

CITY OF TAKOMA PARK, MARYLAND  
Regular Meeting of the City Council  
and Public Hearing  
Monday, July 9, 1990

CITY OFFICIALS PRESENT:

Mayor Del Giudice  
Councilmember Douglas  
Councilmember Elrich  
Councilmember Hamilton  
Councilmember Leary  
Councilmember Moore  
Councilmember Prensky  
Councilmember Sharp

City Administrator Wilson  
Asst. City Administrator Habada  
City Clerk Jewell  
Asst. Corp. Counsel Perlman  
Code Enforcement Ofc. Laning  
Housing Services - Weiss  
Community Planner Schwartz  
Corp. Counsel Silber  
Personnel Officer Hobbs

The City Council convened at 8:05 p.m. on Monday, July 9, 1990, in the Council Chamber at 7500 Maple Avenue, Takoma Park, Maryland.

Following the pledge of allegiance, the Mayor acknowledged the presence of Mr. Guins, who is a member of the committee who helped to make the July 4 celebration successful. He extended his thanks to all of the city employees, including the police, the Public Works Department and the Recreation Department. He also stated that as the practice of the Council for the past years that the Council will recess after July 23 will reconvene in September following the Labor Day holiday. However, he stated that the regular session would be held on July 23, 1990 and a final work session on July 30, 1990.

CITIZEN'S COMMENTS:

Rose Bulow, 7607 Hammond Avenue, Takoma Park, Maryland. Stated that she has been a resident of Takoma Park for 17 years and had delivered a petition to the office of the Mayor and to the office of Councilmember Moore. She read from the Petition that it came to the neighborhood's attention that Stout & Teague, the owners of 7676 New Hampshire have leased space to be used for a food market and dining enterprise. It also has been reported that this business intends to serve alcoholic beverages. Additionally, it has been learned that the business that is known as Caribbean Market, will be open for business late in the evenings, weekdays and weekends. The petitioners are concerned about many factors they believe would have an adverse impact on their neighborhood if this business is conducted in accordance with the aforementioned. Ms. Bulow said the more serious concerns are that the proposed business has the potential for creating noise, breaching security, invading privacy, diminishing health & well-being and increasing pollution. The operating hours of this business will create an additional burden for surveillance of Police, which could result in increased taxes for property owners and/or a reduction of service to the community. Health hazards could also be created by the presence of trash, including food scraps. Citizen's property values will decrease because of the lack of attractiveness and the element of fear will be created by the possibility of ill-intentioned persons having easy access to the property. Ms. Bulow urged the Council to take immediate action to see that the welfare and interests of the citizens are protected. She said that they were lead to believe that 7676 New Hampshire would be used for professional offices only and she added that she had the opportunity to talk with the potential entrepreneurs--One in particular gave her negative remarks.

Councilmember Moore stated that he had spoken several times with the owner of the building about the proposed market/restaurant and they have assured him that they are very much interested in satisfying the neighbors' concerns about the potential problems that the neighbors have foreseen and the owners are in the process of arranging a community meeting at which the building owners and

the market owners will discuss the matter with concerned neighbors in the surrounding areas. He assured the neighbors that no liquor license can be issued until the Council has passed action on the application, and the City has received no application at this time. Anything regarding that would have to be reviewed first by the Council and citizens would have an opportunity to address the issue at that time.

David Prosten: 6625 Eastern Avenue stated that a couple of meetings ago he attended a Council meeting when the Council brought forth, debated and passed an amendment to the guidelines to the city Newsletter that were originally adopted in 1983. The amendment that was presented and discussed dealt with coverage of city residents being involved in elections outside the city. He said that he testified against it and thought it was a bad idea, and the Council unanimously adopted that. There was no discussion at that time of changing Article V, which deals with how much access the Council has to the City Newsletter.

Mr Leary responded that it was a mistake to fail to include that particular section in the Newsletter article. The Council took no action to delete that guideline. Mr. Leary said that the change in the guideline that he would support would be to deny all special access to elected city officials; the Council did not intend to change it. He said that he hoped that the City Administrator makes certain that the next issue of the Newsletter corrects that mistake. Mr. Prosten replied that it would be appreciated. The guidelines were published two issues ago; if the Council wants to change the guidelines, that's fine, but there have been a number of articles published under Councilmember's names that have far exceeded the guidelines. If the Council wants to change them, they should do so in a public forum. He said if the Council was not going to change them, he would ask Council to heed them as written and approved by the Council several years ago.

Jim Jeffas, 7600 Hammond Avenue said he has been a resident for 28 years and asked Mr. Moore why didn't he contact the citizens about the restaurant in the Langley Professional Building. Mr. Jeffas stated that the building was put there as a professional building.

Tom Guins, 1200 Kingwood Drive, Takoma Park thanked the City for the fine help that they gave us on July 4. He said that he was there representing the Takoma Park Independence Day Committee and would like the Mayor and Council, Police Department, Public Works and Recreation Department and the citizens of Takoma Park.

#### AGENDA ITEMS

1. Handicapped Parking Space at 7614 Trescott Avenue. The Ordinance was moved and seconded for first reading. Councilmember Sharp raised the issue of putting the handicapped parking space in front of the house at which the Council has been told that there are elderly residents who are handicapped and staff were asked to investigate and verify that these individuals have acquired handicapped parking. The Council can't vote on it for second reading until they have had that assurance. The question was called and Ordinance was accepted at first reading.

2. Public Hearing concerning the condition of the building at 801 Colby Avenue. Mayor Del Giudice said that on 6/11/90, the City Council adopted Ordinance 1990-23, which set this date and time, to determine whether that building should be condemned as unfit for human habitation. Notices of this Hearing has been sent by Certified Mail to the owner of the property: Mamie Lewis Robinson as well as to the descendants. The notice of this Hearing has been posted on the premises and advertised in two papers, namely the Washington Post, Prince George's Journal.

Brad Laning; Code Enforcement Officer spoke of the condition of the property which has been deteriorating both the exterior/interior. He said that the roof structures are

deteriorating and show signs of collapsing. An exterior rear wall has collapsed already. The building interior is very unsafe, partly falling, and the building was totally open to the weather, and the stairway has almost collapsed and there was no plumbing or heat.

Paula Jewell, City Clerk reported that there has been no filing of an intention from any party wishing to oppose the condemnation of the building despite the notices previously indicated to the surviving owner of the property and the descendants of other former record owners. Mayor Del Giudice announced that Public Hearing on 801 Colby Avenue was called to close.

3. First Reading of An Ordinance Condemning 801 Colby Avenue. Moved and seconded that the Ordinance be accepted for first Reading. (Following this was a videotape shown of the conditions of the property).

Mr. Sharp said that the condemnation of Colby Avenue was one of the things that the neighbors have been interested in seeing pursued, it having been an eye-sore for such a long while. Mr. Douglas brought up the fact not only was it an eye-sore but that it is a hazard to the neighborhood and is structurally unsound.

Councilmember Hamilton moved acceptance of the Ordinance at first reading and duly seconded.

4. First Reading of No Smoking Ordinance

Councilmember Prensky moved adoption of the Ordinance "Smoking Prohibitions and Restrictions", duly seconded by Councilmember Elrich.

Mayor Del Giudice asked if the recent draft included legislation regarding the cigarette vending machines. Mr. Prensky said it did.

Councilmember Prensky summarized the Ordinance. It basically restricts smoking in city buildings, all public places, retail stores that have more than 2 employees, private work places with more than 2 employees. He went on to say it mirrors the law that became effective in Montgomery County as of May 24, 1990. In addition, the Council has made specific provisions to prohibit the free distribution of samples of tobacco products, to prohibit smoking in any child care facilities, and the Council has sought to prohibit vending machines in the City of Takoma Park. There is a basic conflict with the existing State law that the City cannot legislate against or prohibit an activity that the State specifically licenses - the state licenses the sale of tobacco products - and does so through the use of cigarette vending machines. The State provides the opportunity to create an additional licensing requirement in the case where the municipality sees a necessary need in relation to the health and safety and morals of the community. In this case, we saw fit to have the Ordinance require additional licenses for cigarette vending machines, if they are to be placed in the city of Takoma Park and they can only be placed in such places that basically minors do not have access to. Mayor Del Giudice stated that this Ordinance does lower the requirements both in Montgomery and PG County for eating and drinking establishments in terms of the requirements for separate non-smoking facilities.

Dr. Alfred Munzer on staff on staff at Washington Adventist Hospital. Dr. Munzer discussed the pitfall and dangers of smoking and passive smoking (being around or in the same area with the person smoking). He commended the Council for considering the Ordinance and urged the Council to adopt it.

Judy Lichty said she works with the community health education program at Washington Adventist Hospital "Life Dynamics". Part of the program is the Stop Smoking program which is a 5-day program. She said that at the Washington Adventist Hospital, they believe strongly in not smoking; therefore, they would like to give their

support toward the Ordinance.

Kathleen Scheg, Legislative Liaison for Action on Smoking and Health. Commended the Council for moving forward with the Ordinance. Especially for the children. She referred to an article by the AMA: more than 3 million American children under 18, consumed 947 million packs of cigarettes yearly, despite the fact that Maryland and 40 other states and the District of Columbia, all bar the sale of cigarettes to minors. She also quoted Dr. Henninger, Chief of Clinical Pharmacology at Baltimore's Addiction Research Center. He stated that the odds are that someone who tries cigarettes will become addicted 9 out of 10 times. Moreover, nicotine is the gateway drug. The U.S. Surgeon General states that youth that smoke cigarettes daily (those age 12-17) who smoke daily, are over 100 times more likely to use marijuana and more than 30 times more likely to use cocaine than children who never smoked. Mrs. Scheg also stated that although Takoma Park will be the first in the Washington area to restrict cigarette vending machines, there are a number of jurisdictions across the country that have already done so. The existence of vending machines make it impossible to truly enforce the state law restricting the sale of cigarettes to minors. A child tall enough to reach the coin slot on the vending machine, can purchase cigarettes. Studies have shown that minors can obtain cigarettes from vending machines even in places supposedly "off limits". Mrs. Scheg referred to a study done by The American Lung Association working with the office on smoking and health conducted a study in the Washington/Metropolitan area, sending out young children to purchase cigarettes from vending machines in all the areas. About 100% of the time, the children were able to purchase cigarettes from the vending machines. Mrs. Scheg also cited sting operations that were done in Woodbridge, IL to enforce the licensing of vending machines. After 2 sting operations, they are now down to 0 purchases by minors. Ms. Scheg also gave the statistics on the sale and the giving away of cigarettes by vendors.

