

CITY OF TAKOMA PARK, MARYLAND

SUMMARY OF WARD REDISTRICTING PUBLIC BRIEFING

Held by the Mayor and Council

September 8, 1981

Mayor Abbott stated that the order of presentation of ward redistricting plans had been determined by drawing straws; the four plans to be presented in the following order: Plan A, Councilman Garcia; Plan D, Mr. Iddings; Plan B, Councilman Ramsey; Plan C, Mr. Faulkner. In order to expedite the hearing, a 15 minute time limit on presentation was imposed, as well as lesser time limits for questions and comments, and all speakers were requested to observe these limits.

Plan A - Councilman Garcia:

Stated he had originally worked up a plan using the data that the Grier Partnership had used - utilizing 1970 Census data. Decided this was not really workable because it did not take into account minority count which is very important insofar as redistricting. Thanked Joe Faulkner for his help in interpreting the recent Census data. Felt that his present plan was a workable one that could meet any court challenges, as well as satisfy the concerns of the citizens of Takoma Park. Reiterated the guidelines under which the Grier Partnership worked - e.g., that each ward would have a population that deviated as little as possible from the population for all wards in the City, i.e., 2319; stated that federal and state courts have adopted a rule-of-thumb that a 50% plus or minus maximum variance is permissible. Stated his plan has a maximum of +3% and a minimum of -3% - overall 6%. Grier's criteria also stated that boundaries would respect natural streams, major streets; boundaries would not depart from street lines or cut through houses or lots; wards would not be so peculiar in shape that voters living in them had difficulty in remembering boundaries; insofar as possible existing ward boundaries would be respected. Recalled that at the April 13 public hearing on Plan 1 presented by the Grier Partnership, it was stressed that citizens of the Maple Avenue highrise corridor desired that the wards be so drawn as to not split their ward so that they might have a representative who was sympathetic to their needs, and also that the Ritchie Avenue corridor be incorporated in their ward. Councilman Garcia stated that his plan would meet these needs, that he felt we should adhere to guidelines set down by the courts and the Justice Department that state that in areas that have a predominantly minority population, efforts should be made not to dilute that population, insofar as possible. Explained the ethnic breakdowns of the 1980 Census figures, the deviations and percentage of minority population in each ward as proposed by his plan.

Plan D - Mr. Carl Iddings, Citizens for Election Reform:

Mayor Abbott stated this is basically old Plan 5 from the April hearing, updated by the current Census figures.

Mr. Iddings introduced Sue Silver, a resident of the City, who will later on be addressing the legal issues, and extended his thanks to Mayor Abbott for doing such a good job on the maps for the hearing as well as the ones in the Newsletter. Stated that the plan he is presenting is the one favored by the citizens group that led the successful fight for ward-only voting. Stated that Plan 5 prepared by the Grier Partnership was clearly superior to any of the other plans prepared by them, and was the one that the Griers themselves recommended to the City Council. Stated that while his group was anxious to adopt a redistricting plan, they were glad it was decided to await the 1980 Census data as that had allowed them to come up with an even better plan for the City. Changes made by them in the plan center on ward 4 (as proposed). Stated that all of their wards as proposed have no greater deviation than 2.7%.

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Explained that there are 5 key criteria for judging the 4 redistricting plans under consideration: 1) adherence to the principle of 1 person 1 vote, 2) adherence to the principle of equal access to the political process for blacks and tenant residents, 3) respect for neighborhood boundaries and community interests, 4) creation of regularly-shaped, compact wards, and 5) responsiveness to citizens' opinions. Explained that criterion 1 is simply a guarantee that electoral districts should be as equal in population as possible and how that is achieved by measuring the span of deviation. Stated that for cities, any plan resulting in a span of deviation of more than 10% is very likely unconstitutional, that of the plans under consideration, the span of deviation is as follows: Plan A - 6.7%, Plan B - 14.1%, Plan C - 14.4%, Plan D - 9.6%; thus, clearly, Plans A and D meet the test of constitutionality and Plans B and C are unconstitutional as they now stand. Stated that in considering criterion 2, due to proposed ward divisions, Plans B and C will unconstitutionally dilute the minority voting strength under the rule of thumb formula that the percentage of voting age population runs about 5% less than total population. Pointed out that Plan D divides fewer neighborhoods than any of the other plans, and divides no neighborhood as severely. Cited that under criterion 4, Ward 1 as proposed in Plans A, B, and C are oddly-shaped, not compact, and lacking in neighborhood connection in some instances - suggests an unspoken motivation for this particular ward shape. Mr. Iddings requested that Sue Silver summarize the court findings on the legal issues involved herein.

Sue Silver, Civil Rights Attorney:

Stated she had researched the legal issues and participated in a meeting with the Lawyers Committee for Civil Rights which has been involved in more cases concerning voting rights than even the U. S. Department of Justice. Also researched all major redistricting cases which are relevant to this briefing. Stated that the Supreme Court has said that under 10% deviation under the principle "1 person 1 vote" is presumably quite valid, unless there is a better plan available, in which case clear rationale should be made by the jurisdiction that is doing the reapportionment as to why it would choose the less good plan over another. The largest deviation that has ever been upheld was 11.9% and in that case the legitimate state interest was that the county was attempting to respect the traditional boundaries of its constituent towns. Stated that to avoid minority dilution you must have, as a rule of thumb, approximately 65 percent minority population within a district, and obviously Plans B and C do not meet that test. Stated that a quick look by the Lawyers Committee for Civil Rights at the odd shape of Ward 1 in Plans B and C worried them due to its striking resemblance to the odd bowtie shape that was recently struck down in a Virginia case involving the City of Norfolk, which put odd communities with each other, in this case North Takoma with Upper Maple Avenue. Cautioned that any delay in adopting a plan now will make the next election vulnerable to a lawsuit by any Takoma Park citizen under the 1 person 1 vote principle as the present ward boundaries are unconstitutional. An election would have to be rerun at great expense to all taxpayers but also the City would have to pay enormous legal bills. She urged that the Council adopt its plan with all deliberate speed so that the March election will be on sound legal footing.

Plan B - Councilman Ramsey:

Mayor Abbott clarified that on the maps, other than the one for Plan A, the various shades of blue indicate variations in population density.

Councilman Ramsey stated that it is clearly possible to put together wards containing in excess of 50% minority population out of the total ward population (2319), but that the question is what to do about Maple Avenue. Said that with 38% of the city-wide population being

minority, there should ideally be between 2 and 3 councilmembers representing the minorities. Emphasized that the wards should be divided such that minorities have the opportunity to elect the candidate of their choice, in two wards if possible. Stated that prior testimony indicated that people on Maple Avenue want their own ward and queried how many wards they should have. Indicated that if you were going to divide Maple Avenue and make two wards out of it, the logical place is to divide it down the middle of the street and combine the west side of Maple with the North Takoma area even though it admittedly produces somewhat of an odd shape and some neighborhood interests may have to be sacrificed. This is based on the assumption that a decision is made to make Maple Avenue two wards. Commented that wards 5 and 6 are fairly straightforward, the rest are where the action is; the SS Carroll neighborhood is most often the innocent victim because that is where the central part of the city falls. Stated he hoped that nobody would buy the idea that anyone was deliberately putting forth an unconstitutional plan; anyone who had been at all close to the situation would realize that we're all trying to accomplish the same thing, but with different approaches. Expressed that he has considerable respect for the Lawyers Committee, they are clearly experts, but that part of the law is the question of intention and results and not merely a matter of numbers - no one even knew of this committee prior to reading mention of them in the newspaper a couple of weeks ago. Addressed the question of concept of measuring span of deviation vs. deviation from the average and stated adjustments could be made, that in his plan there was only one case in which the deviation was more than 5% and that could be adjusted; average deviation in his plan was only 4.7% and felt it was good in that respect. Reiterated that if you wanted to put the voting strength of Maple Avenue into 2 wards, you would want to divide it. Stated he is particularly proud of his plan with regard to its respect for neighborhood integrity. Pointed out that Plans A, B, and D include all minorities in working out their percentages, Plan C uses blacks only.

Plan C - Joseph Faulkner:

Stated he wished to correct some errors in calculation he had made on ward count in Plan C, proceeded to do so verbally, and pointed out there might be minor errors of the same nature in the other plans as well. Expressed that he stands behind the material as presented in the City Newsletter. Said they had tried to adhere to the Grier guidelines as they were related to the Citizens' Redistricting Committee, i.e., using natural boundaries wherever possible (major streets, streams); used existing ward boundaries wherever possible although in some instances that presented problems due to population deficiency; tried to use regular shapes as much as an irregularly shaped city would allow; attempted to keep established communities together; and tried to avoid concentrating minorities or tenants into one ward, particularly along the Maple Avenue corridor. Expressed that he did not feel that tenants' or minorities' interests would be well served by concentrating them into one ward, that Maple Avenue is an area in need of special services, many of them peculiar to Maple Avenue, and it doesn't seem reasonable for such a large population to be represented by one councilperson. Regarding the inference of political motivation inherent in some plans, he stated he felt there was no political motivation involved. Expressed that there appeared to be a hint of minority politics emerging that would not serve the City well, does not serve the minorities well, the City has never had this, and he would hate to see this sort of thing become a major theme.

A question and answer period followed wherein citizens might put questions to the individuals presenting the four plans. Mayor Abbott reminded that this is not at this time a discussion of any single plan advanced by the Council for a charter change; this meeting is to allow the Council to make up its mind as to what they want

to propose by a majority vote to the public in a public hearing. It was ascertained in discussion that the flyer distributed by Citizens for Election Reform contained some erroneous statements; David Prosten offered an apology for these errors.

Mayor Abbott pointed out an apparent omission in the table presented - in the text accompanying Plan D it is stated that unlike the other proposals it allows the common interests of historic area, permit parking, metro impact, etc., and calls for unification of what is now Ward 1 and parts of what is now Ward 2, and this is the rationale for drawing the boundaries as they are. Stated he felt impelled to explain this as he endorsed Plan D.

Arthur Karpas, representing Westmoreland Area Community Organization (WACO), stated his organization wholeheartedly supports Plan D, with Plan A their second choice. Expressed that the Council should without delay adopt a plan, that another election must not pass without new boundaries having been drawn.

Mrs. Pennifield questioned the authority of the Council to draw up plans after a professional firm had been hired by the City for this purpose. It was explained by Mayor Abbott that in lieu of a charter referendum, the Council has sole authority under the charter for drawing up of the plan. Mrs. Pennifield stated she felt nothing other than Plan 5 should be accepted.

Dr. Joseph Lerner stated he would be speaking as an individual rather than representing North Takoma Citizens' Association because after a certain amount of canvassing he concluded that the associations could not realistically come forward with something representing the people who live in their areas because even though a person doesn't come to association meetings, he may have strong opinions. Stated he had had a lengthy conversation with Frank Parker, the principal lawyer for the Committee for Civil Rights and one thing Mr. Parker emphasized was that the City could not have reasonably proceeded with redistricting without the data including the information on race. Stated that he did not feel the issue of separating Old Takoma and North Takoma was of major importance. Hoped the Council would be absolutely certain of what criteria they must adhere to in whatever plan is chosen and that any adjustments required would be made to ensure that the plan is well within the allowable limits of deviation.

Councilman Ricks raised a question directed to Sue Silver, the Civil Rights Attorney, concerning an earlier statement by her regarding cases where an 86% minority population had been acceptable. Ms. Silver clarified that the case she was referring to occurred in New York City (Brooklyn), the minority population figure was 86.3% and the question was not whether there was too large a deviation, but whether there was "packing", i.e., too many minorities put into one ward. The court found in that case that there was no intention shown of racial packing. Councilman Ricks inquired if there had been cases in which a deviation greater than 10% had been permitted. Ms. Silver responded that there had been - the maximum allowed had been 11.9% in which it was permitted because the county was attempting to respect the boundaries of its constituent towns and that kind of consideration was legitimate.

Herman Williams, Upper Maple Avenue Citizens' Association, stated his organization supports Plan D. Said Plans A and D were both within the acceptable legal limits of deviation, Plans B and C are not as they both contain 14 percent plus deviation. Councilman Weisman stated that with the corrections made earlier to Plan C, which should place it at 9.7% deviation, it should fall within the realm of acceptability in that regard. Mr. Williams said registrars are being located in each apartment building on Maple Avenue, their goal being to have an extremely large

voter registration drive. Indicated that the people on Maple Avenue wish to become one ward and will do everything possible legally to become one. Councilman Holland questioned whether it is really equitable to have one ward containing up to 81.3% minority population, when you could have two with over 50% minority population.

Mayor Abbott pointed out he had made available information from the Lawyers Committee for Civil Rights based upon actual case studies going to the Supreme Court and in that document under the definition of packing it was indicated that anything under 90% in a non-white ward was okay and anything below 65% was considered dilution, so the safe variation would be anything between the 65 and 90 percent minority population.

Lou D'Ovidio stated he felt at this point the major issue we're dealing with is what we do with the Maple Avenue corridor. Said, after much consideration, he's come down on the side of looking at what is best for the neighborhoods involved. Said he favors Plans D or A, as he feels they most consider this criterion.

Rino Aldrighetti, Vice President of Longbranch Sligo Citizens' Association, representing the opinions of that organization, stated his group held a special meeting for the purpose of having each proponent present their plan; at conclusion of the meeting a ballot was cast which reflected Plan A to be first choice, Plan D, second choice of the members present. Said it was felt that in the areas of 1 man, 1 vote and respect for neighborhood integrity, Councilman Garcia's plan was best.

Lowell Gayman stated it was his opinion the voters voted to have wards redrawn in order to conform more closely to the concept of 1 person, 1 vote. Stated the closer you get to zero deviation the better it is; suggested Plan A could best be used as basis for charter change proposal.

Larry Hodes, 7418 Hancock, voiced two concerns - that the City move to ward-based election of the Council prior to the next election, and, that whatever plan is selected not be susceptible to legal challenge. Felt that Maple Avenue should not be divided - that due to the transient nature of many of the tenants, short residency, etc., minority voting strength would be diluted if divided into two wards.

Ken Norkin, 14 Hickory Avenue, questioned the bowtie shape of Ward 1 in Plans B and C. Stated Plan B doesn't do for the people on Maple Avenue what they had asked for at the meeting in April; agreed with the previous speaker, Mr. Hodes' remarks on this.

Joan Prosten, 7428 Carroll Avenue, summarized testimony for Reverend Ron Albaugh, Central Avenue, who was unable to attend. Rejects Plans B and C as being quite unacceptable, subject to legal suit, not responsible options for Council's consideration; speaks favorably of both A and D as being responsible, legal and acceptable.

Marc Ellrich, 7800 Carroll Avenue, stated he felt Plans A or D come closest to approximating what would be fair for Takoma Park; Plan D conforms most closely to natural boundaries of neighborhoods in the City and also addresses problems of Maple Avenue in the way that residents of the area would like them addressed.

Ed Longen, 7516 Holly Avenue, recommended strong consideration be accorded Plan D and then Plan A, as they consider and preserve existing citizen association boundaries.

