit. Nothing in this section shall be construed as requiring landlords to allow pets.

~~2. Air Conditioning Fees.~~

~~a. The landlord may assess a fee for the rental of an individual window air conditioning unit or units, for the installation or removal of the air conditioning units, and for additional utility consumption. The tenant shall have the option of providing an air conditioning unit upon written approval of the landlord. Such approval shall not be withheld if the tenant provided unit is equivalent in size, configuration and energy efficiency standards to the unit offered for rent by the landlord.~~

~~b. Fees for additional utility consumption and use of landlord-provided air conditioning units shall only be assessed during the months of May through September.~~

~~D. Prohibited Fees—Extermination Services. Fees for routine and emergency extermination services are prohibited at all multifamily rental facilities.~~

Revised November 25, 2015

**DRAFT RESIDENTIAL RENTAL FACILITIES—FEES  
ADMINISTRATIVE REGULATIONS**

**11-25-15**

Pursuant to *Takoma Park Code* Chapter 6.16, Landlord Tenant Relations, the following Administrative Regulations are hereby promulgated and are to be used in coordination with § 6.16.090, Fees.

**Section 1. General Provisions**

- A. Fees shall not be charged for services and amenities previously included in the rent for the rental unit or provided to current or prior tenants at no cost.
- B. Except as provided in paragraph D of this section, landlords may not charge any fee other than fees specified in these Regulations.
- C. Except as provided in paragraph D of this section, fees may not exceed the maximum amount established in these Regulations.
- D. Previously existing fees
  - 1. Landlords that have charged fees for optional services and amenities that are not specified in these Regulations prior to the effective date of these Regulations and have reported the fees on their Annual Rent Reports may continue to charge such fees but may not increase such fees.
  - 2. Landlords that have charged fees for optional services and amenities that are higher than the maximum fees established in this prior to the effective date of these Regulations and have reported such fees on their Annual Rent Report may continue to charge such fees but may not increase them.

**Section 2. New Tenant Fees**

Landlords may not charge prospective tenants any fee in connection with the commencement of a new tenancy except a one-time leasing fee, which shall not exceed \$35.00. Landlords must pay any brokerage fee associated with a tenant's lease.

**Section 3. Lease Option Agreements**

Landlords must refund any lease option agreement fees paid by a tenant if the tenant does not exercise the option to purchase the leased premises for any reason. Landlords must maintain lease option agreement fees in an escrow account. The



landlord must return the lease option agreement fees to the tenant within thirty days of the termination of the tenant's tenancy or within thirty days of receiving notice from the tenant that the tenant declines to exercise the option, whichever shall first occur. Lease option agreements shall include the statements required under section 8-202 of the Real Property Article of the Maryland Code.

#### **Section 4. Optional Services and Amenities**

- A. Fees may be assessed to tenants for new services and amenities.
- B. Fees may not be assessed for service and amenities that were previously provided to tenants of the rental unit at no cost or included in the rent.
- C. Tenants must acknowledge in writing that they understand that they have the right to decline a service or amenity and that they voluntarily accept the service or amenity before a landlord can begin charging the tenant a fee.
- D. Landlords must assess fees on a uniform basis throughout a rental facility.
- E. Pet Fees. A pet fee may be assessed to the tenant upon the initial occupancy of the rental unit or in the event a pet is obtained following the commencement of the tenancy, when the pet begins to reside in the unit. Nothing in this section shall be construed as requiring landlords to allow pets.
- F. Air Conditioning Fees.
  - 1. The landlord may assess a fee for the rental of an individual window air conditioning unit or units, for the installation or removal of the air conditioning units, and for additional utility consumption. The tenant shall have the option of providing an air conditioning unit upon written approval of the landlord. Such approval shall not be withheld if the tenant provided unit is equivalent in size, configuration and energy efficiency standards to the unit offered for rent by the landlord.
  - 2. Fees for additional utility consumption and use of landlord-provided air conditioning units shall only be assessed during the months of May through September.

## Section 5. Fee Schedule

Type of Fee	Maximum Fee
Parking Fee	\$50 per month
Parking Fee, Reserved Space	\$75 per month
Parking Fee, Covered	\$120 per month
Secure Storage Unit Accessible only by Tenant	\$3 per month per square foot
Lock Out (on site management during business hours)	\$25
Lock Out (off site management and off hours)	Actual cost
Lost Key	Actual duplication cost plus \$25
Leasing Fee	\$35
Pet Fee for Dogs or Cats	\$35 per month
Pet Fee for Other Pets	\$20 per month
Window Air Conditioning Unit Rental	\$35 per month per unit
Excess Utility Fee for Air Conditioning Window Units (if electricity is included in rent)	Actual cost
Cable Television and Internet	Actual cost to the landlord divided by the number of rental units in the rental facility
Bulk Trash Removal	Actual cost to the landlord in excess of regular waste removal
Furnished Rental Unit Fee (Furnishings must include a dresser and bed for each bedroom, a sofa, a table and chairs for eating, adequate lighting for each room, a stove or oven and installed cook top, a refrigerator, and a microwave.)	10% of monthly rent
Short Term Lease Fee	\$75.00 per month
Rental Unit Change During Lease Term	One month's rent for the unit to be vacated.
Enclosed Bicycle Storage	\$10 per month