Jeff Zellmer, representing Takoma/Langley Crossroads Development stated that the legislation affects all of their members. He stated that he would defer verbal testimony and submit written testimony to the Council.

Gary Robinson, President of Company Healthy Building International inferred that their company is the most experienced company in the U.S. in the study of indoor air quality in buildings; specifically indoor pollutants. He had no comments about the vending machine; which is outside his jurisdiction. He stated that his interest is air quality. He said that he noticed in the latest amendment, there is the statement that "tobacco smoke is the most wide-spread and the most harmful indoor pollutants". He did not agree. He implied that his company has studied in excess of 63 million of square feet of properties in the U.S., and identified the main pollutants in buildings and found that the main pollutants were not tobacco, but bacteria or fungi. He also stated that looking at the priorities of pollutants, his company found the worse to be microbes: dust, gases, chemicals, fibers, etc. Tobacco smoke has only been the problem in 4% of the buildings studied, he said. He also, stated that their work is being corroborated by the National Institute of Occupational Safety & Health, who have also published the data. Mr. Robinson also stated that tobacco smoke is the only visible pollutant; the only pollutant people recognize. He brought forth his company's findings that it is improper ventilation that causes pollution, be it cigarettes, fungi, chemicals, etc. He recommended to the Council to mandate minimum ventilation rates that are defined ASHVE, 1989 proposals. He told the Council that he would like to see the amendments changed and introduce minimum standards on ventilation and filtration. Also, he said that in doing so, you will be dealing with the tobacco smoke as well as all the indoor pollutants, which he feels are more serious.

John O'Hara from Bowie, Md., representing the American Cancer Society disagreed completely with the previous speaker. He told the Council that his daughter's health teacher took a poll among the health students. The answers were that young children buy cigarettes at vending machines; purchase at vending machines in Giant or have someone older purchase for them; friends purchase at Fairlanes Bowling Alley vending machine; mall bowling alley; gas stations; Landover Mall vending machines; etc. He urged the Council to keep the bill banning vending machines. As far as the distribution of free cigarettes, the legislation works well in Bowie.

James Repace, physicist employed by the Federal Government and a Resident of Prince George's County 101 Felicia Lane, Bowie, Md. He referred to Mr. Robinson's statement of tobacco being the most wide-spread pollutants indoors. He did not agree with Mr. Robinson's statement that bad ventilation is the cause of tobacco. He stated that smoking is the cause of tobacco smoke. He gave statistics. He also agreed with the Bill brought forth by the Council. He stated problems of the acceptance of private offices which allow smoking in the same ventilation system where non-smokers are on, thereby, not reducing the loading of smoke in the building if you allow people to go on smoking. You will be reducing the maximum concentration to which the non-smokers are exposed and they complained less. By putting the smokers in a room where the smoke can get through the ventilation system and be recirculated, the non-smokers are still be exposed to environmental tobacco smoke. He discussed smoking in restaurants. The major sufferers from smoking in restaurants are not the patrons for restaurants, nor the passengers in aircraft. They are the waiters and waitresses. He said that if you separate smokers in public establishments, then the waiter or waitress will endure a higher concentration of tobacco smoke than before. The patrons will be less susceptible to the irritation but the problem will be the exposure to the waitress/waiter. He feels that the acceptable measure would be to put the smokers in an area totally where smoker waitress/waiter serves or ban smoking in restaurants altogether.

Dr. Martin Wassermann, Health Officer for Montgomery County informed the Council of his delight that Takoma Park had chosen to adopt and expand the recent enacted tobacco protection legislation. The Montgomery County Council Bill No. 5189 which County Executive Kramer publicly signed was designed to protect all workers in our county from the harmful effects of environmental tobacco smoke. He began by reminding all of the vast amount of scientific evidence which directly links serious health consequences, including lung cancer and other respiratory diseases and variety of heart and vascular diseases, from the smoke of others and involuntary and passive smoking. Annually a total of 390,000 persons die from tobacco-related causes, e.g. causing heart attacks, lung cancer, etc. The nicotine, the active drug in tobacco is at least as addicting as heroin or crack cocaine. Other fatal illnesses relating to smoking are: emphysema and stroke. The Center for Disease Control estimate today only 29% of adults smoke currently, a decrease of 25% of that population since the first Surgeon General's report 25 years ago. It is the purpose of the action tonight to recognize the need to protect those 71% of our adult population who have chosen not to smoke, from the harmful effects of those that do. Protection to the non-smoker in the private workplace must be extended. From a business perspective, limited smoking can have many beneficial effects. First, the improved health of the workforce. The owner will realize the reduction in sick leave; fewer fires; cost of upkeep and maintenance are lower. Non-smoking rooms in hotels cost less than the annual maintenance. Dr. Wassermann indicated that he and Dr. Sullivan, Secretary of HHS feel most strongly and supportive of the specific focus on protecting children by eliminating vending machines in those public places accessible to them and outlawing free distribution in the community. As a pediatrician and public health official, Dr. Wassermann said that teenagers, particularly young women, are at

risk for becoming addicted and to developing lung cancer. It is important that this section in your legislation be enacted so that this message can go forward and we can maintain the health and quality of life for our young people. We have already had preliminary discussions to expand our own smoking legislation to focus on preventive efforts targeted on children. And we are confident that Montgomery County will follow Takoma Park's leadership in this matter. He indicated that he feels that this legislation recognizes the single, most important environment toxin effecting our citizens health and lives.

Mr. Leary asked why not simply ban smoking in restaurants?

Dr. Wassermann responded by saying that there is a need for a gradual implementation, and he feels that within 10-15 years, we will have a smoke-free society. But we have to stage this effect from a political standpoint. Personally, he said that he feels all health officials and citizens are aware of the specific damage and dangers that are inherent in the most poisonous product in our society today.

Councilmember Sharp said that in private discussions with some members of the Montgomery County Council, they expressed their interest in Takoma Park's taking the lead on the elimination of cigarette vending machines or at least the control of them.

Dr. Michele Block, spoke representing the Washington/Metropolitan Public Health Association, an organization dedicated to improving the health of residents of the Washington/Metropolitan area; with 50,000 members with very strong anti-tobacco stands. She stated that the average age of a youth when they begin to smoke is 12. She indicated that it is the tobacco industry that has targeted our children. It is our job to do something about that. Children are interested in free samples; whoever hands them out. There is no control over the vending machine. When children see cigarettes in vending machines, they see it as a harmless product. The provisions are excellent, but only a first step. The kids will still get their hands on tobacco everywhere in this country, despite law to the contrary. We know that alcohol is harder for them to get their hands on. Our organization is willing to work with you to protect our youth and help lead the nation in the fight to keep youth from getting addicted to tobacco.

Melinda Sidack, Covington & Burling said that her company was asked to analyze the Bill from a technical, legal standpoint and from a drafting standpoint. Ms. Sydack said that some of the measures are ambiguous and overbroad in the way they are drawn. She feels they would have affects that you do not intend. For example, she said, the sampling and coupon ban, is so broadly written that in effect, it would preclude and prohibit the importation of Time Magazine, Newsweek Magazine, and the Sunday Supplement in the Washington Post. Ms. Sidack said that this raises some substantial constitutional concerns, and she stated that she did not think that was the Council's intent in drafting the provision. The second concern Ms. Sidack pointed out, was the extent of some of the measures; the inconsistency with the Montgomery Law where you are dealing with the problem of inconsistencies between Prince George's County, Takoma City and Montgomery County. She pointed out that by dropping the number of people seating capacity in the restaurant from 50 to 25 people; it will only cover very small restaurants. Those run by immigrants, etc. That is a burden and an inconsistent obligation that may affect their business opportunities. Secondly, she pointed out the extension of elderly day care centers because day care centers would already be covered under the Montgomery County Law itself, under the workplace provision. Also, she stated that the addition of elderly day care centers would be to prohibit smoking in those centers. She brought up the fact that some elderly do smoke and the may not consider going out in the cold to take a smoke. It could mean that they are segregated from the kind of social activities and other activities that would mean a lot to

an elderly person who attends a day care center. The industry's position is that it generally supports adult supervision of vending machines. Although adding additions of the licensing requirement was superfluous and does conflict with Maryland law. She stated that her organization would be happy to work with the Council and shares its goals in keeping children from getting cigarettes. We believe smoking is an adult custom. We will be ready to help with any kind of technical drafting assistance that may be required.

Mayor Del Giudice said that Montgomery County, law which is used as resource for the Ordinance, prohibits smoking in health care facilities as well in schools. However, the Council, because of the concern for controlling smoke around children, have added provisions for child care facilities. In addition, he said the City's Corporation Counsel added the language about the elder care centers and his understanding was that even for elderly people who smoke, the law allows for a designated smoking area and he did not think that elderly people who do not smoke should be subjected to that smoke.

Victor Crawford, Attorney stated that there are some problems with the Bill. He said that the Washington Post does carry coupons for cigarettes. He also stated that he does not feel cigarettes are the biggest problem in the country; it is alcohol. Mr. Crawford suggested banning smoking altogether and put in the Bill and see what happens, as in Prohibition. He agreed with the adult supervision of vending machines and disagrees with the free samples of cigarettes.

Marshall Marks, Sr. Mechanic indicated that you can remove 99% of containments through the air through filters. Mr. Marks said that as far as vending machines go, what about other machines. Candy, etc.

Marsha Marks, Bethesda, Maryland said that she is a long-term volunteer with the ALA of Maryland. She commended the Council. She indicated that the legislation is a compromise position. She said that she supports the legislation to ban the use of cigarette vending machines. She also feels it is very important to ban tobacco smoking in day-care centers. She informed the Council that the City of Rockville has restaurants with 25 or fewer seats in the non-smoking area.