Carlos Stewart, 7710 Maple Avenue, favors Plan D, with Plan A being second choice, because of the way they deal with Maple Avenue. Reminded that Reverend Ross and Clarence Boatman had both stated their

preference for being in a ward with tenants because of commonality of interests rather than where they are; felt there is not a commonality of interest in projected combination of Old Takoma or North Takoma with the Maple Avenue corridor.

James Seaton, 611 Boston Avenue, voiced concern that under Plan B or C, residents of Maple Avenue apartments will not be elected to the Council as among those persons living in the buildings fewer are able to vote because of registration problems and high turnover, age ranges are such that fewer people who are counted as residents are of voting age. Stated it is a question of these people having someone of whom they can say "that person really represents me" versus having nobody.

Mayor Abbott reminded that Council must by September 21 come to an agreement by a majority of one on a plan to present at public hearing in October, in order for the City Clerk and staff to draw ward boundaries, compile voter lists and accomplish those other things that must be done prior to election.

THE CITY OF TAKOMA PARK, MARYLAND

Regular Meeting of the Mayor and City Council
and
Public Hearing on Citizens' Advisory Committee Proposed
Community Development Block Grant Program, FY-83

September 14, 1981
8:00 P.M.

AGENDA

CALL TO ORDER: Mayor Abbott
ROLL CALL: Councilmember Garcia
Councilmember Holland
Councilmember Patrick
Councilmember Ramsey
Councilmember Ricks
Councilmember Saloma
Councilmember Weisman

PLEDGE

READING AND APPROVAL OF THE MINUTES OF REGULAR COUNCIL MEETING OF JULY 27, 1981
READING AND APPROVAL OF THE MINUTES OF REGULAR COUNCIL MEETING OF August 10, 1981
READING AND APPROVAL OF THE MINUTES OF SPECIAL COUNCIL MEETING OF AUGUST 17, 1981

MAYOR ABBOTT'S COMMENTS AND PRESENTATIONS

CITIZENS' REMARKS

PUBLIC HEARING ON PROPOSED COMMUNITY DEVELOPMENT BLOCK GRANT PROGRAM FOR FY-83, AS DEVELOPED BY THE CITIZENS' ADVISORY COMMITTEE

APPEAL BY VINCENT L. ABELL ON CITY ADMINISTRATOR'S DECISION NOT TO GRANT AN EXTENTION OF TIME TO CORRECT CERTAIN FLOOD-RELATED CODE VIOLATIONS AT 7667 MAPLE AVENUE

ADDITIONAL AGENDA ITEMS

ITEMS FOR COUNCIL CONSIDERATION: City Administrator Gilsdorf

1. Communications
2. Administrative Reports and Recommendations for Council Action:
 - (1) First reading of a proposed ordinance designating parking areas for the physically handicapped the the vicinity of Montgomery College
 - (2) First reading of a proposed ordinance amending Sec. 13-64 of the City Code to set a specific fine for violation of the handicap parking provision
 - (3) Discussion of position on Montgomery County's Bill No. 44-81, concerning the transportation of radioactive materials, and the regulation thereof (Public Hearing: Thursday, September 17, 7:30 PM, COB)
 - (4) Zoning Appeal No. 6176, operation of multi-family dwelling in R-55 zone, at 7401 Flower Avenue (Public Hearing: 7:00 PM, Wednesday, September 23, County Administration Building, Upper Marlboro)

THE CITY OF TAKOMA PARK, MARYLAND

Regular Meeting of the Mayor and City Council
andPublic Hearing on Citizens' Advisory Committee Proposed
Community Development Block Grant Program, FY-83
September 14, 1981

City Officials Present:

Mayor Abbott	City Administrator Gilsdorf
Councilmember Garcia	Asst. City Administrator Shaffer
Councilmember Holland	City Clerk Pusti
Councilmember Patrick	Administrative Asst. Tyree
Councilmember Ramsey	Code Enforcement Chief Hamilton
Councilmember Ricks	Police Chief Carter
Councilmember Saloma	Public Works Director Robbins
Councilmember Weisman	Recreation Director Ziegler
	Corporation Counsel Gingerich

The Mayor and Council of Takoma Park met on September 14, 1981, at 8:05 P.M., in the Council Chamber, 7500 Maple Avenue, Takoma Park, Maryland. Following the pledge, a motion was made and duly seconded to approve the minutes of the Council meeting held July 27, 1981. Councilmember Ramsey noted a correction on page 4, item 1 under Communications, last sentence, saying that the comment should be attributed to him rather than Councilmember Ricks. With this correction included, the minutes were approved. A motion was made and duly seconded to approve the minutes of the August 10, 1981 Council meeting. Councilmember Ramsey made the following remarks, which the Mayor ruled to include as an addendum to those minutes: regarding discussion on Master Plan, that the Council decided that the 7100 block of Carroll Avenue should remain R-20 zoning, but that such zoning should be subject to approval of an architectural review board under the historic district ordinance, when such board is established; that the zoning for the property behind the Barcelona Nut Shop should be C1 zone and not C-2; also requested that the Council review and take official action on the memo prepared by the City Administrator for the Planning Board. The City Administrator explained that the actions referred to had been taken at two separate meetings, the first of which had been a work-session, and the memo referred to had been based on decisions made at that meeting only. With these remarks included, the minutes of August 10, 1981 were approved by the Council. Upon motion, duly seconded, the minutes of the Special Council meeting and Worksession of August 17, 1981, were approved unanimously by the Council.

ADDITIONAL AGENDA ITEMS

Discussion by Council for requesting a legal opinion from the Corporation Counsel on the new information received on redistricting from the Lawyers Committee on Civil Rights (Councilmember Saloma)

Discussion of a Council position on application of Washington Adventist Hospital for a Zoning Text Amendment allowing the Hospital to charge for parking (Councilmember Saloma)

Election of Council secretary (Councilmember Ramsey)

Reading and discussion of letter from Dr. Joseph Lerner to the Mayor (Councilmember Weisman)

Council position and action on CDBG Program (Councilmember Holland)

MAYOR ABBOTT'S COMMENTS AND PRESENTATIONS

Noted the receipt of a letter from Prince George's County Council Chairman Glendenning stating that he has proposed a bill before the County Council to remove the cap on the present appropriation levels of tax differential payments, making the figure 9¢ per \$100 of assessed valuation paid; noting that it would not be a great increase, but should help some. Chairman Glendenning also stated that he plans to introduce a bill to the State legislature, hopefully with the support of the Maryland Municipal League, to phase in an increase in tax

differential payments from the 9¢ level to 12¢; noted that this would be considerably more expensive to the County, so that he would need the City Council's help to assure a majority vote of the County Council in favor of the bill; that when the legislation is prepared, he will circulate it among municipalities. Mayor Abbott noted that City residents pay to the County approximately \$1.4 million in revenues per year; that in return, the City is refunded less than \$40,000 to help defray the cost of street lighting in the County portion of the City; with the proposed increase in tax differential payments from the County (9¢), this would increase the City's refund to about \$3,000, and if the proposed bill to the State legislature passes (12¢), it would mean another \$14,000 per year to the City; this would mean approximately \$56,000 refund from the County, which in no way meets the \$1.4 million in revenue that citizens pay. Mayor Abbott stated that he is hoping to meet with both County Executives in early October to discuss this subject and hopefully come to a more equitable arrangement for refunds; that this subject will also be the major issue the Maryland Municipal League will present this coming legislative session. Councilmember Garcia pointed out that County Council Chairman Glendenning is a leading proponent of municipalities in the County; felt that his proposal was a positive first step and should be supported by the City.

CITIZENS' REMARKS

1. Joan Prosten, 7428 Carroll Avenue: urged Council and citizens to support the proposed bill before the Montgomery County Council concerning the transportation of radioactive materials and the regulation thereof. Councilmember Ricks noted that Council of Government's Public Safety Committee has already taken a vote of support for such controls for local jurisdictions.
2. David Sawyer, 8205-A Roanoke Avenue: thanked the Takoma Park government and citizens for their support of the Takoma Park Folk Festival held Sunday, September 13; that it was attended by about 8,000 people and grossed approximately \$7,000, which after bills are paid, the remaining monies to benefit the Takoma Park Boys' and Girls' Club and the Neighbors, Inc. Youth Program.
3. Joe Lerner, 7708 Takoma Avenue: requested Council to approve the proposed handicapped parking area on New York Avenue for Montgomery College students and also felt it would be appropriate to increase the fines associated with violation of such parking; discussed his letter to the Mayor regarding redistricting, noting his disagreement with combining Wards 1 and 2 (Old Takoma and North Takoma neighborhoods); suggested that there be a rotating chairman of the Council for meetings. Mayor Abbott suggested that Mr. Lerner address his concerns about redistricting to Councilmembers, since they, and not he, would be taking a vote on a specific plan.
4. Don Woodhams, 10 Montgomery Avenue: commended the actions of Public Works Coordinator Anthony Smith for his assistance and patience in correcting a problem with his property; also thanked Councilmember Holland for his assistance with a neighborhood problem.
5. Phil Vogel, 7117 Garland Avenue: suggested that the CDBG Citizens' Advisory Committee be established earlier in the year, instead of preparing a proposal just prior to submission to the County; suggested the establishment of a set criteria for prioritizing of street improvements, noting that he felt monies should be going into neighborhoods to prevent problems, and not mainly to neighborhoods that already have problems; questioned the amount of money proposed for commercial revitalization, saying that the needs of the neighborhoods should be considered before the commercial areas. Regarding the zoning appeal for 7401 Flower Avenue, noted that the Longbranch-Sligo Citizens' Association has consistently supported the Master Plan designation of the property as R-55, single-family, and urged the Council to also support this designation; also requested that the Council oppose the requested grace period.
6. Sandra Littlejohn, 7320 Piney Branch Road: stated her support

for the Laurel/Carroll commercial revitalization plan funded with CDBG; noted that there is a large amount of litter in that area which detracts from the efforts being made.

PUBLIC HEARING ON PROPOSED COMMUNITY DEVELOPMENT BLOCK GRANT PROGRAM FOR FY-83, AS DEVELOPED BY THE CITIZENS' ADVISORY COMMITTEE

Asst. City Administrator Alan Shaffer stated that the Committee had met during the summer to compile the proposed program presented to the Council and citizens; that the proposal is divided into three areas: 1) street projects of high priority, 2) street projects of lower priority, but still considered important enough to present to the Council, and 3) the commercial revitalization area program, which was put together by City staff and consultants, and included in the proposal by the Committee; the total amount of funding being requested being \$1,139,600; that Montgomery County would be holding their hearing for submissions on September 23 and that it would be a much more lengthy process to go through than in past submissions; noted that there is a slim chance of receiving the entire amount requested; advised the Council to place emphasis on the commercial revitalization because that area has already been designated as a Neighborhood Strategy Area by the County, which means it already receives high priority; that the funding requested would be used to begin implementation of the revitalization plan adopted by the Mayor and Council, and to also continue planning for that area; noted that the Citizens' Advisory Committee has cut many of the proposed projects from the proposal and felt those that are included are essential. It was noted by Councilmember Holland that improvement in the commercial area will probably increase the City's and County's tax base at a time later in the future; Councilmember Saloma stated that she felt it essential that the Council assign the commercial revitalization area for highest priority for funding; that there have been great strides forward made in this area and the momentum should not be lost. (Attachment A)

1. Jan Schwartz, co-owner, Craft Shop, 7040 Carroll Avenue: stated that the business owners have put in a tremendous amount of work on their shops because of the revitalization effort and that it is time for the City to do something in return by improving the streets, sidewalks, lighting, etc., in the area.

2. Roy Shields, President, Takoma Old Town Business Association: urged the Council to support the funding for Laurel/Carroll commercial revitalization; noted that the area has begun to turn around and sales are increasing for many businesses; stated that the business people need the Council's support.

3. Jack Kazanjian, owner, Jack Allen Carpets, 6927 Laurel Avenue: stated the need for new sidewalks in front of the businesses, noting the safety factor involved for the many pedestrians who use the area.

4. Greg Artsner, New House of Musical Traditions, 7040 Carroll Avenue: stated that the shop owners have improved their stores and that it is time for the City to make some improvements.

5. John Whitman, 6910 Westmoreland Avenue, Westmoreland Area Community Organization: stated the support of the Organization for inclusion of the commercial revitalization in the CDBG funding request and that it be given high priority; noted that all efforts for revitalization up to this point have been extremely effective; that the commitment of public funding needs to be increased; that citizens are in support of the efforts of the business owners.

6. Mike Messinger, 7411 Flower Avenue: noted that he was glad to see the enthusiasm and increased activity of the business community in Takoma Park and stated his support for requesting CDBG funds for the revitalization effort; stated that he would also like to see some designation of funds for parks and recreation through CDBG. Asst. City Administrator Shaffer stated that such funding for parks and recreation was discussed by the Citizens' Advisory Committee, but it had been decided that the Council should be urged to pursue park development

through the State's Program Open Space.

7. John Carlton, owner of 7001 and 7003 Carroll Avenue (Hoffman's Interiors and Murphy Auto Parts): stated that from an investor's standpoint, much more could be done in the area to bring about revitalization of the businesses; that with the improvements being made, it will attract more investors to the area; supports revitalization and funding for same.
8. Bob Wetmore, representing John DiSalvatore, Shampoo, Inc., 7009 Carroll Avenue: thanked the Mayor and Council for their participation in the Takoma Old Town Festival; noted that business for Shampoo, Inc. has increased tremendously; urged the Council to support the funding request through CDBG for revitalization efforts.
9. Ed Longen, 7516 Holly Avenue, CDBG/CAC member: stated that the neighborhood improvement program recommended by the CAC (from input from citizens throughout the City) would provide the total funding for all street improvements for an entire year for the City; that if the Council were to lower these projects in priority, it could possibly defer any street improvements for another year; urged the Council to give full consideration to requests from citizen associations for street improvements; noted that the street improvements in the proposal have been placed in priority order by the CAC to help facilitate the Council's decision making.
10. William Saunders, Silver Spring Ambulance Service, 7000 Carroll Avenue: stated that the company has recently purchased 7050 Carroll Avenue to construct a small office building with a commercial storefront; noted that money is needed to improve the public facilities in Takoma Old Town in an effort to attract new businesses.
11. Ellery Dennison, 7207 - 13th Place, CDBG/CAC member: reiterated comments made by Mr. Longen.
12. Marc Ellrich, 7800 Carroll Avenue: stated that there is an active interest among citizens to develop a food cooperative in Takoma Old Town; stated that the business area should not have a higher priority than the neighborhood concerns, although business concerns should be addressed.
13. Enid Hodes, 7418 Hancock Avenue, CDBG/CAC member: stated her concurrence with comments made by Mr. Longen and Mr. Dennison, that all street improvements are funded through CDBG; that consideration should go toward commercial revitalization, but street repair funding should not be over looked.
14. Dave Ellis, 7056 Carroll Avenue, businessman: noted his prior involvement in the CDBG/CAC; that it is a shame to have such a division between the commercial and neighborhood needs; noted that if the business area is improved, all the City would benefit.