Juan Torres, 900 Elm Avenue, Takoma Park commended Councilmember Prensky on his efforts but said that he opposed such a Bill. He stated that he felt the issue of forcing a human being to obey the law went against the understanding that human beings have a certain amount of freedom. Mr. Torres said there had to be other ways to tell human beings that they have an addiction, and said he felt that if the Council passed this legislation, the next thing to be prohibited would be caffeine and alcohol, which were also drugs. He said that individuals needed to be told that these substances were bad for them and then let that individual make their own decision.

Erwin Mack, President of Crossroads Development Authority, asked the Council how did it plan on enforcing this and did the distribution of tobacco in any way affect the plans.

Mayor Del Giudice responded by saying that the Health Dept. of Montgomery County had assured him that they would vigorously enforce their legislation in the County of Montgomery. They will be able to enforce the restriction in restaurants down to 25 seats even though the Montgomery County legislation only says 50 seats or more require non-smoking section. The enforcement is jointly and individually and can be done by the Montgomery County Health Department with responsibility residing with the Code Enforcement Department of the City in the Prince George's County section of Takoma Park.

Mr. Sharp informed Mayor Del Giudice that the City has in the past required ordinances to have fiscal notes attached to them, and suggested that the issue of the fiscal costs associated with this legislation be kept in mind. Mr. Sharp said that an estimate should be attempted of the enforcement time and costs of the ordinance.

A motion was made and seconded to amend Sections 10b-15 and 10b-17, barring smoking in eating and drinking establishments. Mr. Hamilton stated that his purpose of supporting the Bill is not to put a financial burden or hardship on business owners, and that he feels the issue of the ventilation is a real issue. He said that his intent is not to have a very small business owner go out and put in two ventilation systems based on a recommendation from an individual that says you have to do this. He said regarding the ideas that if smoking was going to be banned, it's going to come in time. Why should we add a financial burden to the responsibility of the business owners when the difference between 25 and 0 is a difference of basically no smoking.

Mr. Moore commented that as a former smoker, he found it really repugnant to sit next to or close to someone who smoked while he ate in a restaurant. He said one goal the Council had been trying to accomplish for this Bill was the establishment of social norms. Mr. Moore also stated that by banning smoking altogether in any restaurant in the City, the Council would be taking a much bigger step than most people were ready for at this time and many non-smokers would probably find a total ban to be too much at this point. Mr. Moore said a total ban would impose a very large burden on the restaurant owners in the City.

Mr. Leary said that he agreed, and that there had been no serious consideration of the proposal. He said the very least the Council owed itself and businesses which might be adversely affected by such a proposal, was to give it some serious consideration. Mr. Leary said that he was not going to vote for the ordinance. He also said that testimony given earlier from the public health official from Montgomery County, suggested to him the need for a phased approach which took a modest step in advance of the current practice in the County; that also recognized there were still a large number of people and institutions that do participate in this vice and it took some time for change. Mr. Leary said that this suggested to him that the step the Council proposed to take was feasible but it was a step that they could extend sometime in the future instead of tonight.

Mr. Douglas said he opposed the amendment. He said he shared the sentiments of Mr. Moore and Mr. Leary that it is precipitous and not good public policy and suggested that if people don't want to eat in areas that are full of smoke, that was their choice. Mr. Douglas said that he hoped the restaurants would entirely ban smoking in their establishments, but it was not the right time to ban it outright; particularly without any kind of information in front of the Council about the number of restaurants affected and particularly without any notice to the owners and operators of those restaurants.

Mr. Prensky said that he spoke in favor of the elimination of smoking in restaurants in Takoma Park. He also said that it did not seem to him to be the "impossible dream". He said that he was not proposing to ban smoking entirely in the City of Takoma Park entirely. He said that he agreed with Mr. Leary and Mr. Moore that the idea of eliminating smoking in restaurants in the City entirely was somewhat of a last minute consideration.

Mayor Del Giudice said that he wanted to go a step further, and suggested that if the Council was going to take this action, people would need more than 2 weeks to respond to it and they probably needed more than 30-60 days to implement it, which would require a much further effective date in terms of the legislation. The



Mayor said that if you were going to ban smoking in all restaurants and bars, a much longer period within which this would go into effect was needed.

Mr. Hamilton said that was important to understand that the Council had not had the privilege of having the people that spoke tonight talk to the Council in a worksession. He pointed out that the ordinance was in front of the Council for first reading and it was important to take comments in a worksession from those who were going to be affected. The amendment failed.

Mr. Prenskey moved to amend Sec. 10b-6(d), the exception that allowed smoking in private enclosed offices and private workplaces. He stated that all the airlines discovered that there was no effective way of isolating smokers/non-smokers when there is only one set of air available. He added to his amendment that he did not intend to recommend any change to the part of the ordinance that specified that owners of businesses could make a choice of having a designated smoking area or a non-smoking workplace. He also said that in terms of phasing this kind of legislation, he felt that would be too abrupt a change to create non-smoking workplaces across the board. He indicated that smoking in a variety of rooms seems to add to the problem of common smoke inhalation.

Mr. Douglas moved that the ordinance be tabled in order to begin worksession discussions on the issue.

Mr. Moore brought up the issue of free cigarette coupons in newspapers and magazines, and suggested taking that fact into account. Mayor Del Giudice said that the intent was to prevent citizen complaints to make it clear when you walk into a restaurant if that restaurant was subject to the law or not. He said that it would help people such as Mr. Douglas who might want to determine whether that particular establish was a non-smoking one or not.

Ms. Perlman said that violation of this law was designated as a Class D Municipal Infraction which carries a \$20 fine for the first offense. She said the idea of adding it was not necessarily a penalty but more information if you're going into a small restaurant whether or not they have a non-smoking area.

Mr. Prenskey said that in terms of the effective date of the legislation, in fact that not at this time have we eliminated smoking in restaurants and bars, and having heard some of the experience of the Montgomery County Health Department in the promulgation of their regulations, he would propose an effective date for the legislation; assuming that it is approved at the meeting tonight and gets final approval in 2 weeks. He proposed September 15 as an effective date. He said that since there is not any drastic departure in what has been discussed in the press and what has been discussed tonight.

Mayor Del Giudice said that it would be approved on July 23, theoretically. The mailing of notification to all the businesses and give people time to understand, to come up with their policies. Also, Mr. Prenskey suggested Oct. 1 or Sept. 30, only because the City's Newsletter is a principal vehicle of communicating with the community and also the Takoma Voice. Mr. Prenskey said that we don't have a newsletter in August so that the first real local notice, will come in early September. In essence, Mr. Prenskey suggested the date of October 1st and Mayor Del Giudice agreed and moved that October 1 be the date of the ordinance become effective if in fact, it is accepted. The question was called and the ordinance was unanimously accepted at first reading.

ORDINANCE #1990-39  
(Attached)

Mr. Hamilton requested the Council to move Item #6 next on the agenda, due to the fact of there being a lot of people at the meeting for the Rent Stabilization Issue. Mayor Del Giudice said that he has no problem with that. Mayor Del Giudice apologized to the persons who were there to discuss the Rent Stabilization Issue. He informed them that the item would be given priority above the just-discussed item at the next meeting when it is taken up for second reading. He also said that there was no finality on the rent control level; it had to be read twice, and he made a commitment that the item would be given priority when both are taken up for second reading. The Mayor apologized for underestimating the time. He also said that a motion was made to amend the agenda and take up the rent stabilization ceiling Item #6. It was moved and seconded to take up Item #6 out of order. Mr. Sharp disagreed by saying if you do that, then the persons who are here for Item #5, might as well go home. He stated that the likelihood is that they would be at the meeting for a long time. Mayor Del Giudice said that the fact that the persons who were there for Item #5, are going to have to sit it out. That is a time-sensitive item and we need to decide on it tonight and we cannot put it off, since there is the question of filing a loan application. Motion failed.

Item #5. Request for City Sponsorship of SALT Loan for 6 Grant Avenue. Lisa Schwartz, City Department of Housing and Community Development, said at the time of the work session she had not met with representatives from the MICRF program, but did meet this afternoon. She said she found out that the MICRF program is less competitive than SALT. The SALT program only has \$500,000 state-wide and therefore the project was more likely to be funded through MICRF than through SALT. MICRF can finance up to 90% of the project. She said the city is permitted to charge a higher interest rate to the developer than is being charged by the state. The state rate is 7%. The city can take a first position on the loan. She said that it is possible to have a short-term loan of 5 years instead of 15 with a balloon payment which would get the city out faster. Ms. Schwartz also noted that the application seemed less cumbersome than originally thought and said that she feels it is worth exploring and getting the Council's permission for the staff to look further into that; but at the same time the city does not lose by endorsing the resolution for the SALT application. It appears that once the MICRF is explored further and it shows that it will not work out in this case, then the SALT resolution is still in effect.

Mr. Douglas said that he will support the SALT resolution on the condition that there will be a discussion of what will be done about the situation there and whether the SALT or the MICRF or neither is the best way to go. He expressed his concern about the property which seems to be developable, but has financing problems and if the Council will agree to discuss this issue in detail at work session, he suggested to go on with the agenda.

Mr. Hamilton said that he still had reservations in supporting the resolution as he said in last Monday night's work session. He stated that he is sympathetic to the property owner who has the Note that is due on his property that he purchased. However, he said that he is not ready to commit the City to co-signing a loan application when we have two separate loan processes that we need to evaluate SALT and MICRF. He said that he had spoken with the property owner and was informed by him that there was a meeting of the MICRF committee today. Mr. Hamilton further went on to say that he was not ready to commit the City to sign off on the Note unless there is a final recommendation from staff.

Mayor said that the Chair would like to point out that a number of citizens had delivered some suggestions to the Council on the Resolution and that he was not sure whether they still apply to the current one that was before the Council.

Mr. Hamilton said that it proved that the Council had not discussed the SALT issue which was an open issue. He said that he felt the Council needed to make a rational decision on what the intent was.

Mr. Leary said that the citizen concerns about strictly enforcing the prior restrictions were certainly the concern of every member of the Council and he did not feel that it needed to be written into the Resolution. He said that he would like to talk more about the second proposal in the work session before endorsing it. He said that his other point was to postpone action on the issue for two weeks.

Mr. Fleming said that if the Resolution was adopted, it was still his understanding that the Council still wanted to examine the MICRF options and apply to that as well. He also said that if the Resolution is adopted this evening, it can always be amended at a future meeting, but this would authorize staff to go forward with the SALT application. He said Takoma Center has learned; that if you have the SALT agreement you don't necessarily have financing, that is why the MICRF program was so attractive.

Mr. Douglas said that he thought that the Council should proceed with the SALT application because it was not a bad idea, although, he said that he was not sure that this was the ultimate of what they wanted. Mr. Douglas urged adoption of the Resolution as it was written, and that he did not think the proposed amendments offered anything. He said if the present resolution was adopted, then put the MICRF discussion on the work session agenda. Mr. Prenskey asked if it would be out of order to move to table the resolution at this point. Mayor Del Giudice responded by saying that if we were to defeat the resolution at this time, we could present another one at the next regular meeting after the discussions and work sessions. Motion carried.

Item #6. First Reading of an Ordinance to raise the rent stabilization ceiling from 4 to 5&1/2%.

Ms. Weiss stated that the Ordinance before the Council is prepared with an increase in the rent stabilization rate to 5.5%. She said that she would like to bring to the Council's attention that her office, Housing Services has attempted to use new language in the draft article #7 that the Council seems to embrace regarding article #7, (e.g., impose or attempt to impose versus charge or collect a change in the terminology). She also informed the Council that the September 30 date should be changed to August 1.

Karen Mitchell, 7610 Maple Avenue Apt. 1210. Said that she was at the meeting to comment regarding the proposed rent stabilization rise. She said in all of the data presented to the Council, she felt one important point was overlooked. She said that is how the salaries are being raised in this area. She said that the Federal Government is not going up to 5.5, or either one of the counties or the state government. She said the employees in Takoma Park who are not management, just got a 5% increase which was immediately followed by an even higher increase in the cost of health benefits. She noted that there were quite a few city employees who were renters. Raising the rent stabilization ceiling will affectively raise the cost of living in Takoma Park, for city employees; especially those who are renters. She also said that she wondered just whose interest and well-being was represented. She said that according to statistics, 65% of the citizens in Takoma Park are renters and the Councilmembers are supposed to represent the wishes and interests of their constituents.

Mary Jacobs, who is a senior citizen on a fixed income. She said that with her escalating costs of food and medicine, she is having to delve in her principal now of the money that she had saved. She asked the Council not increase the rent of no more than 4%.

Mary Sinclair Jacobs, 7777 Maple Avenue. Mrs. Jacobs said that she believes that all good business persons should earn and receive a

decent profit for goods and services provided to the consumers. She asked where does a decent living profit began and greediness take over? She said that the members of the City Council has an advisory board, the housing department. The housing department recommended a 5% rent increase over the present 4% and the landlords made a very eloquent appeal. Councilmember Leary was most impressed and so were four other councilmembers. They ignored the advise of their own council and proposed that the rent be raised to 5.5%; 1.5% more than the present ceiling. Mrs. Jacobs said that she sat through painstaking, pennypinching budget hearings. The city employees, which include police dept., only received a 5% cost of living. Our police put their lives on the line for all of us every second of the day. The management staff only received 4%. We renters, tenants comprise a 60+% of the population of Takoma Park. She also said that renters are entitled to tax breaks too and that if not a tax break, then let rent stabilization ceilings at its present 4% rate. She said that the fixed-income citizens need a chance at a decent lifestyle. Expensive high-priced outlays of money does not provide or guarantee quality or even good services. How can any landlord of good conscience ask for a raise when he has only provided inadequate, reduced services: elevators being out of service for weeks at a time; broken back-up generator-inadequate heat/air conditioner; an unavailable landlord who uses a P.O. Box number; a no-name landlord with no trace of a phone number except through resident managers. She stated that under no circumstance should any landlord receive any raise who has flagrant, code violations and who has done next-to-nothing to rectify these conditions. We tenants have a responsibility also. We should report all vandalism, place trash in trash receptacles, keep our homes free of debris. We all want to be treated with decency and fairness. Rent stabilization must reflect the makeup of the residence who choose to rent instead of buying a single-unit dwelling. We moved to Takoma Park because of the beauty and affordable housing. Wake up councilmembers. There is a 60+% population that are tenants. The merchants are being priced out of a living by escalating rent prices.

Mr. Tower said he opposed the proposed Takoma Park rent increase ceiling now under review for approval for the City Council. He said that this rent increase is more than half of the increase given to the city employees of Takoma Park. He also stated that about 5 weeks ago, a business in Takoma Park found it necessary to relocate due to the raise in rent under the existing maximum annual rent increase law. He said that this is one of many in the nearby communities and one of the multitudes that is now happening in this country. Mr. Tower said that earlier this year he found it necessary to implement his other talent and get out of architectural design and go into contracting and construction cost estimating which caused a reduction in his salary of \$7.00/hr. The Washington Post reported approximately one month ago, an increase of 7,000 unemployed contractors in the Washington Metropolitan Area due to the developing economic crisis in this country. He went on to say that due to the shortage of construction contracts caused by the reduction in architectural and engineering designs produced, due to the clientele not being able to find adequate funding for such projects. The hours the company that I'm now contracted to, as of last week, will only allow me to work 20 hours/week. The situation is the same for many colleagues of mine. The City Council has given a tax break to home owners; reduced the rates so that the landlords could receive a tax write-off for the maintenance and upkeep of their properties. He told the council that the rent increase will affect the rent of the majority of the voting population and for some, will cripple their effort to survive at a time when they can least afford an increase. He stated that it is in the best interest of the majority of the people of the City of Takoma Park not to permit an escalation of the 4% maximum annual rent increase.

An Unidentified Citizen, 7777 Maple Avenue said that his landlord does not deserve a rent increase simply because of the service that he or the other tenants in the building are not getting. He also stated that his landlord does not need to be compensated for incompetence and the city council does not have to do that. We pay our rent monthly and have been promised improvements; not even the simplest improvements are not taken care of. He also said that he has had a broken window for 6 months or the elevators don't work. I have to walk up 6 flights and some tenants have to walk up 12 flights. I don't complain; when I get home the office is closed.

Michael Clinansmith, 7710 Maple Avenue since 1985. He said that since 1985 he has received a letter every April informing him of his rent increase. He said that the general services of his landlord are inadequate. After 5 years he requested that the landlord paint his apartment, which is part of the zoning ordinance. However, the landlord informed him that the landlord would not paint his apartment until he moved. Mr. Clinansmith asked why not, it's part of the zoning ordinance. He was told that it was not. He said that he was told that they only had to paint if the paint was falling off the walls. Mr. Clinansmith went further to say that these are just tricks and statements to waylay us of our rights as renters. Mr. Clinansmith said that he is yet to have the landlord say he will paint the apartment. The landlord informed Mr. Clinansmith that he had to get the painter to schedule to paint his apartment. Mr. Clinansmith said that the landlord still has not repaired his apartment floors which are full of mold and mildew which is also a health hazard.

Ms. Sakinah Shakur informed the council that she has spoken before about the problems at her residence 7777 Maple Avenue. She said that those conditions still had not been changed. Yet, she said that they want to change the rent to 5.5%. Ms. Shakur said that she is suggesting that the rent stay at 4%. She said that the resolution mentions that the percentage is based on the Washington area Consumer Price Index, and that this is absurd. She also said that if you want the same kind of homelessness in Takoma Park that is so prevalent in D.C., let them continue to go up on the rent and it will come to pass. Ms. Shakur said that she would like the Major and city council come to visit her building and see for themselves and see the kinds of deplorable conditions that exist. She spoke of the lack of maintenance, roach infestation, vermin (bats included). The housing department has cited the building for numerous housing code violations, but the landlord has not been fined yet. The housing department needs to be disbanded because they have not served their purpose here in Takoma Park. Ms. Shakur asked Sue Weiss what part of the language she was referring to, as to the changes in the proposal.

Sally Ramsey 7777 Maple Avenue. Mrs. Ramsey said that she was really disturbed about the 5.5% rent increase that the Council was asking. She said that the Council needed to inspect the building. She spoke of the 2 emergency numbers that do not work; no resident manager on the premises either. No maintenance or engineers at all. She cited numerous housing code violations in her building included, water leaks, inoperable elevators, no electricity and broken stoves.

Anita Bomb, 7777 Maple Avenue. Mother of 5 children. She appealed to the Council in finding a place for her and her family because the apartment is unfit for humans. Mrs. Bomb said that she does not understand the whole issue of policy making and ordinances. She asked that how could there be 5.5% raised from 4% and not even provide for the tenants. She invited the Council to come and visit her apartment.

Mr. Hamilton said that he would like make a recommendation for the city administrator to look into the issue of 7777 Maple Avenue. Mayor Del Giudice said that he also feels that they have been hearing about the problems at 7777 too long also and that he does

not understand at this point what the situation was and what the status was.

Kay Dellinger 7333 New Hampshire Avenue, Vice President of Hampshire Towers Tenants Association said that Hampshire Towers had 448 units; the largest apartment development in Takoma Park. She said that they held a tenants association meeting tonight and the tenants voted unanimously not to have more than a 4% rent increase in Takoma Park in 1991 or whenever it went into effect. Ms. Dellinger said she found it hard to believe that anyone on the City Council could even consider having more than a 4% rent increase. She also said several years ago, the City Council, under rent control, gave the landlords a 10% rent increase in one year and not one landlord had to prove that they had a 10% increase in expenses. Ms. Dellinger said that as far as she was concerned the 10% increase should last the landlords for the next 20 years. At the rate of having a 4% increase in just 2 years, the landlords got an 8% increase in 4 years and the tenants received a 16% increase in rent. Ms. Dellinger said tenants were the majority residents in Takoma Park and she believed the members of the City Council should represent the majority and the people who put them into office. Ms. Dellinger said that at Hampshire Towers there are many senior citizens, handicapped people and single parents and senior citizens pay almost all their entire income for rent. Any landlord who can prove that they have more than 4% expenses can go to COLTA as they are supposed to and ask and COLTA always gives them the rent increase. There are only 9 landlords who ask for more than a 4% rent increase. These 9 landlords, obviously should not get it. When the landlord gets a 4% rent increase every year, these landlords never have to prove that they 4% increase in expenses. Most tenants do not get a 4% increase in their income. Ms. Dellinger went on to say that no member of the Council, who has any belief at all in the preserving of affordable housing could even consider a 5.5% rental increase. Ms. Dellinger spoke of the homelessness in this country by saying that in the next 20 years if nothing is done the number will double. At Hampshire Towers every time the housing code inspectors come for their annual inspection, they have long, endless lists of housing code violations at Hampshire Towers. She noted that she worked for Mike Moore, and this evening, she assured the senior citizens who are spending the majority of their income for rent that Mike Moore would not vote for more than a 4% increase. I think that the rent should be decreased to less than 4%.