Councilmember Holland made a motion, duly seconded by Councilmember Weisman, that the Council accept the CDBG proposal as submitted by the Citizens' Advisory Committee. Councilmembers Ramsey and Ricks made note of street/sidewalk repairs they felt needed to be dealt with soon and perhaps included in the proposal; it was noted by Community Development Director Shaffer that some of the repairs mentioned by Councilmember Ricks are included in this current year's CDBG funding. Councilmember Saloma reiterated her earlier remarks concerning giving the commercial revitalization funding proposal the highest priority due to the great momentum and enthusiasm generated in the area and improvements already being made; that the revitalization of the commercial area would have a much higher value City-wide than specific street improvements. It was noted by Councilmember Holland that the Council should not prioritize any of the proposal; that it should be submitted to the County as one complete package; noted that the Laurel/Carroll commercial area has already been designated as a Neighborhood Strategy Area (NSA) by the County, and as such, would receive priority preference on a multi-year basis. When the motion was put to a vote,

it was unanimously approved by the Council.

APPEAL BY VINCENT L. ABELL ON CITY ADMINISTRATOR'S DECISION NOT TO GRANT AN EXTENSION OF TIME TO CORRECT CERTAIN FLOOD-RELATED CODE VIOLATIONS AT 7667 MAPLE AVENUE.

Mr. Abell presented his case, after which it was discussed by the Council. After due consideration the Council, by majority vote, decided to uphold the City Administrator's decision not to grant an extension.

ADMINISTRATIVE REPORTS AND RECOMMENDATIONS FOR COUNCIL ACTION

1. First Reading of a proposed ordinance designating parking areas for the physically handicapped in the vicinity of Montgomery College. Upon motion, duly seconded, the proposed ordinance below was accepted for First Reading.

FIRST READING OF A PROPOSED ORDINANCE

BE IT ORDAINED BY THE MAYOR AND COUNCIL OF THE CITY OF TAKOMA PARK, MARYLAND

SECTION 1. THAT it has been determined that there is a need to establish parking areas expressly for the physically handicapped in the vicinity of Montgomery College; AND

SECTION 2. THEREFORE THAT in conformance with Sec. 13-64(a)(10) of the Code of Takoma Park, 1972, as amended, the following areas are hereby designated for the exclusive use of vehicles displaying a special registration plate or permit issued to the disabled by any state or the District of Columbia:

- (a) On the West side of Takoma Avenue, southward from its intersection with New York Avenue for a distance sufficient to permit a parking area of 100 feet;
- (b) On the East side of Chicago Avenue, northward from its intersection with New York Avenue for a distance sufficient to permit a parking area of 50 feet;
- (c) On the East side of Chicago Avenue, northward from the "Parking by Permit Only" sign at 7709 Chicago Avenue for a distance of 50 feet; AND

SECTION 3. THAT parking shall be restricted in the above-designated areas to those vehicles displaying a special registration plate or permit as described in Section 2 of this ordinance; AND

SECTION 4. THAT any person issued a citation for violation of this ordinance shall be subject to a fine of \$25.00 for each violation; AND

SECTION 5. THAT the Director of Public Works is hereby instructed to install the appropriate signs at the locations named above; AND

SECTION 6. FURTHER THAT this ordinance shall become effective upon completion of the signing.

2. First Reading of a proposed ordinance amending Sec. 13-64 of the City Code to set a specific fine for violation of the handicap parking provision. Upon motion, duly seconded, the following ordinance was accepted for First Reading. Chief of Police Carter noted that if this ordinance is adopted, it would increase the fine

for such violation to \$25; that the City's usual policy for parking violations, is that they double after seven days if not paid; this would mean a \$50 fine for violation of this ordinance, if not paid within the allotted amount of time.

FIRST READING OF A PROPOSED ORDINANCE

BE IT ORDAINED BY THE MAYOR AND COUNCIL OF THE CITY OF TAKOMA PARK, MARYLAND

SECTION 1. THAT Sec. 13-64(a) (10) of the Code of Takoma Park, Maryland, 1972, as amended, be amended by the addition of Subsection (A), to read as follows:

Sec. 13-64. Parking or standing; prohibited areas.

(a)

(10)

(A) Any person issued a citation for violation of subsection (10) of this Section shall be subject to a fine of twenty-five dollars (\$25.00) for each violation.

SECTION 2. THAT this ordinance shall become effective upon adoption.

3. Discussion of position on Montgomery County's Bill No. 44-81, concerning the transportation of radioactive materials, and the regulation thereof (Public Hearing: Thursday, September 17, 7:30 P.M., County Office Building). Mayor Abbott noted that the Bill before the County Council supports the City Council's resolution, which requested such regulations be adopted by the County. Councilmember Holland made a motion, duly seconded by Councilmember Weisman, that the Council adopt a position of support for the County Bill; when the motion was put to a vote, it was unanimously adopted by the Council. (Copies of County Bill No. 44-81 are available in the City office.)

4. Zoning Appeal No. 6176, operation of multi-family dwelling in R-55, single-family zone, at 7401 Flower Avenue (Public Hearing: 7:00 P.M., Wednesday, September 23, County Administration Building, Upper Marlboro). The City Administrator pointed out that the property is not registered with the City as multi-family. Councilmember Garcia made a motion, duly seconded by Councilmember Holland, that the Council go on record as opposing the use of the property as multi-family and any extension of the grace period; when the motion was put to a vote, it was unanimously approved by the Council.

5. Councilmember Saloma requested a legal opinion from the Corporation Counsel on the information from the Lawyers Committee on Civil Rights presented to the Council at the public briefing on ward redistricting of September 8; the opinion to be presented to the Council at their worksession scheduled for September 21.

6. Councilmember Saloma reported on a letter from Dr. Shiroma, Washington Adventist Hospital, concerning the need for additional parking facilities; the letter stated that in order to meet the wishes of the City in not demolishing the Sanitarium building for parking area, the Hospital would like to construct a parking garage elsewhere on the property; that related to the construction of the parking garage, would be the necessity to achieve a Zoning Text Amendment before the County Council, which would allow hospitals throughout the County to charge for parking; parking fees would enable hospitals to keep costs to patients at the same level, when having to supply additional parking facilities. Councilmember Saloma noted that public hearings before the Planning Board and County Council would be held that week; made a motion that the City support the Zoning Text Amendment, because she felt this may be the only way the Hospital would seriously consider retaining the Sanitarium building. This motion was discussed at some length by Councilmembers and citizens, but failed due to lack of second. Councilmember Holland made a motion, seconded by Councilmember Ricks, that the Council notify the County that it is unable to come up with an opinion due to the lack of time afforded. The motion was approved by

the majority of the Council, with Councilmember Ramsey voting in the negative. Councilmember Saloma stated that she would prepare a draft letter for the Council to consider in support of the Zoning Text Amendment to be submitted to the County if the record of the public hearing is kept open.

7. Councilmember Ramsey presented the Council with a resolution which calls for the election of a Council secretary from among the Councilmembers; the secretary would have three duties: 1) maintain the Council's working agenda, 2) coordinate with the Mayor and City Administrator to establish agendas for Council meetings, worksessions, and other meetings, and 3) such other duties as the Council might assign; the secretary would be elected on the second Monday of April to serve a one year term; made a motion to adopt the resolution, which was seconded by Councilmember Saloma. There ensued a lengthy discussion, during which the Mayor and some Councilmembers expressed the opinion that there was no need for such a position; that Councilmembers have always been allowed to present items to be placed on the meeting agendas. After further discussion, Councilmember Holland made a motion, duly seconded by Councilmember Garcia, to table the motion until the September 28 Council meeting; Councilmember Garcia asked to amend the motion to the effect that the resolution not be discussed until a need for such position is shown; Councilmember Holland accepted the amendment, and when it was put to a vote, was approved by majority vote of the Council, with Councilmembers Ramsey and Saloma voting in the negative.

8. Councilmember Weisman made a motion, duly seconded by Councilmember Saloma, that the letter from Dr. Joseph Lerner, of September 10, 1981 be published in the City Newsletter and that it be placed on the September 28 Council meeting agenda for discussion. Mayor Abbott noted that the Council had rejected his earlier request to publish letters in the Newsletter, so he felt it was not necessary to publish Dr. Lerner's since it was a personal matter between himself and Dr. Lerner; also he did not feel compelled to answer any questions on redistricting because he did not have a vote in the matter. Councilmember Holland made a motion, duly seconded, to table the discussion; when put to a vote, it was approved by majority vote.

Upon motion, duly seconded, the meeting adjourned at 12:30 A.M. to reconvene on Monday, September 28, 1981, at 8:00 P.M.

APPROVED _____

Sam A. Abbott
Mayor

ATTEST _____

Herbert W. Gilsdorf
City Administrator

I. SINGLE-FAMILY OWNER-OCCUPIED GRANT/LOAN PROGRAM - \$200,000

This is a request for funds to continue the program already in successful operation in the City. The program makes available grants and/or loans to low- and moderate-income owner-occupants of single-family homes for the elimination of code violations and/or preventive maintenance. The emphasis of this program is on bringing homes up to code standards, exterior maintenance, and major systems improvements (i.e., heating, plumbing, electrical, etc.). As of June 30, 1981, Takoma Park has loaned or granted approximately \$500,000. This represents the rehabilitation of 98 houses. Moreover, this program has had an untold effect on providing incentives for other people to upgrade and improve their properties. It has also helped to maintain an valuable source of moderate priced housing. The continuation of this program is essential.

HOUSING REHABILITATION SPECIALIST - \$20,000

This request is for funds to help defray the cost of carrying out the Housing Rehabilitation Program. The money will be used to fund the salary of Housing Rehabilitation Specialist, secretarial support; xeroxing and other supplies and materials.

II. STREET IMPROVEMENTS AND STORM WATER CONTROL - \$394,600Geneva Avenue - \$43,000

Reconstruct 2,100 feet of curb and gutter. Storm water presently overflows the badly deteriorated curb. This has caused erosion of property and threatens the homes located on Geneva Avenue.

Erie Avenue - \$30,000

Construct 1,500 feet of curb, gutter and sidewalk from Flower Avenue and Maple Avenue.

Carroll Avenue - \$25,000

Reconstruct 700 feet of curb, gutter and sidewalk in the 7100 block of Carroll Avenue and replace 100 feet of sidewalk in the 7200 block of Carroll Avenue.

Grant Avenue - \$22,500

Relocate a catch basin in the 300 block of Grant Avenue in order to improve storm drainage and eliminate the buildup of ice during the winter which creates a dangerous condition. Reconstruct 500 feet of curb and gutter in the 200 block of Grant Avenue.

Hammond Avenue - \$1,300

Reconstruct 150 feet of curb and gutter in the 7000 block.

Allegheny Avenue - \$20,000

Reconstruct 900 feet of curb and gutter.

13th Avenue - \$5,400

Install 250 feet of curb and gutter to improve storm drainage and stop the flooding of private property.

Holton Lane - \$5,000

Reconstruct 300 feet of curb and gutter.

Chestnut Avenue - \$7,000

Construct curb and gutter between Hodges Lane and Grant Avenue.

Hillwood Manor - \$10,000

Spot reconstruction totaling 600 feet of curb and gutter on 13th Avenue; Elson Place; Elson Court; 14th Avenue; Elson Street; Larch and Hopewell, Londen Avenue; and Kentland Avenue.

Grant Avenue - \$48,500

Reconstruct curb and gutter, spot replacement of sidewalk and resurface street between Hancock and Maple Avenues.

Hodges Lane - \$10,000

Reconstruct curb and gutter on the 100 block of Hodges Lane.

Garland Avenue - \$20,000

Reconstruct curb and gutter between Flower and Central Avenues.

Grant Avenue - \$20,000

Construct curb and gutter between Travis Drive and Piney Branch Road.

Cockerille Avenue - \$25,300

Install additional catch basin and accompanied piping to improve storm drainage between First Avenue and Spring Avenue.

Roanoke Avenue - \$13,000

Replace curb and gutter in the 8100 block.

Glenside Drive - \$20,000

Correction of a drainage problem along Glenside Drive. The problem is caused by the current drainage system on Glenside Drive and four intersecting streets. Because of the deteriorated curbs and gutters, and the crowning of the street, water tends to stagnate, causing icing conditions where Glenside Drive intersects with Merwood Drive, Lancaster Road, Jackson Avenue, and Kirklynn Avenue. To correct the problem will require regrading portions of the intersections and replacement of approximately 500 feet of deteriorated curbs and gutters.

Grant Avenue - \$8,000

Resurface the street in the 300 block.

Holly Avenue - \$15,600

Resurface Holly Avenue from Philadelphia Avenue to Grant Avenue.

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Dogwood Avenue - \$10,000

Construct a sidewalk from Cedar Avenue to Holly Avenue.

Piney Branch Road - \$35,000

Relocate telephone poles and fire hydrants from the sidewalk on the east side of Piney Branch Road.

III. LAUREL/CARROLL COMMERCIAL REVITALIZATION - \$500,000

The City of Takoma Park has designated the Laurel/Carroll Avenue business district as the focus of a specific long-term commercial revitalization effort.

Recognizing this, Montgomery County has designated the Laurel/Carroll Avenue business district a Neighborhood Strategy Area (NSA). This designation commits the County to three years of funding to support the necessary planning and implementation activities needed to revitalize the area. This is a first year request.

Planning for Takoma Old Town was completed in September. Implementation of a revitalization plan, in particular initial public improvements, is scheduled to begin shortly, utilizing the initial seed money provided by previous years CDBG allocations. However, in order to achieve the goals of renovating the buildings, restoring economic vitality, creating an appropriate streetscape and continuing the planning for the commercial areas, additional funds will be needed.

Much has been accomplished in the program to date. A vigorous business association has been formed which co-sponsored the Victorian Summer Festival, attracting approximately 4,000 people to the commercial district. Additional promotional programs are being planned. A business brochure has been printed, listing all the goods and services available. Renovation has begun on five major buildings. A consumer survey has been carried out. And, a commonly agreed upon set of goals for the nature, scale and staging of the revitalization effort has been developed and approved. All vacant retail and office space has been filled.

Perhaps more importantly, the program has begun to turn around the overall investment and psychological assumptions in the area. It is significant that \$20,000 in private investment for rehabilitation has been carried out so far. In fact this program has the potential of generating as much as \$20,000,000 of private investments over the years in the City of Takoma Park which will begin to pay back both to the City and to the County the initial costs of this program.

However, the basic public improvements must be provided to act as an economic catalyst, attracting and insuring private investment in the commercial area. The funding for Program Year 8 includes \$350,000 to begin the necessary public improvements. These include new curbs, gutters and sidewalks, as well as improved lighting and street trees.

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Second, if Laurel/Carroll is to compete with modern shopping malls, an investment must be made to improve the outward appearance of the buildings. Recognizing this fact, the Revitalization Plan requires compliance with design standards on the part of property owners. In order to assist property owners financially unable to meet these standards Takoma Park is requesting \$85,000 to establish a loan pool.

And finally to complete the planning in Phase I and to do the planning in Phase II, Takoma Park is requesting \$65,000.

The Program Year 8 funding request for Laurel/Carroll Neighborhood Strategy Area is \$500,000.