Mr. Wallace Nunn said that he resides at 7777 Maple Avenue and said that the housing people should know him as he is the president of the tenants association there. He said that they have nothing but problems there. He went on to say that he just cannot believe that if the Mayor and Council knew of the conditions at the building the landlord would not receive a rent increase. He said that the tenants should get a rebate for living there. He asked the Mayor and Council to please reconsider the 5% increase and he asked the housing department what are they thinking about. He said that he wondered if the landlords were paying the housing department.

Andrew Busby from the Tenant League said that he was evicted during the phase-back. He said that he was down at the shelter where Mitch's body is laid out and came back here. He said that they were all angry especially about the way this is being done. None of this got proper publicity. He asked the Mayor whether or not anyone on the council ordered armed police officers into the chamber earlier. Mayor Del Giudice said no and he doesn't know why they were here. Mr. Busby said that he does not get a 4% raise every year either. He said that he gets almost no raise every year. He said that he doubts that his total take has been increased by 3-4% in the last 4 years and that is true with most of us - we cannot afford it. We vote and we are taking names.

Juanita Nunn, tenant at Essex House said that she did not feel that the tenants at her building deserve an increase for services. They see rats running in the halls, no maintenance for 3 weeks, lazy resident manager. She said that there is no way that she can see a recommended increase of 5.5% increase. Mrs. Nunn begged the Mayor and the Council to leave the rent stabilization where it is. She pleaded for the Council also to help them to do something about the Essex House.

Tom Gagliardo informed the Council that he is not a tenant. He said that he used to be a tenant. He said that he has not forgotten where he came from. He also stated that he was down at the shelter tonight also along with Mr. Busby and felt a great loss. I understand what Carol Finnelly meant when she said that we have to continue. He urged to continue on for Mitch Snyder; continue on for Brint Dillingham; most of all carry on for yourselves.

Mr. Brown, a past co-chair of Montgomery County Housing NOW, stated as a housing advocate that he is a homeless advocate, having worked in county soup kitchens, CCNV, on behalf of anybody in this room, do not pass the 5.5% increase.

David McSpadden said that he guessed that nobody likes a landlord. He said that it is difficult to know how to respond to what is obviously a deep-felt emotional outpouring from tenants who live in a building that he certainly would not want to live in. He said that he does not know of any landlords who would really defend the way that the Essex House is run. He went on to say that he did not think that they were all there to speak of emotions as much as to look at the reality of housing in Takoma Park. He said that even though tonight having listened to honest emotions, it is not an issue that should be decided on an emotional basis, it is an issue that needs to be looked at on an objective basis. He stated that landlords did not get up at the public hearing and there was not an outright pleading for an increase; they were almost unanimous in their agreement for a 6.5% increase. Mr. McSpadden expressed his sympathy to the tenants and he empathizes with their conditions.

Mr. Leary said that the recommendation is not that every apartment owner should raise their rent by 5.5%. It is rather a ceiling beyond which, without extenuating circumstances, rents cannot be raised. That is the nature of rent control and he said that as far as he is concerned, one of the deficiencies of it. Mr. Leary said landlords, not knowing what is going to happen the following year, tend to grab up the maximum allowed. He said that what is proposed by this resolution is a very modest increase of .5% in excess of the 5% increase recommended by our housing department and he said that he feels that staff cannot be accused of neglecting the interest of tenants. Mr. Leary went on to say that he makes these recommendations for 3 main reasons: 1) as a small symbolic gesture in recognition of the participation of a substantial number of landlords at this year's public hearing, and also because the Council has imposed new fees on landlords for annual inspections and trash pickup. The increases amount to about \$50 per year for each unit in any building containing 10 or fewer apartments. Two years ago, this Council extended the provisions of rent stabilization to all rental properties containing more than one unit. The affects of that change are now registering. When we make these decisions about what will be the rent stabilization ceiling for all affected properties in the city, we are not talking only about the high-rise buildings on Maple Avenue. We are talking about a great many other landlords; much smaller landlords who are living much closer to the edge in terms of their profit margin. Those are the 3 reasons that I recommend this increase.

Mayor Del Giudice said that he was surprised by the decision that was made by the Council at the last worksession. He said that his belief of the 5.5% increase recommended by the staff, under all of

the circumstances that he examined, was an appropriate increase for this year. He explained that contrary to some of the things that have been said about a tax cut, we have been reminded a number of times that the newsletter mis-reported that. Del Giudice said that "we did not cut taxes, we cut the tax rate". He said that 2 fees have been increased significantly, i.e., the cost for refuse disposal and removal that we charge landlords and also the fees that we charge landlords for inspection. He went on to say that in the District of Columbia, the rent control guidelines that has been approved is 5.6%. The voluntary rent stabilization guideline for Montgomery County is 5.1%.

Mr. Sharp recommended an amendment to the ordinance. Mr. Hamilton said that during discussion of the smoking ordinance that 2 weeks wasn't a lot of time. He said that a decision needs to be made as to where we go from here. He stated that "affordable housing" is something talked about, but not a living reality. He went on to say that he will be bringing forth a resolution shortly to set up a blue ribbon committee with renters, home owners, landlords and elected officials to come up with some creative ways of stabilizing the rent market in the city. Mr. Hamilton said that he was going to bring a motion forward to only put a 2% increase on people on fixed income, and he would put the motion forward that rent control continue at 4%.

Mr. Elrich stated that last year the Council received a recommendation from the housing department for rent increase of 5% and Council waived the information in evidence, and chose to go with 4%. He said the arguments are just as compelling this year as they were last year. He also said that he does not see people around the neighborhood making Montgomery County median income of \$54,000. He said that as far as the statement made by landlords about there being a housing glut in Montgomery County is amazing. He asked how you can read about homelessness being on the increase and say there is a housing glut. Giving apartments away - but not to the homeless! He noted that when the phase back was started in Takoma Park several years ago there were 4,000 people on the HOC waiting list, now there are 6,500. He said that in talking to Prince George's County, it was learned that they were not even keeping a waiting list because they viewed the problem as so intractable. Mr. Elrich commented that the Council was not talking about a problem that has gone away. The fact that Summit Hills was giving away rents did not change the fact that there was an affordable housing crisis - it had not gone anywhere - the City had not been able to solve it and we are certainly at the low end of the totem poll in being able to address that problem. He went on to say that the Counties haven't addressed the problem and neither has the state. Nothing has changed. Landlords made a great case for rent control because they said they had kept the rents below the rents out in the market. He spoke about the landlords suggesting that one means of addressing rent control is to allow the housing stock to deteriorate. However, Mr. Sharp said that the counter-argument is that you can always raise the penalties for code violations so that it becomes more expensive to break the law than abide by the law. Mr. Sharp said that he is still comfortable with 4% and he still has not been convinced that there is compelling economic evidence to change that number.

Mr. Prensky said that the things that have affected him have not been swayed by the large anecdotal evidence presented by the landlords in the public hearing. He said that he was impressed that the CPI has gone up by about 5%. He went on to say that he is aware that a tax rate cut has been provided to home owners which includes all of the landlords in the city and we have provided them with some significant relief. Mr. Prensky said that he is aware of the tax rebate program to target the benefits of some of this tax relief to our low income home owners. He stated that he does not feel that there are any great problems in the rent control law; nor with the process in which a landlord seeks and receives exceptional increases if they can justify them. He said that he



disagrees with the presentation which states: the landlord's expenses have increased in the area of inspection fees. If we have landlords that have few or no significant code violations, we, in fact, have provided a way for them to decrease those expenses by the bi-annual inspection fees, not increasing them. Good landlordship will have your expenses going down in this case rather than up. He said that he had not heard any compelling arguments to increase the rent stabilization rate above the 4% which it is at the present time.

Mr. Sharp said that he agreed with Mr. Hamilton that rent control was kind of an undesirable necessity. He said the Council also needed to discuss what it wanted rent control to accomplish. He questioned whether the Council wanted rent control to deal with people on fixed income--as an aid to people on fixed income, or whether it should help people who are unemployed. Mr. Sharp said that he was not completely sure because the evidence was anecdotal. He said that he would like to get better information about what the difference was between rents in the rent control jurisdiction and non rent control jurisdictions and how did it benefit people. He referred to the study done by a pro-landlord group in Los Angeles. The conclusion was that rents were 1% different because they had rent control.

Mr. Moore said that this was his first time dealing with resolving this issue on the Council. He said that this was the first time he had seen so many tenants come out to any hearing on this issue as compared to the number of landlords that you have. Mr. Moore said that he was amenable to the proposed 5.5% increase originally, and that he was willing to settle on a lower figure having heard some more of the other side from some of his constituents. But he said he still remained of the opinion that an increase over last year's rate was called for various reasons cited by Mr. Leary and others; primarily the fact that the Council had imposed new fees on landlords. Given the consumer price increase in the Washington area over the past couple of years, he said that he believed that some sort of increase was necessary and he was willing to support Mr. Sharp's proposed 5% cap this year. Mr. Moore went on to say that he will note that on \$600/month rent, that will be the difference between that and a 4% rate will be \$6/month, was not a monumental amount to be arguing over (although it did add up, he acknowledged), and he said regarding any promises that were made on his behalf to others; he was sorry that he was not consulted first.

Mr. Hamilton said that regarding the issue of an increase in licensing fees being the justification for an increase in the rent ceiling, he informed the citizens that if the landlord did a good job, he was entitled to a reduction in licensing fees. Secondly, Mr. Hamilton pointed out the City still subsidized the money when the Public Works Department does trash pick-up. He said that it was not a total commitment that the landlords pay the whole cost.

Tom Gagliardo said that what is really happening here is that there has been an increase in trash collection or licensing inspection fees and there is going to be an increase in presumptive valid rent increase of 1%. He said that, in effect what is happening is passing on the full cost plus some of the trash and inspection fee to the tenant. He noted that Mr. Elrich's point was correct about the CPI that there are various components which move at different rates.

Mr. Douglas said that it was more important to him to take a fundamental look at the system--spending hours at a meeting was really the right way to be addressing affordable housing in Takoma Park. He said that he applauded those who seek to look at the larger issues. Mr. Douglas also said that the mix and location of the housing stock was as important as the fact that there was a vibrant tenant community in the City. He said that if we end up with isolated pockets, and there were many in Ward 5, on Maple

Avenue, in the Hampshire Towers, etc., we were not doing ourselves any favor by concentrating the tenant population in that handful of areas. Mr. Douglas said he was concerned that those people who chose to operate houses on a long-term basis, or as rental properties, or even short-term when they are out of the area for a year or two, and said they should be encouraged to do so. He said that it was important to disperse the tenant population throughout the community at all income levels. He said that people are losing interest of renting out single-family homes as rental properties.

Mayor Del Giudice announced that at the present time, the vote was up on the amendment, which was to amend the percentage from 5.5% to 5%. Amendment carried. The Mayor then moved to accept the Ordinance at first reading. Ordinance was accepted at first reading.

ORDINANCE #1990-40  
(Attached)

Item #7 - Single Reading Ordinance, Public Works 90-11, Streets and Drainage Improvements. The Ordinance was moved by Councilmember Douglas and seconded by Councilmember Prensky, that the contract be awarded and approved. The Ordinance carried at single reading.

ORDINANCE #1990-36  
(Attached)

Item #8 - Resolution Authorizing the City Administrator to Sign Block Grant Cooperation Agreements. Mayor Del Giudice suggested sending correspondence to Prince George's County officially requesting that they put some flexibility into their Block Grant program to allow block grants for commercial revitalization efforts than simply for street repairs and curb and gutter. The Mayor said that he would be happy to sign such a letter saying that: while we are reenlisting, we want the County to give serious consideration to that because of the need we have in the city and the desire to put our money into that direction. The Resolution carried.

RESOLUTION #1990-70  
(Attached)

Item #9 - Resolution appointing representative to the Commission on Landlord-Tenant Affairs. Upon motion made by Councilmember Moore and seconded by Councilmember Douglas, Miss Barbara Brody was reappointed to COLTA. The Resolution carried unanimously.

Upon motion duly made and seconded, the meeting adjourned at 12:35 pm to reconvene on July 23 in Regular Session.

Introduced by:

1st Reading: 7/9/90  
2nd Reading:

Drafted by: Linda S. Perlman  
Asst. Corporation Counsel

Draft Date: July 6, 1990

ORDINANCE NO. 1990-

(Smoking Prohibitions and Restrictions)

WHEREAS, Takoma Park Code Chapter 10B, Section 10B-1 adopts by reference Montgomery County Code Chapter 24, Section 24-9A, Smoking in Eating and Drinking Establishments, and makes these provisions applicable to all restaurants seating 50 or more persons located in the Montgomery County portion of the City of Takoma Park; and

WHEREAS, Takoma Park Code Chapter 10B, Section 10B-2 adopts by reference Prince George's County Code Subtitle 19, Division 5, Smoking Regulations and Restrictions, and makes these provisions applicable to all restaurants seating more than 75 persons located in the Prince George's County portion of the City of Takoma Park; and

WHEREAS, the effect of Chapter 10B of the Takoma Park Code is that one set of smoking restrictions applies to restaurants located in the Montgomery County portion of the City of Takoma Park and a differing set of smoking restrictions applies to restaurants located in the Prince George's County portion of the City; and

WHEREAS, the Montgomery County Council has recently enacted amendments (Bill 51-89) to Montgomery County's "no smoking" law (Montgomery County Code, Chapter 24, Section 24-9) restricting smoking in various public places to apply to shared workplaces in private businesses; and

WHEREAS, Bill 51-89 applies to the Montgomery County portion of the City of Takoma Park; and

WHEREAS, the provisions of the Prince George's County Code regulating smoking in restaurants and public places are less stringent than the "no smoking" provisions contained in the Montgomery County Code; and

WHEREAS, the Council wishes to enact uniform smoking policies which would apply to both the Montgomery County and the Prince George's County portions of the City of Takoma Park so that all citizens within the City have the same right to a smoke-free environment; and

WHEREAS, the Council desires to eliminate the variations between the smoking prohibitions and restrictions which are effective in the Montgomery County and in the Prince George's County portions of the City of Takoma Park by repealing Takoma Park Code Chapter 10B, Smoking in Eating and Drinking Establishments, and reenacting said Chapter with amendments; and

WHEREAS, the Council hereby takes legislative action to extend the provisions of Bill 51-89 amending Chapter 24, Section 24-9 of the Montgomery County Code, regulating smoking in public places and in private workplaces, and the provisions of Chapter 24, Section 24-9A of the Montgomery County Code, regulating smoking in eating and drinking establishments, to apply within the entire City of Takoma Park, to strengthen some of these provisions, and to provide for concurrent enforcement of these provisions by the City of Takoma Park and by Montgomery County.

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

SECTION 1. Chapter 10B of the Takoma Park Code entitled "Smoking in Eating and Drinking Establishments" is repealed and reenacted with amendments to read as follows:

CHAPTER 10B. SMOKING PROHIBITIONS AND RESTRICTIONS.  
Article 1. In General.

Section 10B-1. Purpose.

The purpose of this Chapter is to promote the public health, safety, and general welfare by enacting smoking prohibitions and restrictions which protect the citizens of the City of Takoma Park against unwanted tobacco smoke in certain public places, shared workplaces, and eating and drinking establishments.

Section 10B-2. Definitions.

In this Chapter, the following words and phrases have the meanings indicated:

(a) Bar: An indoor, enclosed area where the primary activity is the service of alcoholic beverages and where the service of food is only incidental to the service of alcoholic beverages.

(b) Child care center: An agency, institution, or establishment that, for part or all of a day, or on a 24-hour basis on a regular schedule, and at least twice a week, offers or provides child care to children under the age of 16 years who do not have the same parentage. Child care center includes a nonpublic kindergarten or elementary school in which an instructional program is offered or provided for children.

(c) City: The City of Takoma Park, Maryland.

(d) City Administrator: The City Administrator of the City of Takoma Park, Maryland or the City Administrator's designee or designees.

(e) County Executive: The County Executive of Montgomery County, Maryland.

(f) Day care center for adults: A place that is operated to provide, with or without charge, care for medically handicapped adults, as defined in Title 14, Subtitle 3, Health - General Article, Annotated Code of Maryland, and either is designated for group day care for 4 or more medically handicapped adults or a family home that provides day care for 2 or 3 medically handicapped adults.

(g) Day care center for the elderly: A place that is operated to provide, with or without charge, care for elderly individuals, as defined in Title 14, Subtitle 2, Health - General Article, Annotated Code of Maryland, and either is designated for group care for at least 4 elderly individuals or a family home that provides care for 2 or 3 elderly individuals.

(h) Department of Health: The Department of Health of Montgomery County, Maryland.

(i) Distribute: To give, sell, deliver, offer to give, sell or deliver, or cause or hire any person to give, sell, deliver or offer to give, sell or deliver.

(j) Eating and drinking establishment: Any enterprise engaged in the preparation or merchandising of food or drink for human consumption including, but not limited to, restaurant, coffee shop, cafeteria, short order cafe, luncheonette, tavern, sandwich stand, soda fountain, and food service facilities in industries, institutions, hospitals, schools and camps, as well as kitchens or other places at a fixed location in which food or drink is prepared for sale on the premises.

(k) Employee: Any person who regularly provides services to a business for compensation. Employee includes a temporary or part-time employee, contractor, or consultant.

(l) Enclosed: Separated by walls that extend from floor to ceiling and under a roof.

(m) Health care facility: Any office or institution where individual care or treatment of physical, mental, or emotional illness, or any other medical, physiological, or psychological condition is provided. Health care facility includes any

hospital, clinic, nursing home for the aging or chronically ill, laboratory, or office of any physician, dentist, psychologist, psychiatrist, physiologist, podiatrist, optometrist or optician.

(n) Health officer: The Director of the Department of Health or the Director's designee or designees.

(o) Less than basic cost: Free of charge, a nominal or discount price, or any other price less than the distributor's cost, to which shall be added the full value of any cigarette taxes payable on them.

(p) Person: Any individual, firm, partnership, association, corporation, company, or organization of any kind.

(q) Private function: An event in an enclosed area to which entry is not available to the general public, but only to those whom the sponsor of the event invites. Private function does not mean an event held by a private club or association to which members of the general public are invited.

(r) Public area: An enclosed area in which members of the public are normally invited or permitted.

(s) Public event: Any event to which the general public is invited or permitted, including but not limited to musical concerts or performances, athletic competitions, fairs, flea markets, and artistic or cultural performances or exhibitions.

(t) Public meeting: Any meeting, wherever held, open to the public with no membership requirement.

(u) Public place: Any area in which members of the public are normally invited or permitted, including but not limited to parks, streets, sidewalks, sports fields, gymnasiums, shopping centers, or property owned, occupied or operated by the City.

(v) Retail store: Any establishment whose primary purpose is to sell merchandise or food for consumption off the premises, directly to consumers.

(w) Shared workplace: A workplace or part of a workplace that is regularly used by more than one employee.

(x) Smoking: The act of lighting, smoking, or carrying a lighted or smoldering cigar, cigarette, or pipe, of any kind.

(y) Tobacco product: Any substance which contains tobacco, including but not limited to cigarettes, cigars, smoking or chewing tobacco, and smokeless tobacco.

(z) Tobacco shop: Any store that primarily sells tobacco, tobacco products, and pipes or other implements used to smoke tobacco. Tobacco shop does not include an area of a larger store in which tobacco is sold.