-Public Improvements	\$350,000
-Planning	65,000
-Fund for Design Standard Compliance	<u>85,000</u>
TOTAL	\$500,000

ADMINISTRATION - \$25,000

The City of Takoma Park has assumed the responsibility of administering the expenditures of CDBG funds it has received. This request is for funds to cover the costs the City is incurring for the administration of the CDBG program. It includes a portion of salaries, secretarial and clerical support, xeroxing, and other supplies and materials.

CITY OF TAKOMA PARK, MARYLAND
MAYOR AND COUNCIL WORKSESSION
September 21, 1981

Councilmembers present:

Mayor Abbott
Councilmember Garcia
Councilmember Holland
Councilmember Patrick
Councilmember Ramsey
Councilmember Ricks
Councilmember Saloma
Councilmember Weisman
City Administrator Gilsdorf

The meeting was called to order by Mayor Abbott at 7:45 PM.

1. Presentation of Commercial Revitalization Plan for Laurel/Carroll area. The Commercial Revitalization Coordinating Committee presented the Mayor and Council with printed plans of their proposals for the Laurel/Carroll Area. The plans will be discussed further at the October 13 public hearing.
2. Ward Redistricting. The Mayor and Council discussed re-districting alternatives, with five plans, A through E, being considered. A straw vote was taken, eliminating all plans but A and C. After further discussion, a 4 to 3 vote was taken, with Plan A being selected by the Council as the ward redistricting plan to be presented at an October 19 public hearing.
3. Discussion of Landlord-Tenant Ordinance. The ordinance was discussed by the Mayor and Council, with a decision being reached that it be placed on the September 28 Council meeting agenda.

There being no further business to discuss at this time, the meeting adjourned at 11:00 PM.

APPROVED _____

Sam A. Abbott
Mayor

ATTEST _____

Herbert W. Gilsdorf
City Administrator

THE CITY OF TAKOMA PARK, MARYLAND

Regular Meeting of the Mayor and City Council
September 28, 1981

AGENDA

CALL TO ORDER: Mayor Abbott

ROLL CALL: Councilmember Garcia
Councilmember Holland
Councilmember Patrick
Councilmember Ramsey
Councilmember Ricks
Councilmember Saloma
Councilmember Weisman

PLEDGE

MAYOR ABBOTT'S COMMENTS AND PRESENTATIONS

ADDITIONAL AGENDA ITEMS

CITIZENS' REMARKS

ITEMS FOR COUNCIL CONSIDERATION: City Administrator Gilsdorf

1. Communications
2. Administrative Reports and Recommendations for Council Action:
 - (1) Second reading of an ordinance designating parking areas for the physically handicapped in the vicinity of Montgomery College
 - (2) Second reading of an ordinance amending Sec. 13-64 of the City Code to set a specific fine for violation of the physically handicapped parking provision
 - (3) First reading of a proposed Charter amendment making certain changes in the Elections section, including an earlier registration cut-off date and related changes
 - (4) First reading of a proposed ordinance further amending the Housing Code
 - (5) Adoption of the Landlord-Tenant ordinance
(Note: The extension on the present ordinance expires on September 30. The draft document for the new ordinance will be used as a basis for discussion, with the Mayor and Council making amendments they deem appropriate. Additional amendments may be made at a later date.)

ADJOURNMENT

Regular Meeting of the Mayor and City Council
September 28, 1981

City Officials Present:

Mayor Abbott	City Administrator Gilsdorf
Councilmember Garcia	Asst. City Administrator Shaffer
Councilmember Holland	City Clerk Pusti
Councilmember Patrick	Administrative Asst. Tyree
Councilmember Ramsey	Police Chief Carter
Councilmember Ricks	Public Works Director Robbins
Councilmember Saloma	Recreation Director Ziegler
Councilmember Weisman	Corporation Counsel Gingerich

The Mayor and Council of Takoma Park met on September 28, 1981, at 8:00 P.M., in the Council Chamber, 7500 Maple Avenue, Takoma Park, Maryland.

MAYOR ABBOTT'S COMMENTS AND PRESENTATIONS

Mayor Abbott announced that the work session scheduled for next Monday would be changed to Tuesday due to a number of Councilmembers attending a meeting Monday night to contest the proposed closing of Takoma Junior High School; expressed his hope that many citizens would attend also. Stated that Thursday night in the Montgomery County Council Chambers the Delegation to Annapolis would be discussing several bills, one of which will be the bill to unify Takoma Park into one county - Montgomery County. Announced that on Saturday, October 3, a tree will be planted in Memorial Park in memory of Joseph Ferrier; hoped that citizens will attend the tree planting.

Mayor Abbott stated there will be a number of first and second readings of ordinances tonight and then a discussion of details of the Landlord-Tenant Ordinance, said discussion to be terminated at 10:30 with any further discussion to be continued at a later date.

Councilmember Ricks stated he attended the Nuclear Waste Hearing representing the Mayor and Council and testified in behalf of the City on September 17 in Rockville; said a number of citizens from the City were also there. Mayor Abbott said he had received a call from County Councilman Gudis thanking Takoma Park for the bill, the Council for their support and Councilmember Ricks for his presentation.

Councilmember Ricks stated a letter was received stating that Montgomery County has a new redistricting plan and copies are available. Requested that the City Administrator procure copies for the city.

ADDITIONAL AGENDA ITEMS:

Discussion of Erskine Street traffic problems (Councilmember Garcia)

Discussion of proposed reduction in Revenue Sharing Funds (Councilmember Ricks)

CITIZENS' REMARKS

1. Ellery Dennison, 7207 13th Place: Queried whether the blocking off of Erskine Street at the City line would be placed on the agenda tonight; cited a copy of a letter from the City office in which transportation officials state such a move would be impractical, unwise, unnecessary, and inconvenient. Suggested no parking be instituted on the south side of Erskine from New Hampshire to 14th Avenue as a solution to the problem. Councilmember Garcia responded that prohibiting parking rather than slowing traffic often turns an area into a speedway, cited the situation on Maple Avenue when parking was prohibited. Mr. Dennison stated he would object to the blocking off of Erskine on the grounds that you would also have to block off Elson Street to the south, otherwise people would cut through on 13th Avenue, 13th Place, and 14th Avenue, all of which are narrow streets and try to get out the other way; felt it is not practical. Councilmember Garcia suggested Hillwood Manor and Carole Highlands Citizens' Associations work together on coming up with a practicable solution to the problem; stated he intended requesting the City Administrator write the Murtaghs offering this same suggestion.

2. Nancy Perry, 7520 Maple Avenue: addressed several issues; stated apparent feeling of several Councilmembers that tenants are not concerned enough to come out and speak on local issues is a fallacy; that turnover in the high-rise tenant populis is so great that the majority have little exposure to the political process and are moved out long before the issues are known.

3. Phil Vogel, 7117 Garland Avenue: brought to attention of the Council the decision of Board of Appeals for Prince George's County overruling the City and granting an extension of the violation at 7207 Flower Avenue until such time as the County acts on the Master Plan. Stated one problem continually faced in talking to Board of Appeals is that property owners tell the Board that the City has registered the property, that the City must come up with a plan wherein property zoned for single family is not being registered for four-dwelling units.

Indicated his dissatisfaction with the decision, for budgetary reasons, not to mail the Council meeting minutes and requested that they be made readily available at the Library.

For the record, read an article from the September 19 Washington Post, dateline Santa Monica, California, concerning a study on rent controls, performed by the Rand Corporation, which indicated that despite four years of rent control in Los Angeles, tenants have realized only a few dollars a month in savings; article predicted steady deterioration of rental properties, more conversions to condominiums, etc., if rent controls continue. Mr. Vogel stated he agreed with the report that rent control pays its benefits early and extracts its costs late. Councilmember Ricks stated he agrees that rent controls prohibiting raising rents more than X number of dollars have often been a factor in deterioration, however, the City's Ordinance concerns rent stabilization which does not state rents cannot be raised more than 10 per cent, but landlords are asked to go through a process to go above the 10 per cent figure. Mayor Abbott stated rent stabilization has been in effect approximately a year in the City and prior to its inception is precisely that period when deterioration set in in Takoma Park apartments. Mr. Vogel indicated he felt the deterioration was due to ineffective code enforcement at that time rather than lack of rent controls.

4. Marc Ellerich, 7800 Carroll Avenue: stated Santa Monica had just elected a city government that in their platform had a very strong rent control program that appealed to both middle and working classes, that the Rand Corporation may have had one perspective, but apparently the citizens had another on the benefits of rent control.

5. Brent Dillingham, 7018 Carroll Avenue: stated he felt little, if any, credence should be accorded the Rand Corporation study.

6. W. D. Ruby, 7105 Poplar Avenue: enumerated reasons he felt there shouldn't be rent controls.

7. Steven Rollins, 7520 Maple Avenue: said he felt it was obvious there's a great need for rent stabilization in the City.

8. Shirley Jones, 7427 Carroll Avenue: protested moving agenda items to insert others. Objected to the combining of rent control and landlord-tenant relations in one ordinance on grounds it gives too much authority to one office. Requested an extension of rent stabilization until such time as landlord-tenant ordinance can be discussed fully and landlords given an opportunity for their input; stated rent control only benefits the tenant, discriminates against the landlord and causes condominium conversion; gave reasons in support of her view. Stated vacant units should be decontrolled. Recommended and enumerated a number of changes to be made in the proposed ordinance; however, stated it is not necessary for the City to set up a landlord-tenant relations code as Montgomery County already has an operational one. Stated landlords and tenants should have equal rights; all code violations should not be construed to be the responsibility of the landlord.

Councilmember Ramsey stated we have been told that approximately 50-60% of the cases in the County office are Takoma Park cases; with our own ordinance and enforcement, the City hopes to do a better, and less costly job, partially through combining rent stabilization and landlord-tenant affairs into one office. Councilmember Garcia pointed out that by having our own ordinance, the entire City will be protected rather than only the Montgomery County section, which formerly left the Prince George's section with no protection. The question was raised by Ms. Jones and clarified that the Commission that will hear the cases will be comprised of volunteers, chosen through nomination and subsequent approval by the Council.

9. Carlos Stewart, 7710 Maple Avenue: took exception to previous speaker's allegation that tenants litter the buildings; stated that while tenants and visitors should take some responsibility for the premises, the maintenance staff is paid to maintain the building and that service is part of the lease agreement. In setting allowable rent increase percentage, Council should take into consideration that tenants have a pay cap on their salaries and they increase very little; felt tenants are not asking for extra services, but that landlords are often not providing what was agreed upon and promised in the rental agreement.

10. David Sawyer, 8205-A Roanoke Avenue: stated cooperative housing management is something that will have to be looked into by everyone involved in a landlord-tenant or commission relationship; suggested perhaps educational materials and a meeting for landlords and tenants both to better understand what that is - sees it as a solution for a lot of existing problems; agreed there is a need for rent stabilization.

ITEMS FOR COUNCIL CONSIDERATION

Communications

1. Announcement that Commission will hold a meeting on October 14 at 1:30 P.M., 6600 Kenilworth Avenue, Riverdale, Md. on our Master Plan. Additional meetings will probably be held later on by Montgomery and Prince George's Counties, however, this will be a meeting of the full Park and Planning Commission.

2. Prince George's County Board of Appeals. Notice of extension of time granted for Appeal No. 6176, 7401 Flower Avenue, decision to be made after Master Plan receives its final adoption.

3. Teresa Murtagh, 1314 Erskine Street. Reiteration of request that Erskine Street be closed, as well as suggesting other traffic restrictions, and requesting response.

ADMINISTRATIVE REPORTS AND RECOMMENDATIONS FOR COUNCIL ACTION

1. Ordinance designating parking areas for the physically handicapped in the vicinity of Montgomery College. Upon motion by Councilmember Holland, duly seconded by Councilmember Ricks, the ordinance below was adopted by roll call vote as follows: AYE: Councilmembers Garcia, Holland, Patrick, Ramsey, Ricks and Saloma. NAY: None. EXCUSED: Councilmember Weisman.

ORDINANCE NO. 2585

BE IT ORDAINED BY THE MAYOR AND COUNCIL OF THE CITY OF TAKOMA PARK, MARYLAND

SECTION 1. THAT it has been determined that there is a need to establish parking areas expressly for the physically handicapped in the vicinity of Montgomery College; AND

SECTION 2. THEREFORE THAT in conformance with Sec. 13-64(a)(10) of the Code of Takoma Park, 1972, as amended, the following areas are hereby designated for the exclusive use of

vehicles displaying a special registration plate or permit issued to the disabled by any state or the District of Columbia:

- (a) On the West side of Takoma Avenue, southward from its intersection with New York Avenue for a distance sufficient to permit a parking area of 100 feet;
- (b) On the East side of Chicago Avenue, northward from its intersection with New York Avenue for a distance sufficient to permit a parking area of 50 feet;
- (c) On the East side of Chicago Avenue, northward from the "Parking by Permit Only" sign at 7709 Chicago Avenue for a distance of 50 feet; AND

SECTION 3. THAT parking shall be restricted in the above-designated areas to those vehicles displaying a special registration plate or permit as described in Section 2 of this ordinance; AND

SECTION 4. THAT any person issued a citation for violation of this ordinance shall be subject to a fine of \$25.00 for each violation; AND

SECTION 5. THAT the Director of Public Works is hereby instructed to install the appropriate signs at the locations named above; AND

SECTION 6. FURTHER THAT this ordinance shall become effective upon completion of the signing.

2. Ordinance amending Sec. 13-64 of the City Code to set a specific fine for violation of the physically handicapped parking provision. Upon motion by Councilmember Ricks, duly seconded by Councilmember Holland, the ordinance below was adopted by roll call vote as follows:
 AYE: Councilmembers Garcia, Holland, Patrick, Ramsey, Ricks and Saloma.
 NAY: None. EXCUSED: Councilmember Weisman.

ORDINANCE NO. 2586

BE IT ORDAINED BY THE MAYOR AND COUNCIL OF THE CITY OF TAKOMA PARK, MARYLAND

SECTION 1. THAT Sec. 13-64(a) (10) of the Code of Takoma Park, Maryland, 1972, as amended, be amended by the addition of Subsection (A), to read as follows:

Sec. 13-64. Parking or standing; prohibited areas.
 (a)
 (10)
 (A) Any person issued a citation for violation of subsection (10) of this Section shall be subject to a fine of twenty-five dollars (\$25.00) for each violation.

SECTION 2. THAT this ordinance shall become effective upon adoption.

The question was raised as to whether the police department would be taking enforcement action on private property such as shopping center parking lots and Montgomery College property under this ordinance. Chief Carter stated we do have enabling authority and will take enforcement action on both private property and public space as long as it is legally posted as required by the Transportation Article.

3. First Reading of a proposed charter amendment changing election section. Upon motion, duly seconded, the proposed amendment (copy attached) was accepted for First Reading.

4. First Reading of a proposed ordinance amending Article 2 of the Housing Code. Upon motion, duly seconded, the ordinance was accepted for First Reading (see attached copy of ordinance). City Administrator Gilsdorf noted this ordinance is basically a compilation of exceptions and modifications to the BOCA Code to meet the City's specific needs and to bring the code into compliance with the Municipal Infracrime Law. It will provide uniform numerical numbering of the BOCA Code so that when it is codified City Housing Code sections numbers will run in sequence.