(aa) Workplace: An enclosed area or any part of an enclosed area used in the performance of employment or related activities. Workplace includes a motor vehicle owned or leased by the employer, conference room, auditorium, library, office machine station, lunch room, vending area, locker room, lounge, hallway, or stairwell.

Section 10B-3 through 10B-4. (Reserved).

Article 2. Smoking in Public Places and in Workplaces.

Section 10B-5. Smoking Prohibited in Certain Areas.

A person must not smoke in any:

(a) Elevator, regardless of capacity, except elevators in single family dwellings, as provided by state law;

(b) Health care facility, regardless of capacity, except:

(1) In the private, enclosed sleeping or living quarters of persons working in a health care facility where patients and members of the public are not normally present; and

(2) In patient sleeping quarters, if:

(i) All patients assigned to the room have agreed to have the room designated as a smoking area;

(ii) The administrator of the facility or his or her designee, has designated the room as a smoking area; and

(iii) A reasonable effort is made to assign patients to sleeping rooms according to the patients' nonsmoking or smoking preference;

(c) School or other educational facility operated by the City, Montgomery County public schools, Montgomery College, Prince George's County public schools, or Prince George's County Community College, except when expressly permitted under state law; or

(d) Building or part of a building owned or leased by the City or Montgomery County government, other than a City or Montgomery County government workplace, that is normally used by the public for public purposes; and any private building or part

of a building during a public meeting called by a government body;

(e) Theater (other than a dinner theater) or movie theater;

(f) City or Montgomery County government workplace;

(g) Public area of a retail store, bank, barber shop, beauty salon, office, factory, or other private business, except:

(1) An eating and drinking establishment;

(2) When the public area is being used exclusively for a private function. A private function is an event open only to persons specifically invited, not to the general public, in which the entire public area is under the control of the sponsor of the event;

(3) A public reception area of a professional office operated by a sole practitioner; or

(4) A retail store, barber shop, or beauty salon in which not more than two persons work at any time.

(h) Restroom, except a restroom in a private residence;

(i) Enclosed auditorium, concert or lecture hall when it is open to the public;

(j) Shared workplace in a retail store, bank, barber shop, beauty salon, office, factory, or any other private business, except:

(1) A business in which not more than two persons work at any time;

(2) A shared workplace in a private residence where members of the public are not regularly invited; or

(3) A shared workplace in a public area of an eating and drinking establishment; or

(k) A child care center, day care center for the elderly, or day center for adults.

Section 10B-6. Exceptions.

Smoking is not prohibited by Section 10B-5:

(a) When any public area in which smoking is prohibited under Section 10B-5 is closed to the public, unless the public area is also a shared workplace;



(b) In that part of a large, open, indoor space (such as a hotel, theater, lobby, shopping mall, bowling alley, office reception area, or transportation waiting area) that is designated as a smoking area under Section 10B-7. Any smoking area designated within a large, open, indoor space must:

(1) Consist of less than 20 percent (in a bowling alley, less than 40 percent) of the open indoor space in which it is located, or a lower percentage specified in Department of Health regulations;

(2) Not be located in the center of the open indoor space or in an area that the public must pass through in order to gain access to an office, store, restroom, or other essential part of the building;

(3) Use barriers and ventilation systems, where practical, to minimize the effects of smoke in adjacent areas; and

(4) Conform to Department of Health regulations that include criteria for size of the open space, size and location of the smoking area, and adequacy of ventilation.

(c) In tobacco shops.

(d) In private, enclosed offices where members of the public are not normally present and when the door leading to another workplace is closed, except if the office is a shared workplace, smoking is permitted only if all employees regularly sharing the office consent.

(e) In those areas in buildings used by the City or Montgomery County government that the City Administrator or the Chief Administrative Officer, as applicable, designates as areas for smoking.

(f) By actors as part of a stage production.

#### Section 10B-7. Designated Smoking Areas.

The person in charge of any area specified in Section 10B-5 may designate separate areas where smoking is permitted.

(a) An area must not be designated as a smoking area if smoking in that area is prohibited by any other law or regulation, or by a fire marshal.

(b) In order to accommodate persons who desire to avoid contact with smoke, to the extent possible:

(1) Those areas which are best served by filters, air changers, other ventilation devices, and convection currents, should be reserved as non-smoking areas; and

(2) Walls, screens, or semi-partitions should be used to help keep a non-smoking area smoke-free, but this section does not require construction of walls or other structures.

(c) Designated smoking areas must not include shared workplaces or areas normally used by members of the public, except:

(1) An enclosed room within a private business, City or Montgomery County government workplace which is used exclusively as a smoking lounge; or

(2) An enclosed lunchroom, vending area, locker room, or lounge, if at least one similar, conveniently-located lunchroom, vending area, locker room, or lounge is reserved for non-smoking employees.

(d) Restrooms and elevators must not be designated as smoking areas, except that a restroom which is accessible only from a private office may be so designated.

#### Section 10B-8. Posting Signs.

(a) Signs prohibiting or permitting smoking, as the case may be, must be posted conspicuously in each room and area covered by Article 2 of this Chapter. However, in a workplace signs need only be posted in one prominent place on each floor of the building that is visible to each employee.

(b) Where smoking is prohibited by this Section, the sign must read:

(1) In the Montgomery County portion of the City: "No smoking by order of Montgomery County Code Section 24-9 and Takoma Park Code Chapter 10B. Enforced by the Montgomery County Department of Health and by the City of Takoma Park."

(2) In the Prince George's County portion of the City: "No smoking by order of Takoma Park Code Chapter 10B. Enforced by the City of Takoma Park."

(3) The international no smoking symbol may replace the words "No Smoking" on all signs.

(c) Signs need not be permanently attached to a structure. The owner and the person in control of the room or area are both responsible for posting the required signs.

Section 10B-9. Duty to Prevent Smoking in Certain Areas.

The owner or person in charge of a building or area covered by Article 2 of this Chapter must refuse to serve or seat any person who smokes where smoking is prohibited, and must ask the person to leave the building or area if the person continues to smoke after proper warning.

Section 10B-10. Optional Smoking Restrictions.

The owner or person in control of any property not covered by Section 10B-5 or exempted under Section 10B-6 may prohibit or restrict smoking as provided in Article 2 of this Chapter by notifying, in writing, the City and the Department of Health (or other department designated by the County Executive) and by posting appropriate signs. The City and the Department of Health (or other department designated by the County Executive) must enforce the prohibition or restriction wherever signs are posted until the owner or person in control of the property notifies the City and the Department of Health (or other department designated by the County Executive) in writing that the owner or person in control has revoked the prohibition or restriction and removed all signs.

Section 10B-11. Employers' Responsibilities.

(a) Each employer must provide a smoke-free work environment for non-smoking employees to the maximum extent practical.

(b) Each employer must inform its employees of this Chapter, as it applies to the employees' workplace, by permanently posting a summary of the law in a prominent place or regularly giving each employee a written summary. The Department of Health, for employers in the Montgomery County portion of the City, and the City, for employers on the Prince George's County portion of the City, must furnish each employer, on request, a summary of the law written in plain language.

(c) Each employer must establish and post a workplace smoking policy written in plain language. The policy must include a procedure to resolve complaints by employees about the application of this Chapter. The procedure must identify the person designated by the employer to receive complaints. The employer must keep a record of each complaint and how it is resolved.

(d) Each employer must protect its employees against retaliation by the employer or another employee for taking any action allowed under this Chapter at a workplace. An employer is not liable under this subsection for any action of an employee that does not occur at the workplace and is outside the scope of

the employee's employment. This Chapter does not affect hiring, discharge, or any other personnel action.

(e) An employer need not modify any structural element of a workplace to comply with this Chapter.

#### Section 10B-12. Limitations.

This Chapter does not:

(a) Allow any person to smoke at any place where smoking is otherwise restricted; or

(b) Prevent an owner or person in charge from prohibiting smoking entirely at any business or workplace.

#### Article 3. Distribution of Tobacco Products at Less Than Basic Cost.

#### Section 10B-13. Distribution Prohibited.

(a) No person shall distribute tobacco products or coupons or certificates which are redeemable for tobacco products to members of the public at less than basic cost in public places, in public areas, or at public events.

(b) This section shall not apply to the distribution of tobacco products at less than basic cost by retailers, manufacturers or distributors of tobacco products to any employee of such companies who are over the age of majority.

#### Section 10B-14. (Reserved).

#### Article 4. Smoking in Eating and Drinking Establishments.

#### Section 10B-15. Applicability.

(a) This Section applies to an eating and drinking establishment if the total seating capacity of all non-bar areas is 25 or more.

(b) This Section does not apply to any area of an eating and drinking establishment that is:

(1) A bar; or

(2) Being used exclusively for a private function.

#### Section 10B-16. Non-smoking Area Required.

A person who operates an eating and drinking establishment subject to Section 10B-15 must designate a contiguous, non-

smoking area that is at least 50 percent of the total seating area of that part of the establishment that is not:

- (a) A bar; or
- (b) Being used exclusively for a private function.

Section 10B-17. Notice.

(a) Any person who operates an eating and drinking establishment subject to Section 10B-15, must:

- (1) Post conspicuously at each entrance, a sign stating that a non-smoking area is available;
- (2) Ask whether each patron wants to be seated in the smoking or non-smoking area;
- (3) Refuse to seat or serve a person who smokes in a non-smoking area; and
- (4) Ask a person who smokes in a non-smoking area to leave the establishment if the person continues to smoke after proper warning.

(b) Eating and drinking establishments with a total seating capacity of all non-bar areas of less than 25 that do not voluntarily designate a nonsmoking area shall conspicuously post a sign at each entrance stating that a nonsmoking area is not available.

Section 10B-18. Prohibition.

A person must not smoke in:

- (a) An area that is designated for non-smoking under Section 10B-16; or
- (b) Any restroom that is open to customers.

Section 10B-19. Election for Coverage.

Eating and drinking establishments not covered by Section 10B-15 may elect to have the provisions of Article 4 apply by so notifying, in writing, the City and the Department of Health and by following the notice requirements of Section 10B-17. Upon such election for coverage, the provisions of Article 4 shall apply and be enforceable by the City and the Department of Health until the person who operates the eating and drinking establishment notifies the City and the Department of Health in writing that such election is being withdrawn.