5. A motion was introduced by Councilmember Ricks to send a telegram from the Mayor and Council to President Ronald Reagan, with copies to Congressional representatives, opposing his proposed five per cent cut in fiscal 1982 Federal Revenue Sharing Funds and any elimination of those funds in the future. The motion was duly seconded by Councilmember Saloma, all councilmembers present voting Aye, Councilmember Weisman excused.

6. The City Administrator was directed by the Council to respond in writing to a second letter from Mrs. Murtagh, 1314 Erskine Street, requesting the closing of Erskine Street at the City line. The feeling of the Council was that this is a matter that should be discussed with all citizens of that area for a consensus as to what they require and members of Hillwood Manor and Carole Highlands Citizens' Associations should work together to come up with a recommendation on what they want done. Councilmember Holland offered that a sidewalk in the area on one side of the street would be a safety feature for pedestrians and school children. Councilmember Ramsey reiterated that the aspect of accessibility for emergency vehicles should be explored. Discussion of various alternatives such as speed bumps, speed limit signs, etc., ensued. Mayor Abbott suggested the letter to Mrs. Murtagh include an offer for the City Council to attend a joint meeting of the two citizens' associations for the purpose of discussing the matter.

7. Adoption of Landlord-Tenant Ordinance. Upon motion by Councilmember Ricks, duly seconded by Councilmember Holland, the ordinance was adopted as an emergency piece of legislation, incorporating the following amendments and subject to future amendment. Roll call vote: AYE: Councilmembers Garcia, Holland, Patrick, Ramsey, Ricks and Saloma. NAY: None. EXCUSED: Councilmember Weisman. Copies of the ordinance are available at the City Office. (Ordinance No. 2587)

Amendments:

- (1) Any reference to "licensing" in the ordinance shall be omitted, as the City does not have licensing authority.
- (2) Change language in Sec. 9(j) to read: "contain a provision permitting the lease to be terminated by tenant upon thirty (30) days written notice to the landlord due to an involuntary change of employment from the Washington metropolitan area, death of a major wage earner, unemployment, or for other reasons beyond the tenant's control. The lease may provide that in the event of termination for such cause, the tenant shall be liable for a reasonable termination charge not to exceed one (1) month's rent or actual damages sustained by the landlord, whichever is the lesser amount."
- (3) Add to Sec. 11. Obligations of tenants.: (g) maintain monetary responsibility for any damages done to the premises, which may result in a violation of the BOCA Basic Property Maintenance Code as adopted by the City of Takoma Park in Ordinance No. 2555.
- (4) Add to Sec. 12. Obligations of landlords.: that a landlord has the right to issue a tenant a 30-day written notice to vacate in the event of breach of the lease, or issue a 60-day written notice to vacate when no reason is specified, as stated in Sections 8-402.1(a) and 8-402(b) (4) (iii) of the Real Property Article of the Annotated Code of Maryland 1974.
- (5) Sec. 16. Filing procedure generally. Reference to "the Department" shall be changed to "the Office of the Commission on Landlord-

Tenant Affairs for appropriate action."

(6) Add to Sec. 17. Investigation of Complaints: "The Landlord-Tenant Coordinator's investigation shall, when applicable, include review of the records of the Code Enforcement Division with reference to the property in question. The Coordinator may order a general or specific inspection of the property by the Code Enforcement Division."

(7) Change language in Sec. 22(a) to read: "rent for any particular dwelling unit in a multiple-family dwelling facility may be increased in an amount not to exceed 10 per cent of the monthly rent charged immediately preceding the effective date of the proposed increase."

(8) Add to Sec. 22(b). Rent Guidelines.: that a tenant may not receive more than one (1) increase in a 12-month period; and that a landlord must issue a 60-day prior written notice of an increase.

(9) Add to Sec. 22(f). Rent Guidelines.: This section is applicable to all dwelling units located in the City except dwelling units owned by a person who owns fewer than five (5) rental dwelling units within the City.

Council action was deferred on a suggested amendment to Sec. 10. Leasing requirements generally. An opinion was requested from Corporation Counsel regarding the best approach.

Upon motion, duly seconded, the meeting adjourned at 11:45 P.M. to reconvene on Tuesday, October 13, 1981, at 8:00 P.M.

APPROVED _____
Sam A. Abbott
Mayor

ATTEST _____
Herbert W. Gilsdorf
City Administrator

PROPOSED CHARTER AMENDMENT

WHEREAS, it is the desire of the Mayor and Council to hold City elections in such manner as to attract candidates for mayor and councilmembers and to encourage the maximum voter participation; AND

WHEREAS, the Mayor and Council deem it in the best interest of the City to amend the City Charter to advance by one week the date of the caucus for the nomination of candidates for elective office; to secure at an earlier date certified lists of registered voters from the Boards of Supervisors of Elections of Montgomery and Prince George's Counties; to delete the requirement that the Montgomery County lists of registered voters be separated by precincts; and to provide three weeks between the voter registration cut-off date and the City Election.

NOW, THEREFORE, BE IT RESOLVED AND ORDAINED BY THE MAYOR AND COUNCIL OF THE CITY OF TAKOMA PARK, MARYLAND

SECTION 1. THAT Sec. 1.3(1), Sec. 1.4(a), and Sec. 1.4(c) of the Charter of Takoma Park, Maryland be repealed in their entirety and new sections 1.3(1), 1.4(a) and 1.4(c) be enacted to read as follows:

Sec. 1.3(1). Nominations for mayor and ~~[[councilmen]]~~ 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 there shall be given through a newspaper or newspapers of general circulation within the city or by handbills generally distributed and posted throughout the city and the ~~[[said]]~~ meeting shall be held on the Tuesday evening ~~[[four]]~~ FIVE weeks prior to the election. The city clerk shall preside at ~~[[said]]~~ THE meeting; a voter of the city shall be chosen as secretary of the meeting by the voters of the city present; the ~~[[said]]~~ secretary shall keep a record of the proceedings of ~~[[said]]~~ THE meeting and file the same in the office of the city clerk.

Sec. 1.4(a) On the first Monday in ~~[[February, 1966]]~~ JANUARY, 1982, and each two years thereafter on the first Monday in ~~[[February]]~~ JANUARY, prior to the city election, the boards of elections supervisors for Montgomery and Prince George's Counties, respectively, shall certify to the mayor and council alphabetical lists ~~[[for each precinct separately]]~~ of the names and addresses of the registered voters in the state and county elections within the ~~[[4th, 6th, 9th, and 21st]]~~ precincts of the 13th Election District of Montgomery County LYING WITHIN THE CITY, and within that portion of Prince George's County within the city.

Sec. 1.4(c). The respective boards of election supervisors shall, on or before the ~~[[second]]~~ FIRST Monday in March of each second year beginning in March ~~[[1950]]~~ 1982, certify to the mayor and council, revisions, if any, in the lists so certified theretofore by them, which may be required to correct clerical mistakes in the preparation of the original lists.

[[]] denotes deletions
ALL CAPS denotes additions

PROPOSED ORDINANCE

BE IT ORDAINED BY THE MAYOR AND COUNCIL OF THE CITY OF TAKOMA PARK, MARYLAND

SECTION 1. THAT Division 2, "Exceptions and Modifications to the Basic Property Maintenance Code," of Article 2, Chapter 6, of the Code of Takoma Park, Md., 1972, as amended, be repealed in its entirety and reenacted to read as follows:

Sec. 6-7. Exceptions and modifications generally.

The Sections contained in this Division shall add, modify, amend, delete or change the designated Sections of the BOCA Basic Property Maintenance Code as indicated in each Section.

Sec. 6-8. Section PM-103.3

The entire section PM-103.3 is amended to read as follows:

PM-103.3 Official Records. The Building Official shall keep, or cause to be kept, a record of the business of the Department. The records of the Department shall be open to public inspection unless otherwise prohibited or restricted by Maryland or Federal statute, or by any ordinance or regulation having the force and effect of law. (Ord. 2073, Sec. 9)

Sec. 6-9. Section PM-103.4

A new section numbered PM-103.4 is added and reads as follows:

PM-103.4 Fire Safety. The Building Official shall coordinate specifically with the Fire Marshal in the enforcement of Sec. PM-700 on minimum requirements for fire safety. (Ord. 2073, Sec. 7)

Sec. 6-10. Section PM-103.5

A new section numbered PM-103.5 is added and reads as follows:

PM-103.5 Conflict of Interest. No officer or employee who has an official duty in connection with the administration and enforcement of this Code shall be financially interested in the furnishing of labor, materials or appliances for the construction, alteration, or maintenance of a building, or in making the plans or specifications therefor, unless he is the owner of such building. No such officer or employee shall engage in any activity which is inconsistent with the public interest and his official duties. (Ord. 2073, Sec. 8)

Sec. 6-11. Section PM-104.3

The entire Section PM-104.3 is amended to read as follows:

PM-104.3 Inspections.

a. Subject to the limitation and conditions as hereinafter stated in this Section, it shall be the duty of the Building Official to make or cause to be made inspections as often as necessary to determine the conditions of dwellings, multi-family dwellings, dwelling units, rooming houses, rooming units, and premises in order to safeguard the safety, morals and welfare of the public under the provisions of this Code. Such inspections shall be made in response to citizen or official complaints or other reliable information or allegations of existing violations of this Code. Further, inspections of dwellings, dwelling units, rooming houses, rooming units and premises shall be made on a systematic basis (house-by-house, block-by-block) during daylight hours, only, in areas, communities, or neighborhoods when it is determined by the Building Official that such action is necessary to properly apply and enforce the provisions of this Code.

b. The following limitations and conditions shall be observed by the Building Official in the performance of such duties as said, requiring entry and access:

(1) Proof of credentials and identity shall be exhibited to the occupant or person in charge, stating the purpose for which entry is requested. If permission is granted, the inspection or other authorized activity shall be conducted in the normal manner.

(2) Permission need not be obtained for entry to spaces and areas to which the public is ordinarily invited.

(3) If entry is denied, or access to interior, non-public areas is restricted so as to limit or impair a housing inspection or other authorized function, then, and in that event, no forced entry shall be attempted or made. Instead, application shall be made to a judicial officer for a warrant authorizing entry and the performance of such inspection or other authorized function.

(4) Notwithstanding the foregoing, all licensing, registration and permit inspections authorized and required by this Code shall be processed without the necessity for obtaining permission or obtaining a judicial warrant authorizing entry; failure to allow entry for such inspections shall constitute sufficient reason for the denial or revocation of the license or permit involved."

(Ord. 2073, Sec. 10)

Sec. 6-12. Section PM-104.3.22

A new Section PM-104.3.22 is added and reads as follows:
PM-104.3.22. Inspection by Code Enforcement Officer.

The owner or operator of a dwelling unit or rooming unit, or his agent or employee (including tenants) shall accompany or be present during the time that the building official(s) conduct the inspection.

(Ord. 2073, as amended by Ord. 2178, § 1, 9/27/71.)

Sec. 6-13. Section PM-104.3.23

A new Section PM-104.3.23 is added and reads as follows:

PM-104.3.23. Notice to owner or to person or persons responsible. Whenever the Building Official determines that there has been a violation of this code or has reasonable grounds to believe a violation has occurred, he shall give notice to the owner or the person or persons responsible therefor in the manner prescribed below.

Sec. 6-14. Section PM-104.3.24

A new Section PM-104.3.24 is added and reads as follows:

PM-104.3.24. Form of notice. Such notice prescribed in Sec. 6-13 (PM-104.3.23) shall:

1. be in writing;
2. include a description of the real estate sufficient for identification;
3. include a statement of the reason or reasons why it is being issued; and
4. include a correction order allowing a reasonable time for the repairs and improvements required to bring the dwelling unit or structure into compliance with the provisions of this code.

Sec. 6-15. Section PM-104.3.25

A new Section PM-104.3.25 is added and reads as follows:
PM-104.3.25. Violations.

Notice of Violation shall be served upon the owner or occupant (as defined in Article 2); provided that such notice shall be deemed to be properly served upon such owner or occupant if a copy thereof is delivered to him personally, or if not found, by leaving a copy thereof at his usual place of abode with a person of suitable age and discretion who shall be informed of the contents thereof, or by sending a copy thereof by mail to his last known address, or if the notice is returned showing that it has not yet been delivered to him, by posting a copy thereof in a conspicuous place in or about the dwelling affected by the notice."

(Ord. No. 2073, § 11.)

Sec. 6-16. Section PM-109.2

The entire Section PM-109.2 is amended to read as follows:

PM-109.2 Penalty. The violation of any section of this code enumerated below shall constitute a municipal infraction for which a citation may be issued, and the following fines may be imposed:

<u>Sections Violated</u>	<u>Fine for Initial Offense</u>
PM-300.0 (300.1-300.3)	\$ 25.00
PM-301.0 (301.1-301.11)	25.00
PM-302.0 (302.1-302.3.1)	25.00
PM-302.0 (302.3.3)	100.00
PM-302.0 (302.3.4-302.4.7)	25.00
PM-303.0 (303.1-303.8.2)	25.00
PM-400.0 (400.1-400.5)	25.00
PM-401.0 (401.1-401.4)	25.00
PM-402.0 (402.1-402.5)	25.00
PM-403.0 (403.1-403.3)	25.00
PM-404.0 (404.1-404.6)	25.00
PM-500.0 (500.1-500.2)	25.00
PM-501.0 (501.1-501.4)	25.00
PM-502.0 (502.1-502.6)	25.00
PM-503.0 (503.0-503.5)	25.00
PM-504.0 (504.1-504.4)	25.00
PM-505.0 (505.1-505.2)	25.00
PM-506.0 (506.1)	25.00
PM-600.0 (600.1-600.2)	25.00
PM-601.0 (601.1-601.5)	100.00
PM-601.0 (601.6)	25.00
PM-602.0 (602.1-602.3)	100.00
PM-603.0 (603.1)	100.00
PM-700.0 (700.1-700.2)	100.00
PM-701.0 (701.1-701.5)	100.00
PM-702.0 (702.1-702.4)	100.00
PM-703.0 (703.1)	100.00
PM-704.0 (704.1-704.5)	100.00
PM-801.0 (801.1-801.99)	25.00
PM-801.0 (801.10)	100.00
PM-802.0 (802.1-802.5)	25.00

A fine in the amount of twice the initial fine may be imposed for each repeat offense; AND

Sec. 6-17. Section PM-109.4

A new Section numbered PM-109.4 is added and reads as follows:
 PM-109.4 Transfer of Liability. The Building Official shall cause any municipal infraction citation issued under Sec. 6-16 (PM-109.2) of this code to be recorded in the tax records maintained by the City, with the notation to remain so recorded until such time that the fine imposed has been paid, or the citation dismissed by court order. All subsequent transferees of the dwelling, dwelling unit or rooming unit in connection with which a citation has been so recorded shall be deemed to have notice of the continuing existence of the violations alleged and shall be liable to all penalties and procedures provided by this Code and by applicable rules and regulations issued pursuant thereto to the same degree as was their transferor.

Sec. 6-18. Section PM-201.0

APPLIED MEANING OF WORDS AND TERMS as contained in the BOCA Basic Property Maintenance Code shall remain in full force and effect with the following additions, deletions and amendments:

CLER

1. DWELLING: Adding to read as follows: "Any building which is wholly or in part used or intended to be used for living or sleeping by human occupants."

2. *Dwellings:*

a.) *One-family dwelling:* AMEND to read as follows: "A building containing one dwelling unit."

b.) *Two-family dwelling:* DELETE definition in its entirety.

c.) *Multi-family-apartment house:* AMEND to read as follows: "Any building occupied at any time during the calendar year as the dwelling place of more than one (1) family unit, each of which occupies a portion of such building, which portion contains either a kitchen sink or cooking accommodations or both."

d.) *Boarding house, lodging house, tourist home:* AMEND to read as follows: "A building arranged or used for lodging with or without meals for more than two (2) and no more than nine (9) individuals."

e.) *Dormitory:* AMEND to read as follows: "A building or portion thereof used for sleeping purposes in connection with a school, college, or other institution."

f.) *Hotel:* AMEND to read as follows: "Any building containing guest rooms, where, for compensation, lodging, meals, or both are provided for ten (10) or more guests."

3. *Motel:* AMEND to read as follows: "Any group or dwelling units combined or separate, used for the purpose of housing transient guests, each unit of which is provided with its own toilet, wash room and off-street parking facilities."

4. *Residence Building:* AMEND to read as follows: "A building in which sleeping accommodations and cooking facilities as a unit are provided; except when classified as an institution under the building code. When any portion thereof is completely separated from all other portions by a division wall from the ground up to the roof and without any door or other openings, such portion shall be deemed a separate building."

5. *Rooming House:* AMEND to read as follows: "Any building occupied for more than thirty (30) days consecutively during any calendar year as the dwelling place of three (3) or more persons not included in the family of the owner or lessee of such building, and in which the owner or lessee provides common or separate services, but not including cooking and/or eating facilities."

(Ord. 2073, Sec. 18)

Sec. 6-19. PM-301.9.

The entire Section numbered PM-301.9 is amended to read as follows:

PM-301.9 Accessory Structures. All accessory structures on dwelling premises such as, but not limited to, the following: detached garages, storage sheds or buildings, driveways, exterior walkways and steps, fences, or other constructed appurtenances and facilities, shall be maintained structurally safe and sound and in good repair. Exterior steps and walkways shall be maintained free of unsafe obstructions or hazardous conditions.

(Ord. 2073, § 19.)

Sec. 6-20. PM-301.91.

A new Section numbered PM-301.91 is added and reads as follows:

PM-301.91 Preservation. The exterior surfaces of such structures shall be made weather resistant through the use of decay-resistant materials or the use of paint or other preservatives. In the case of paved parking areas associated with multi-family dwellings or commercial establishments, painted separation lines and suitable car stops to protect adjacent structures and property will be provided and maintained by the owner.

(Ord. 2073, § 20.)

Sec. 6-21. PM-302.3.2.

The entire Section is amended to read as follows:

PM-302.3.2 *Exterior Walls and Exposed Surfaces.* Every exterior wall and weather-exposed exterior surface or appurtenance shall be free of holes, breaks, loose or rotting boards or timbers and any other conditions which might admit rain or dampness to the interior portions of the walls or the occupied spaces of the building. All exterior wood surfaces shall be made substantially impervious to the adverse effects of weather by periodic application of an approved protective coating of weather-resistant preservative, and maintained in good condition. Exterior metal surfaces subject to rust or corrosion shall likewise be protected.
(Ord. 2073, § 21.)

Sec. 6-22. PM-302.4.41.

A new Section numbered PM-302.4.41 is added and reads as follows:

PM-302.4.41 *Maintenance of Screens.* In the absence of a written agreement to the contrary between the owner and occupant, maintenance or replacement of screens and screen doors, once installed in any one season, shall become the responsibility of the occupant.
(Ord. 2073, § 23.)

Sec. 6-23. PM-302.4.5.

The entire Section numbered PM-302.4.5 is amended to read as follows:

PM-302.4.5 *Door Hardware.* Entrance doors to every apartment dwelling unit shall be provided with approved locking devices so as to provide security against unauthorized entry. The locking devices on main entrance doors must include a deadbolt with not less than 5/8" minimum throw, with the deadbolt capable of being activated by key from the outside and by turn knob from the inside. Door locks and the manner of installation shall be subject to the specific approval of the Building Official. Every exterior door, door hinge, door lock and door latch shall be maintained in functional condition. The requirements of this Section apply to all existing apartment dwelling units and apartment dwelling units hereafter constructed in the City.
(Ord. 2073, § 22.)

Sec. 6-24. PM-303.21.

A new Section numbered PM-303.21 is added and reads as follows:

PM-303.21 *Interior Walls, Floors and Ceilings.* Every interior wall, floor and ceiling shall be maintained in a clean and sanitary, safe and structurally sound condition, free of holes and cracks, loose plaster and wallpaper, flaking or scaling paint, and shall be substantially insect and rodent proof. When paint is applied to the interior surfaces of habitable spaces, it must be lead free.
(Ord. 2073, § 24.)

Sec. 6-25. PM-601.3.

Section PM-601.3 is amended to read as follows:

PM-601.3 *Cooking and Heating Equipment.* All cooking and heating equipment, components, and accessories in every heating, cooking and water heating device shall be maintained free from leaks and obstructions, and kept functioning properly so as to be free from fire, health, and accident hazards. All installations and repairs shall be made in accordance with the provisions of the building code, or other laws or ordinances of the municipality applicable thereto. Portable cooking and heating equipment employing flame are prohibited.
(Ord. 2073, § 31.)

Sec. 6-26. PM-801.55.

A new Section numbered PM-801.55 is added and reads as follows:

PM-801.55 *Containers*. Every owner of a dwelling containing three (3) or more dwelling units shall supply containers or facilities for the sanitary and safe storage and/or disposal of rubbish. In the case of single or two-family dwellings, it shall be the responsibility of the occupant to furnish such facilities or containers.

(Ord. 2073, § 28.)

Sec. 6-27. PM-801.555.

A new Section numbered PM-801.555 is added and reads as follows:

PM-801.555 *Containers*. Every owner of a dwelling containing three (3) or more dwelling units shall supply containers or facilities for the sanitary and safe storage and/or disposal of garbage. In the case of single or two-family dwelling, it shall be the responsibility of the occupant to furnish such facilities or containers.

(Ord. 2073, § 29.)

Sec. 6-28. PM-801.66.

A new Section numbered PM-801.66 is added and reads as follows:

PM-801.66 *Refrigeration for Food Preservation*. Every dwelling unit shall contain a refrigeration unit adequate for the temporary preservation of perishable foods. Such unit shall be capable of maintaining an average temperature below 45° fahrenheit, shall be properly installed and operated, and kept in a clean and sanitary condition.

(Ord. 2073, § 26.)

Sec. 6-29. PM-801.666.

A new Section numbered PM-801.666 is added and reads as follows:

PM-801.666 *Cabinets and/or Shelves*. Every dwelling unit shall contain cabinets and/or shelves for the storage of eating, cooking and drinking equipment and utensils and of food that does not under ordinary summer conditions require refrigeration for safe-keeping; and a counter or table for food preparation; the cabinets and/or shelves and counter or table shall be adequate for the permissible occupancy of the dwelling unit and shall be of sound construction furnished with surfaces that are easily cleanable and that will not impart any toxic or deleterious effect to food.

(Ord. 2073, § 27.)

Sec. 6-30. PM-801.66.1

A new Section numbered PM-801.66.1 is added and reads as follows:

PM-801.66.1 *Cooking Facilities*. Every dwelling unit shall contain cooking and baking facilities for the purpose of preparation of food and such facilities shall be properly installed and operated and kept in a clean and sanitary condition.

(Ord. 2073, § 25.)

Sec. 6-31. PM-801.7.

The entire section PM-801.7 is amended to read as follows:

PM-801.7 *Use and Operation of Supplied Plumbing Fixtures and Basic Facilities*. Every occupant of a dwelling unit shall keep all supplied basic facilities, including plumbing fixtures, cooking and refrigeration equipment, electrical fixtures, in a clean and sanitary condition and shall be responsible for the exercise of reasonable care in their proper use and operation.

(Ord. 2073, § 33.)

Sec. 6-32. PM-801.71.

A new Section numbered PM-801.71 is added and reads as follows:

PM-801.71 *Drug and Poison Storage.* Each dwelling unit shall have a suitable facility for the safe storage of drugs and household poisons. (Ord. 2073, § 30.)

Sec. 6-33. PM-801.8.

The entire Section 801.8 is amended to read as follows:

PM-801.8 *Installation and Care of Plumbing Fixtures and Other Basic Facilities by Occupant.* Every plumbing or electrical fixture or other basic facilities furnished by the occupant of a dwelling unit shall be properly installed and operated and shall be maintained in good working condition, kept clean and sanitary, and free of defects, leaks or obstructions. (Ord. 2073, §33.)

Sec. 6-34. PM-801.99.

A new Section numbered PM-801.99 is added and reads as follows:

PM-801.99 *Care of Premises.* It shall be unlawful for the owner or occupant of a structure used for human habitation to utilize or allow to be utilized the premises of such residential property in whole or in part for the open storage of any motor vehicle for a period in excess of one (1) month when such vehicle is in a state of disrepair; that is, incapable of being moved under its own automotive power, and is more than five (5) years old based on its year of manufacture. The open storage for any period of time on residential property of any ice box, refrigerator, stove, glass, building materials, building rubbish or refuse, furniture or similar items or materials is also prohibited, irrespective of age or condition. It is the duty of the owner or occupant to maintain the outside premises of residential property free of all such listed items, including but not limited to weeds, dead trees, trash, garbage and the like, and to remove such items from their prohibited location upon notice from the Building Official. (Ord. 2073, § 35.)

Sec. 6-35. PM-801.10.

A new Section numbered PM-801.10 is added and reads as follows:

PM-801.10 *Utilities.* No owner, operator, or occupant shall willfully cause any service, equipment, or utility, as required by this Code to be removed, shut-off or discontinued for any occupied dwelling let or occupied by him, except for such temporary interruption as may be necessary while actual repairs or alterations are being made, or during other temporary emergencies. (Ord. 2073, § 36.)

Sec. 6-36. PM-801.11.

A new Section numbered PM-801.11 is added and reads as follows:

PM-801.11 *Transfer of Responsibility.* A contract, lease or other agreement effective as between owner and operator, operator and occupant, or owner and occupant, with regard to matters covered hereunder shall not relieve any party of his direct responsibility under provisions of this Code. (Ord. 2073, § 37.)

Sec. 6-37. PM-801.12

A new Section numbered PM-801.12 is added and reads as follows:

PM-801.12 *Registration.* The owner or lessee of a rental dwelling, every rooming house, and of every multiple family dwelling located in the City shall, in person or by agent, on or before the first day on which the building is used for rental purposes, file with the City Clerk an application for registration of the rental dwelling, rooming house or multiple family dwelling, in accordance with Article 9 of this Chapter. (Ord. 2073, § 38.)

OVER

Sec. 38. The following sections and subsections of the BOCA Basic Property Maintenance Code are deleted:

- PM-105.0 Condemnation
- PM-106.0 Notices and Orders
- PM-107.0 Placarding
- PM-108.0 Emergency Orders
- PM-110.0 Right to Appeal
- PM-111.0 Demolition
- PM-303.3 Interior Surfaces
- PM-303.3.1 Lead-based paint
- PM-801.5 Rubbish storage facilities

Sec. 39. Reserved.

Sec. 40. Reserved.

AND

SECTION 2. THAT Sec. 6-5 of Division 1, "Basic Property Maintenance Code Adoption," Article 2, Chapter 6, of the Code of Takoma Park, Md., 1972, as amended, be amended to read as follows:

Sec. 6-5. Effect of adoption on proceedings.

Nothing contained in the Article of in the Property Maintenance code adopted in this Article shall be construed to affect any suit or proceeding pending in any court, or any rights acquitted, or liability incurred, or any cause of action acquired or existing under any act or ordinance repealed by this Article; nor shall any just or legal right or remedy of any character be lost, impaired or affected by this Article.

(Ord. 2073, Sec. 4)

AND

SECTION 3. THAT this ordinance shall become effective upon adoption.

ORDINANCE NO. 2587

BE IT ORDAINED BY THE MAYOR AND COUNCIL OF THE CITY OF TAKOMA PARK, MARYLAND

SECTION 1. THAT the Mayor and Council deem it necessary to adopt a Landlord-Tenant Relations Code for the City of Takoma Park; AND

SECTION 2. THEREFORE THAT the following Articles and Sections shall be adopted in their entirety as the "Landlord-Tenant Relations Code of Takoma Park: Article I, Sections 1, 2, 3, 4, 5, and 6; Article II, Sections 7 and 8; Article III, Sections 9, 10, 11, 12, and 13; Article IV, Sections 14, 15, 16, 17, 18, 19, 20, 21, and 22; Article V, Sections 23, 24, 25 and 26:

ARTICLE 1. IN GENERAL

Sec. 1 Definitions.

For the purposes of this Ordinance, the following words and phrases shall have the meanings respectively ascribed to them by this section:

Affected tenant. Any tenant whose health, safety or welfare is, or reasonably may be, impaired by a defective tenancy.

Bona fide complaint, response or effort. A complaint or response or effort made in good faith as determined by the Landlord-Tenant Coordinator.

Commission. The City of Takoma Park Commission on Landlord-Tenant Affairs.

Defective tenancy. Any condition in a rental facility which constitutes a violation of the terms of the lease or any provision of this Ordinance or constitutes a violation of any law, regulation or code.

Dwelling unit. That portion of a multi-family building, structure or facility of two or more units which is designated, intended or arranged for use or occupancy as a residence by one or more persons.

Landlord-Tenant Coordinator. The head of the Office of Landlord-Tenant Affairs appointed by the City Administrator.

Inspection or Inspections. An examination of a rental facility or any part thereof, as the Landlord-Tenant Coordinator shall deem appropriate to carry out the purposes of this Ordinance.

Landlord. The owner, the owner's agent, lessor or sublessor of the dwelling unit or the property of which it is a part and, in addition, means any person authorized to exercise any aspect of the management of the premises except those persons engaged solely in custodial and maintenance functions.

Lease. Any written agreement which establishes or modifies the terms, conditions, rules, regulations or any other provisions concerning the use and occupancy of a dwelling unit.

Notice. Notification in such manner and form as shall be established by regulations promulgated by the Commission; except, that these regulations shall not conflict with the notice provisions contained in Article 21 of the Annotated Code of Maryland.

Office. The Office of Landlord-Tenant Affairs

Person. An individual, corporation, partnership, association, organization or any other legal entity.

Rental Facility. Any structure, or combination of related structures and appurtenances, operated as a single entity, in which the operator thereof provides for a consideration two or more dwelling units; but shall not be construed to mean any transient facilities such as boarding houses, tourist homes, inns, motels, hotels, school dormitories, hospitals or medical facilities operated for religious or charitable purposes.

Security Deposit. Any payment of money, including the payment of the last month's rent in advance of the time it is due, given to a landlord against non-payment of rent or damage to the leased premises.

Tenant. Any person who occupies a dwelling unit for living or dwelling purposes with the landlord's consent.

Sec. 2. Legislative Findings.

The Mayor and Council of Takoma Park hereby find that there is often unequal bargaining power between landlords and tenants, that the common law principles pursuant to which leases are interpreted as grants of right or possession rather than mutual and dependent covenants evolved in an agricultural setting and are ill-suited to the modern residential setting of this urban City; that in order to facilitate fair and equitable arrangements, foster the development of housing which will meet the minimum standards of the present day and promote the health, safety and welfare of the people as set forth in The BOCA Basic Property Maintenance Code, 1981, as adopted by the Mayor and Council in Ordinance No. 2555, it is necessary and appropriate that the City provide a Commission and assign responsibilities to the Office and staff of the Commission to determine certain minimum rights and remedies, obligations and prohibitions, for landlords and tenants of certain kinds of residential property.

Sec. 3. Purposes and Policies.

- (a) The underlying purposes and policies of this Ordinance are:
- (1) To simplify and clarify the law governing the rental of dwelling units.
 - (2) To encourage landlords and tenants to maintain and improve the quality of housing in this City, within the guidelines of locally applied housing standards.
 - (3) To assure fair and equitable relations between landlords and tenants.

Sec. 4. Applicability of Ordinance.

Subject to any public general state laws to the contrary, including, but not limited to the Real Property Article of the Annotated Code of Maryland (1974), this Ordinance shall regulate and determine legal rights, remedies and obligations of the parties and beneficiaries of any rental agreement, concerning any multi-family structure containing two or more rental dwelling units within this City wherever executed. Any rental agreement, whether written or oral, shall be unenforceable hereunder insofar as the agreement

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or any provision thereof conflicts with any provision of this Ordinance. Such unenforceability shall not affect other provisions of the agreement which can be given effect without such unenforceable provision.

Sec. 5 Duties of Landlord-Tenant Coordinator.

The Landlord-Tenant Coordinator shall have authority to initiate investigations and conciliation of any alleged or apparent violations of this Ordinance or any complaints filed hereunder. In connection with this authority, all landlords shall be required to make available to the Landlord-Tenant Coordinator for inspection at reasonable times all rental facilities and records necessary for the enforcement of the provisions of this Ordinance. Any maintenance complaint deemed to be a code violation will be forwarded to the Code Enforcement Division for adjudication accordingly; the Commission on Landlord-Tenant Affairs (COLTA) will pursue said cases based on the findings of code enforcement.

Sec. 6. Enforcement Procedure.

- (a) The Commission is authorized to adopt such regulations as may be necessary to administer this Ordinance properly.
- (b) In the enforcement of any of the provisions of this Ordinance, necessary proceedings, including proceedings for the production of documents, may be instituted by the Corporation Counsel's Office after referral by the Commission. The Corporation Counsel, after a matter has been referred by the Commission, may institute appropriate legal action, or refer the matter back to the Commission for such additional information or action necessary to take appropriate legal action. Nothing herein shall limit the authority of the Corporation Counsel to initiate prosecution or bring actions in law or equity for violation of any local law, ordinance or regulation, whether or not the Commission has made a formal referral.
- (c) Any landlord who violates any provision of this Ordinance shall be liable for payment to the City of Takoma Park, Maryland, of a civil penalty, recoverable in a civil action in the Circuit Court of Montgomery County or Prince George's County, in an amount not to exceed \$100.00 for each such violation. The violation of any provision of this Ordinance shall constitute a municipal infraction for which a citation may be issued. The rules and procedures for the use of municipal infraction shall be as delineated in Section 1-17 (B) of the Code of Takoma Park, 1972, as amended.

ARTICLE II. TAKOMA PARK COMMISSION ON LANDLORD-TENANT AFFAIRS

Sec. 7. Created; Membership; Appointment; Term of Office of Members; Alternate Members.

- (a) There is hereby established the Takoma Park Commission on Landlord-Tenant Affairs, hereinafter referred to as the Commission. The Commission shall consist of nine (9) residents of Takoma Park to be appointed by the Mayor, subject to the approval of the City Council. Three (3) of said members shall be landlords or shall represent landlords; three (3) members shall be tenants or represent

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tenants; and three (3) shall be members of the public-at-large who are neither tenants nor landlords. In addition, there shall be appointed one (1) alternate member from each group. Each member of the Commission shall continue to serve until a successor has been appointed. The term of any member or alternate member shall expire in the event that member changes status as a landlord, a tenant, or a member at large, or in the event that member ceases to reside within the boundaries of the City of Takoma Park.

- (b) The Commission shall study and report periodically to the Mayor and Council on any federal, state or county rent stabilization regulations, on rent increases, and on rent inequities that they may find to exist in the City. The Commission shall prepare and transmit to the City Council during the month of March recommendations on whether rent stabilization should or should not be continued, and if they should be continued, what they should be, so that the City Council may be in a position to make informed decisions with respect to the continuation of rent stabilization in the City of Takoma Park.
- (c) The Commission shall provide such other information as may be requested by the Mayor and City Council.
- (d) The Commission shall elect one of its members as Chairperson another of its members as Vice-Chairperson, each to serve at the pleasure of the Commission, and such other officers as it shall determine. The Commission shall meet on call by the Chairperson as frequently as required to perform its duties. Six members of the Commission, two (2) from each interest group shall constitute a quorum for the transaction of business, and a majority vote of those present, with no less than six (6) present at any meeting, shall be sufficient for any official action taken by the Commission. At the request of a majority of the members, a regular or emergency meeting of the Commission shall be convened. Written notice shall be given to each and every Commission member and alternate member at least three (3) days prior to any regular meeting. Notice of an emergency meeting may be in writing or by telephone, but must be communicated to all of the members and alternates no later than twenty-four (24) hours in advance of such emergency meeting.
- (e) When a member is absent, the alternate member who represents the same interest group shall participate in the Commission proceeding in place of the absent member. Such alternate members may exercise the voting privilege only when acting for an absent member of the interest group which said alternate member represents
- (f) The City Administrator shall have the authority to provide house-keeping and staff services to the Commission and shall provide a record of expenses incurred.
- (g) The Commission shall within thirty (30) days following each quarter of the calendar year report to the Mayor and City Council on the number of complaints filed during such quarter, the nature thereof and the disposition made thereof; and shall make this information public as soon as practicable. This report shall include the titles of all court cases arising under this Section.

Sec. 8. Powers and Duties Generally.

- (a) "Notice" requirements, except as specified in this Ordinance, shall be established by regulations promulgated by the Commission;

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except, that these regulations shall not conflict with the notice provisions contained in the Real Property Article of the Annotated Code of Maryland (1974).

- (b) The Commission shall be empowered to enforce the provisions of this Ordinance through any appropriate means, including but not limited to: (1) the utilization of the services available through the Office of Landlord-Tenant Affairs; (2) the imposition of an award of money damages against a landlord or tenant for the benefit of either as may be provided for in this Ordinance; (3) the ordering of repairs by a landlord or tenant; and (4) the investigation and conciliation of any violations of this Ordinance or any complaints filed hereunder.

ARTICLE III. LANDLORD-TENANT OBLIGATIONS

Sec. 9. Contents of Lease.

All leases or agreements for the occupancy of a dwelling unit in a rental facility located in Takoma Park, Maryland, must:

- (a) Be offered for an initial term of one (1) year to be accepted at the prospective tenant's option, unless a reasonable cause exists for offering an initial term of other than one year.
 - (1) For purposes of this subsection, reasonable cause shall mean those situations which would create undue hardship or expense for a landlord to enter into a one year lease. Such situations may include the sale of a dwelling unit with settlement to occur within a one-year period, a bona fide contract to sell within a one-year period, or a planned conversion to condominiums within a one-year period. When the landlord claims such a cause, a statement citing the reasonable cause and advising the prospective tenant of his or her right to challenge the statement by filing a complaint with the City Office of Landlord-Tenant Affairs shall be included as an addendum to the lease, signed and dated by the landlord and a copy given to the prospective tenant. It must be clear in the lease or in an addendum to said lease that an offer of one-year was made to the prospective tenant, verifiable by the tenant's signature accordingly.
- (b) Contain no waiver of the landlord's liability for damage occasioned by the landlord's negligence or violation of any applicable laws, and provide for reimbursement to the tenant for any damage sustained by the tenant due to the negligence of the landlord.
- (c) Contain a provision acknowledging the landlord's responsibility for maintenance of the premises and incorporating by reference the 1981 edition of The BOCA Basic Property Maintenance Code (as adopted by the City of Takoma Park in Ordinance No. 2555), as an express warranty of habitability and covenant to repair.
- (d) Contain no provision for penalty for late payment in excess of five (5) percent of the amount of rent due for the rental period for which payment is delinquent, and contain a provision providing for a minimum of ten (ten) days before late fees are charged.

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- (e) Contain no provision authorizing the lessor to take possession of the leased premises or the tenant's personal property herein without the benefit of formal legal process.
- (f) Contain a provision for the deposit of all security deposits in accordance with the provision of the Real Property Article of the Annotated Code of Maryland, 1974, as amended.
- (g) Contain a provision requiring written receipts for all cash, checks, or money orders paid by the tenant to the landlord for rent, security or otherwise.
- (h) Contain a provision requiring that the landlord exercise his or her right to access to any dwelling unit, after due notice to the tenant, and without objection from the tenant, in order to make necessary repairs, decorations, alterations or improvements and supply services only by mutual agreement during normal business hours except in an emergency; to exhibit the dwelling unit to prospective purchasers, mortgagees or tenants only during normal business hours, including weekends, except as otherwise may be agreed upon by the parties; and providing that nothing in this subsection shall prevent the landlord from entering any leased premises in an emergency situation or, after 48 hours notice, when the landlord has good cause to believe the tenant may have damaged the premises or may be in violation of this Ordinance.
- (i) Contain no provision for a lien on behalf of the landlord on the tenant's chattels, except as provided by the Real Property Article of the Annotated Code of Maryland.
- (j) Contain a provision permitting the lease to be terminated by the tenant upon 30-days written notice to the landlord due to an involuntary change of employment from the Washington metropolitan area, death of a major wage earner, unemployment, or for other reasons beyond the tenant's control. The lease may provide that in the event of termination for such cause, the tenant shall be liable for a reasonable termination charge not to exceed one (1) month's rent or actual damages sustained by the landlord, whichever is the lesser amount.

Sec. 10. Leasing Requirements Generally.

No lease entered into after the effective date of this Ordinance shall be effective to the extent that it contradicts the provisions of this Ordinance and no provision of any such lease shall be applied in contradiction of this Ordinance.

Sec. 11. Obligations of Tenants.

Each tenant, at all times, shall comply with all obligations imposed upon tenants by applicable provisions of all federal, state or county statutes, codes, regulations or ordinances, and in particular:

- (a) Keep that part of the premises which tenant occupies and uses as clean, sanitary and safe as the conditions of the premises permit.
- (b) Dispose from the dwelling unit all rubbish, garbage and other organic or flammable waste in a clean and sanitary manner

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- (c) Keep all plumbing fixtures as clean and sanitary as their condition permits.
- (d) Properly use and operate all electrical and plumbing fixtures.
- (e) Not permit any person on the premises with the permission to willfully or wantonly destroy, deface, damage, impair, or remove any part of the structure or dwelling unit or the facilities, equipment or appurtenances thereto, nor tenant do any such thing.
- (f) Comply with all covenants, rules, requirements and the like which are brought to the attention of the tenant, which are consented to in writing by the tenant, and which are reasonably necessary for the preservation of the property and persons of the landlord, other tenants or any other person.
- (g) Maintain monetary responsibility for any damages done to the premises, which may result in a violation of the BOCA Basic Property Maintenance Code as adopted by the City of Takoma Park, in Ordinance No. 2555.

Sec. 12. Obligations of Landlords.

- (1) The landlord, at all times, shall reasonably provide for the maintenance of the health, safety and welfare of all tenants and of all individuals properly on the premises of a rental facility which obligations shall include, but not be limited to the following:
 - (a) Complying with all applicable provisions of any federal, state, county or city statute, code, regulation, or ordinance governing the maintenance, construction, use or appearance of the dwelling unit and the property of which it is part of.
 - (b) Keeping all areas of the building, grounds, facilities and appurtenances in clean, sanitary and safe condition.
 - (c) Making all repairs and arrangements necessary to put and keep the dwelling unit and the appurtenances thereto in as good condition as they were, or ought by law or agreement to have been, at the commencement of tenancy.
 - (d) Maintaining all electrical, plumbing and other facilities and conveniences supplied in good working order.
 - (e) Providing and maintaining appropriate receptacles and conveniences for the removal of ashes, rubbish and garbage, and arrange for the frequent removal of such waste.
 - (f) Supplying water and hot water as reasonably required by the tenant and supplying adequate heat as provided by Article 6 of the 1981 edition of The BOCA Basic Property Maintenance Code as adopted by the City of Takoma Park, in Ordinance No. 2555.
- (2) A landlord has the right to issue a tenant a 30-day written notice to vacate in the event of breach of the lease, or issue a 60-day written notice to vacate when no reason is specified, as stated in Sections 8-402.1(a) and 8402(b) (4) (iii), respectively, of the Real Property Article of the Annotated Code of Maryland (1974).

Sec. 13. Landlord Notice Requirements.

Any landlord renting two (2) or more dwelling units in Takoma Park, shall provide for; (1) the posting of a durable notice in an accessible, conspicuous and convenient place in each building to which the notice applies; or (2) the personal distribution of the notice to all lessees. The notice shall contain current information, including the name(s) or title(s) and telephone number(s) of one or more responsible representative(s) of the building management who may be reached at all times in the event of emergency situations.

ARTICLE IV. COMPLAINTS

Sec. 14. Tenants' Complaints.

If any affected tenant has reason to believe that a defective tenancy exists, has given the landlord written notice of the complaint alleging a defective tenancy, and the landlord fails to make a bona fide effort to rectify the defective condition within one (1) week after the notice has been given, the affected tenant may file with the City Office of Landlord-Tenant Affairs a complaint in writing, which shall state the name and address of the landlord, the premises in question and the particulars of the alleged defective tenancy.

Sec. 15. Landlords' Complaints.

If any landlord has reason to believe that a defective tenancy has been created or permitted to exist by a tenant, has given the tenant written notice of the complaint alleging a defective tenancy, and the tenant fails to make a bona fide effort to rectify the defective condition within one (1) week after the notice has been given, the landlord may file with COLTA a complaint in writing, which shall state the name and address of the tenant and the particulars of the alleged defective tenancy.

Sec. 16. Filing Procedure Generally.

If any prospective tenant or landlord has reason to believe that a violation of any provision of this Ordinance exists, he or she may file a complaint with COLTA in writing, giving the particulars of the alleged violation. Any complaints so filed which allege matters which may be in violation of the provisions of the 1981 edition of The BOCA Basic Property Maintenance Code as adopted by the City of Takoma Park, in Ordinance No. 2555 or any other provision of the city or county code concerning the primary enforcement jurisdiction of COLTA shall be referred to COLTA for appropriate action. Such action shall be initiated promptly and nothing herein shall be construed to prevent the filing of appropriate complaints directly with COLTA.

Sec. 17. Investigation of Complaints.

- (1) Upon the filing of any complaint, the Landlord-Tenant Coordinator shall make such investigation as he or she deems appropriate to ascertain whether there are reasonable grounds to believe that the allegation is true and determine whether a violation of this Ordinance has occurred or a defective tenancy exists. If at any time after a complaint is filed, the Landlord-Tenant Coordinator believes the health, safety, welfare

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or well being of a tenant is placed in immediate and present danger, he or she shall be authorized to take immediate action to provide appropriate relief including notification of the chairperson or vice-chairperson of the Commission who shall determine whether or not an emergency meeting of the Commission is necessary.

- (2) The Landlord-Tenant Coordinator's investigation shall, when applicable, include review of the records of the Code Enforcement Division with reference to the property in question. The Coordinator may order a general or specific inspection of the property by the Code Enforcement Division.

Sec. 18. Procedure When Violation of This Ordinance or Defective Tenancy Not Found.

If the Landlord-Tenant Coordinator, in investigating a complaint, determines that there are no reasonable grounds to believe that a violation of this Ordinance has occurred or a defective tenancy exists, he or she shall so inform the Commission and the Commission may, in its discretion, determine whether or not the complaint is bona fide, and order dismissal of the complaint, or order such further investigation as deems appropriate.

Sec. 19. Commission Action When Violation of Ordinance or Defective Tenancy Found.

- (a) If, at the conclusion of the hearing, the Commission or Commission panel determines, upon the preponderance of the evidence of record, that a violation of this Ordinance has occurred or a defective tenancy exists, the Commission or Commission panel shall state its findings and issue an order. Such order shall require the respondent to cease and desist from such unlawful conduct and to take such appropriate action as will effectuate the purpose of this Ordinance. The order shall also contain a notice that if the Commission determines that the respondent has not, after fifteen (15) calendar days following service of the Commission's order, or Commission panel's order, made a bona fide effort to comply with the order, the Commission will refer the matter to the City Attorney for enforcement.
- (b) Where the Commission or Commission panel finds that a landlord has caused a defective tenancy, all affected tenants may be entitled to one or more or all or part of the following remedies as ordered by the Commission or Commission panel:
- (1) Immediate termination of their leases, and return of their security deposits and all rental monies already paid to the landlord from the period the landlord was notified of the condition, and relief from any and all future obligations under the terms of the lease. Where the termination of a lease is ordered, the dwelling unit shall be vacated within a reasonable period of time.
 - (2) An award of damages to be paid by the landlord sustained as a result of the defective tenancy, such damages being determined as the actual damage or loss. In the case of loss of services, such damage shall be proportionate to the amenity lost. In the case of damages to persons or property an award for damages shall not exceed one thousand dollars per affected dwelling unit.

- (3) An amount to be paid by the landlord equivalent to a reasonable expenditure adequate to obtain temporary substitute rental housing in the area.
- (c) Where the Commission or Commission panel finds that a tenant has caused a defective tenancy, the landlord may be entitled to one or more of all or part of the following remedies as ordered by the Commission:
- (1) The landlord may immediately terminate the lease and gain possession in accordance with the provisions of the Real Property Article of the Annotated Code of Maryland (1974). Other remedies available to the landlord shall be as provided by state law.
 - (2) An award of damages to be paid by the tenant to the landlord sustained as a result of a defective tenancy, such damages being determined as the actual damage or loss but not exceeding one thousand dollars with a credit for any damages which may have been deducted from the security deposit. Any award of damages or money under this Section not paid within thirty (30) days from such award may be enforced by the landlord or tenant to whom the award was granted in any court of competent jurisdiction, and any such court is authorized to grant judgement for such monies plus interest from the date of the award.

Sec. 20. Penalty For Failure to Comply with Commission Orders or Summons.

- (a) Any person who fails to comply with any Commission order or Summons issued pursuant to this Article, shall be subject to the enforcement procedure and penalties provided for in Article 1, Sec. 6, of this Ordinance.
- (b) Where a person, rather than comply with the Commission order, chooses to cease the conduction or operation of a rental facility he or she shall give any tenant occupying the premises in question sixty (60) days written notice to vacate the premises, the period to begin on the first day of the month following service of the notice. A copy of the notice must be delivered to the Landlord-Tenant Coordinator. No penalty will lie during the sixty (60) day period that tenants have to vacate the facility.
- (c) In addition to any criminal or other penalty herein provided, compliance with an order of the Commission may be effectuated by injunctive or other appropriate action or proceeding to correct any violation of this Article, and any court of competent jurisdiction may issue restraining orders, temporary or permanent injunctions or other appropriate forms of relief.

Sec. 21. Appeals.

Any person aggrieved by a final action of the Commission rendered under this Ordinance may appeal to the Mayor and Council.

Sec. 22. Rent Guidelines.

- (a) Rent for any particular dwelling unit in a multiple-family dwelling facility may be increased in an amount not to exceed ten percent (10%) of the monthly rent charged immediately preceding the effective date of the proposed increase.
- (b) A tenant may not receive more than one (1) increase in a twelve (12) month period; and that a landlord must issue a sixty (60) day prior written notice of an increase.

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- (c) Whenever a landlord proposes a rent increase of more than ten percent (10%), the landlord shall provide an affidavit on a form provided by the Commission setting forth the justification for the increase. Upon receipt of the affidavit, the Commission shall review the justification presented by the landlord and determine whether the rent increase was reasonable based on the landlord's presentation. In the event the Commission shall determine that increase in rent was justified, the Commission shall by letter notify the landlord and tenant of its approval. In the event the Commission shall determine that the landlord was not justified in increasing rent above ten percent (10%), the Commission shall notify the landlord and tenant of its finding. Should the landlord or tenant disagree with the findings of the Commission, the landlord or tenant may note an appeal to the Mayor and Council, which Notice of Appeal must be filed in writing within ten (10) days of the date of the notification of the approval or denial of the rent increase.
- (d) In the event the Commission determines that a fact-finding hearing is necessary to compile additional information prior to making a determination of the merits of a rent increase of more than ten percent (10%), the Commission may conduct such hearing. Notice of the hearing and its time and place shall be given to the landlord whose rent increases are more than ten percent (10%), all tenants who are or may be affected by the rent increases, any known resident tenant association or organization, and any person who filed with the Commission a comment relative to the landlord's justification of the rent increase. Such notice shall be prepared and transmitted in such form and such process as the Commission shall prescribe.
- (e) The hearing shall be open to the public. In conducting hearings, the Commission shall have the power to summon all witnesses. Summonses must be signed by the Chairperson or Vice-Chairperson of the Commission and shall require the attendance of named persons and the production of relevant documents and records. Failure to comply with a summons shall constitute a violation of the Ordinance and shall be referred to the Corporation Counsel's Office in order to obtain an appropriate order from the Circuit Court for either Montgomery or Prince George's County to insure compliance with the summons. Any party to the hearing may request the issuance of a summons. The Commission shall include in the hearing record testimony of the professional staff members of the City and such other witnesses as may be relevant to the issues posed in the hearing. The Commission may also request from the landlord such additional information and documents as it considers relevant. Any party to a hearing, at the party's option, may appear in person before the Commission, or may appear by a duly authorized representative and may have the assistance of an attorney. The parties may present testimony and evidence which shall be given under oath or by affirmation. The parties may also cross-examine any witness presenting testimony at a public hearing. A verbatim record of the hearing shall be made. The record shall be open to inspection by any person and, upon request by any party to the proceeding, the Commission shall furnish such party a copy of the hearing record at such charges as are necessary to meet costs. The Commission's decision shall become final unless appealed to the Mayor and Council.

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- (f) In consideration of the reasonableness of a proposed rent increase, the Commission shall be guided by, but not bound by, the following guideline:
- (1) An increase exceeding ten percent (10%) should not be granted on a property having outstanding Municipal Infraction Citations of The BOCA Basic Property Maintenance Code/1981.
- (g) This Section is applicable to all dwelling units located in the City, except the following:
- (1) Any establishments which have as their primary purpose the providing of diagnosis, cure, mitigation, and treatment of illnesses for residents;
 - (2) Dwelling units owned by a person who owns fewer than five (5) rental dwelling units within the City;
 - (3) One-family dwellings, semi-detached dwellings, and town-houses not located within a centrally managed multi-family housing community offering services substantially similar to those offered to apartment dwellers;
 - (4) Dwelling units which are part of federal government assisted multi-family housing projects and which require accountability of rent returns to the federal government or to dwelling units which are part of multi-family housing projects owned and operated by the Montgomery County Housing Opportunities Commission;
 - (5) Dwelling units which fall within the Section Eight market guidelines which are occupied by tenants participating in federal government's Section Eight Housing Assistance Payments Program and whose owners receive housing assistance payments on behalf of those eligible tenants;
 - (6) Any vacant apartment unit may be rented at the level of comparable apartment units within a building, with comparable being defined on the basis of square footage, efficiency, one-bedroom and two-bedroom apartments;
 - (7) This section does not apply to furnished apartments which are now being rented for transient occupancy.

ARTICLE V. LANDLORD-TENANT OBLIGATIONS

Sec. 23. Prohibited Retaliatory Practices.

- (a) No landlord or owner may make any changes in his or her leasing or business practices with respect to any dwelling unit subject to this Ordinance for the purposes of avoiding compliance with any provision of this Ordinance.
- (b) No landlord may take retaliatory action against any tenant who exercises any rights conferred upon him or her by this Ordinance or against any tenant who assists another tenant in exercising those rights. For purposes of this Section, "retaliatory action" includes eviction, threat of eviction, violation of privacy, harassment, reduction in quality or quantity of services not otherwise authorized under this Ordinance, unreasonable rent increases, or any form of threat or coercion.

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Sec. 24. Tenants' Rights.

- (a) Tenants shall have the right to self-organization; to form, join, meet or assist one another within or without tenant organizations; to meet and confer through representatives of their own choosing with landlords; to engage in other concerned activities for the purpose of mutual aid and protection; and further, tenants shall have the right to refrain from any and all such activities.
- (b) Tenants and tenant organizations shall have the right of free assembly in the meeting rooms and other areas suitable for meetings within a rental facility during reasonable hours and upon reasonable notice to the landlord for the purpose of conducting tenant organization meetings. The landlord may charge a reasonable fee for the use of the meeting rooms or common areas but such charge must not be in excess of the regular schedule of fees for such facility to other groups. The landlord may also impose reasonable terms and conditions upon the use of such meeting rooms or common areas as long as such terms and conditions do not constitute a subterfuge to undermine the purposes of this Section.
- (c) Tenants and resident tenant organizations shall have the right to distribute freely and post in centrally-located areas of a rental facility literature concerning landlord-tenant issues provided the literature is properly identified as to its origin.
- (d) Tenant organizations shall have standing to file complaints under any provision of this Ordinance in a representative capacity on behalf of those tenants who have authorized such representation. Nothing herein shall be construed to permit any tenants' organization to represent exclusively any tenant or class of tenants unless authorized to do so specifically.

Sec. 25. Reduction in Service or Equipment.

- (a) Any tenant subject to a reduction or elimination of service or equipment which had been provided at the commencement of tenancy may file a complaint with the Commission, alleging breach of lease. The Commission, upon completion of the necessary administrative process, and upon affirmative finding of such a breach, may impose an award of damages and/or reduction in rent in an amount commensurate with the actual cost savings accruable to the landlord as a result of the reduction of service or equipment.
- (b) Any transfer or conversion of responsibility from the landlord to be the tenant of any utility payments including submetering and individual metering systems shall be based on the following considerations:
 - (1) A landlord may not transfer responsibility for utility payments to an existing tenant unless the affected tenant receives written notice thereof at least two (2) months prior to the effective date of the conversion. The date of receipt may not be counted as part of the notice requirements.

Written notice may be delivered to the tenant by any reasonable means. However, unless the notice is mailed via the United States Postal Service to the tenant's dwelling unit,

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delivery is not considered to have been made unless a signed receipt is obtained from the tenant or a representative. If the tenant is notified by mail, the landlord shall certify, by affidavit dated at the time of mailing, that he or she has mailed the notice, and he or she shall retain a copy of said affidavit in his or her records.

- (2) The notice of the utility conversion must be accompanied by an offer to reduce the affected tenant's rent in an amount commensurate with the actual utility consumption experienced by the landlord during the previous twenty-four (24) months at the utility rate in effect at the time of the conversion. The offer of reduction in rental shall be based on the average actual utility consumption at the property less common area utility expenses. The offer may also be based on reasonable factors such as unit size, unit location, and, at the discretion of the landlord, other unusual circumstances. The offer shall be made in the form of a monthly reduction in rental rates effective on the date of the conversion.
 - (3) Any lease entered into after the effective date of this Ordinance shall contain a disclosure of the landlord's intent, if any, to transfer or convert responsibility for utility payments to the tenant during the term of the lease. Failure to make this disclosure shall be grounds for termination of the lease by the tenant. For the purpose of this Section, the term "intent" shall be construed to mean having entered into a contract for the installation of submeters or individual meters or applied for electrical permits for such installation.
 - (4) The date of transfer of financial responsibility for utilities must occur at the commencement of a rent payment cycle.
 - (5) Upon the completion of the procedures outlined in subsection (b) (1), the landlord shall have the right to access during normal business hours to the tenant's unit after a two (2) day written notice and without reasonable objection from the tenant to make alterations pertaining to the installation of metering, wiring and other equipment necessary to the utility conversion.
 - (6) Any submetering action shall be accomplished in accordance with regulations promulgated by the Maryland Public Service Commission.
- (c) Subsections (a) and (b) shall not be construed to allow a landlord to reduce or eliminate, except by the procedures set forth therein, any essential service or equipment required by law. Subsections (a) and (b) shall not be construed to provide remedy for temporary interruption of service or equipment otherwise maintained by the landlord. In the case of temporary interruptions of service or equipment, the tenant shall be entitled to an award of his or her actual damages, if any, which resulted from a breach of the lease or the negligence of the landlord.

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Sec. 26. Severability.

The provisions of this Act are severable, and if any provision, sentence, clause, section, word or part thereof, is held illegal, invalid, unconstitutional or inapplicable to any person or circumstance, such illegality, invalidity, unconstitutionality, or inapplicability shall not affect or impair any of the remaining provisions, sentences, clauses, sections, words, or parts of the Act or their application to other persons or circumstances. It is hereby declared to be the legislative intent that this Act would have been adopted if such illegal, invalid or unconstitutional provision, sentence, clause, section, word or part, had not been included therein, and if the person or circumstances to which the Act or any part thereof is inapplicable had been specifically exempted therefrom.

ADOPTED BY THE MAYOR AND CITY COUNCIL of TAKOMA PARK, MARYLAND on September 28, 1981.