Section 10B-20. Prohibiting Smoking Entirely.

(a) Nothing in Article 4 of this Chapter prevents a person who operates an eating and drinking establishment from prohibiting smoking entirely in such establishment.

(b) If smoking is prohibited entirely in an eating and drinking establishment, then a sign so stating shall be posted conspicuously at each entrance to the establishment.

Section 10B-21 through 10B-24. (Reserved).

Article 5. Administration.

Section 10B-25. Construction of Signs.

Unless otherwise provided by this Chapter, the construction, dimensions, letter size, color, placement, and other specifics relating to the signs required to be posted pursuant to this Chapter shall be in accordance with standards duly established by Montgomery County Executive Regulations and/or by the City of Takoma Park.

Section 10B-26. Regulations.

The City Administrator may adopt reasonable regulations in accordance with the procedures set forth in Chapter 2A, Article 5 (Administrative Regulations) of the Takoma Park Code, as amended from time to time, to carry out the provisions of this Chapter.

Section 10B-27. Other laws still apply.

(a) This Chapter adds to, and does not replace or restrict, any other applicable federal, state, or City law or regulation.

(b) This Chapter does not allow smoking where smoking is restricted by any applicable fire prevention rule or regulation.

Section 10B-28. Enforcement.

(a) Responsibility for enforcement of the provisions of this Chapter shall exist jointly and severally in the City Administrator and, in the Montgomery County portion of the City, in the County Executive and/or the Health Officer.

(b) Primary, although not exclusive, responsibility for the enforcement of the provisions relating to smoking in eating and drinking establishments for the Montgomery County portion of the City, shall rest with the Health Officer.

(c) The Corporation Counsel of the City, the Montgomery County Attorney (for the Montgomery County portion of the City),

or any affected party may file an action in any court with jurisdiction to enjoin repeated violations of this Chapter.

Section 10B-29. Penalties.

(a) Any violation of Article 2 (Smoking in Public Places and in Workplaces) of this Chapter is a Class D civil violation under Section 1-19 of the Takoma Park Code and/or, in the Montgomery County portion of the City, a Class C violation under Section 1-19 of the Montgomery County Code. Each day a violation exists is a separate offense.

(b) Any violation of Article 3 (Distribution of Tobacco Products at Less Than Basic Cost) of this Chapter is a Class D civil violation under Section 1-19 of the Takoma Park Code.

(c) A person who operates an eating and drinking establishment in violation of any provision of Article 4 (Smoking in Eating and Drinking Establishments) of this Chapter may be issued a citation for a Class D civil violation under Section 1-19 of the Takoma Park Code and/or, in the Montgomery County portion of the City, a Class C civil violation under Section 1-19 of the Montgomery County Code. Each day a violation exists is a separate offense.

(d) A person who smokes in a non-smoking area in violation of Article 4 (Smoking in Eating and Drinking Establishments) of this Chapter may be issued a citation for a Class D offense under Section 1-19 of the Takoma Park Code and/or, in the Montgomery County portion of the City, a Class C civil violation under Section 1-19 of the Montgomery County Code.

(e) For eating and drinking establishments in the Montgomery County portion of the City, the Health Officer may suspend a license issued under Chapter 15 of the Montgomery County Code for up to 3 days if the Health Officer finds, under the procedures of Section 15-6 of the Montgomery County Code that the operator of an eating and drinking establishment has knowingly and repeatedly violated any provision of Article 4 (Smoking in Eating and Drinking Establishments) of this Chapter.

Section 10B-30. Severability.

The provisions of this Chapter are severable and if any section, sentence, clause, phrase, or word is for any reason held to be illegal, invalid, or unconstitutional, or inapplicable to any person or circumstance by a decision of any Court, that decision shall not affect the validity of the remaining provisions of this Chapter or their application to other persons or circumstances. It is hereby declared to be the legislative intent of the Council that this Chapter would have been adopted if such illegal, invalid, or unconstitutional section, sentence,

clause, phrase or word had not been included and if the person or circumstances to which this Chapter or part thereof is inapplicable had been specifically exempted therefrom.

SECTION 2. This Ordinance shall become effective on \_\_\_\_\_.

ADOPTED THIS \_\_\_\_\_ DAY OF \_\_\_\_\_, 1990 BY ROLL  
CALL VOTE AS FOLLOWS:

Aye:  
Nay:  
Abstained:  
Absent:

smoking.ord  
corr64/cp



D R A F T

Introduced by: Councilmember Sharp  
(Drafted by: P. Jewell)

1st Reading: 7/9/90  
2nd Reading:

ORDINANCE #1990-

AN ORDINANCE ESTABLISHING HANDICAPPED PARKING AT 7314 TRESCOTT AVENUE

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

SECTION 1. THAT it has been determined that there is a need for the establishment of a parking space expressly for the handicapped on Trescott Avenue; AND

SECTION 2. THEREFORE THAT in conformance with Sec. 13-64(a)(10) of the Code of Takoma Park, Md., 1972, as amended, the following site is hereby designated, subject to annual review, 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:

On Trescott Avenue, one parking space opposite 7314 Trescott Avenue

SECTION 3. FURTHER that a violation of subsection (a)(10) is a Class C Offense and that any person issued a citation in violation of this ordinance shall be subject to a Class C fine for each initial violation as prescribed in Sec. 13-64(a)(10)(A) of the Code of Takoma Park, 1972, as amended.

Adopted this \_\_\_ day of \_\_\_\_\_, 1990 by Roll Call Vote as Follows:

- AYE:
- NAY:
- ABSTAIN:
- ABSENT:

Introduced by: Councilmember Hamilton 1st Reading: July 9, 1990  
(Drafted by: P. Jewell and L. Perlman) 2nd Reading

ORDINANCE #1990-38

(Condemning the building at 801 Colby Avenue Condemned as unfit for human habitation)

WHEREAS, the Council has received information from the Inspector of Buildings that the building located at 801 Colby Avenue, Takoma Park (Prince George's County), Maryland (hereinafter "the building") is so structurally unsound, dilapidated, unsanitary, and unsafe that it is a danger to public safety, and recommending that it be condemned as unfit for human habitation; AND

WHEREAS, on June 11, 1990, the City Council adopted Ordinance #1990-23, establishing a date for a hearing in order to determine whether or not the building should be condemned as unfit for human habitation; AND

WHEREAS, notices of the hearing stating the nature of the alleged defects in the building were sent, by certified mail, to the building owner of record, Mamie Lewis Robinson, and to all other persons who appeared to have possible ownership interest in the building in a newspaper of general circulation, and posted in a conspicuous place on the building in accordance with Article 6, Chapter 6, Section 6-71 of the Takoma Park Code; AND

WHEREAS, on July 9, 1990, the Council held a hearing on the condition of the building to determine whether or not the building should be condemned as unfit for human habitation.

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

SECTION 1. THE Council, based on the information presented at the hearing on July 9, 1990, and other competent evidence bearing on the condition of the building at 801 Colby Avenue, finds that the building is so structurally unsound, dilapidated, unsanitary, and unsafe that it is a danger to public safety; AND

- SECTION 2. THAT in accordance with Article 6, Section 6-72, of the Takoma Park Code, the Council does hereby determine that the building at 801 Colby Avenue shall be condemned as unfit for human habitation; AND
- SECTION 3. THAT, the Council also determines that the defects in the building are so extensive that they cannot be corrected and, therefore that the building should be destroyed. The Council directs City staff to take appropriate action to move forward with demolition of the building located at 801 Colby Avenue.
- SECTION 4. THE Council directs City staff to promptly placard the building with a notice that it has been condemned as unfit for human habitation.
- SECTION 5. THAT this ordinance shall become effective upon adoption.

Adopted this \_\_\_\_ day of \_\_\_\_\_, 1990 by roll call vote as follows:

AYE:

NAY:

ABSTAINED:

ABSENT:

INTRODUCED BY: Councilmember Leary

ADOPTED: July 9, 1990

RESOLUTION NO. 1990-69

A RESOLUTION AUTHORIZING SUBMISSION OF AN APPLICATION BY THE CITY OF TAKOMA PARK TO THE MARYLAND STATE ACTION LOAN FOR TARGETED AREAS (SALT) PROGRAM FOR A LOW INTEREST LOAN ON BEHALF OF PROPERTY DEVELOPERS AT 6 GRANT AVE. TAKOMA PARK, MARYLAND, FOR THE PURPOSE OF PROMOTING COMMERCIAL REDEVELOPMENT AND ECONOMIC REVITALIZATION.

WHEREAS, the State SALT program has available funds for financial assistance in fiscal year 1991; AND

WHEREAS, under the regulations governing SALT the City of Takoma Park qualifies as a targeted area and is therefore eligible to apply for financial assistance for certain development projects from SALT; AND

WHEREAS, the City earlier supported the rezoning of the property at 6 Grant Avenue from R-60 (one-family detached, residential) to O-M (office- moderate intensity); AND

WHEREAS, this rezoning application, G-599, was approved by Montgomery County on September 27, 1988; AND

WHEREAS, the Council finds that the project is fully consistent with the City's policy and program of stimulating appropriate commercial redevelopment and economic revitalization in the Takoma Junction Business District;

NOW, THEREFORE, BE IT RESOLVED BY THE COUNCIL OF THE CITY OF TAKOMA PARK, MARYLAND, THAT the City Administrator or his designee is hereby authorized to prepare and submit a SALT application for a low interest loan on behalf of the developers of 6 Grant Avenue for the purpose of financing the development.

BE IT FURTHER RESOLVED THAT the Council pledges to make a material and substantial commitment to the project, to be detailed in Exhibit 3 of said application.

BE IT FURTHER RESOLVED THAT the Mayor is authorized to sign said application on behalf of the City Council.

ADOPTED THIS 9TH DAY OF JULY, 1990.

6grnsalt.res

ORDINANCE NO. 1990 - 40

ORDINANCE TO CONTINUE RENT STABILIZATION AND TO  
SET A NEW RENT STABILIZATION RATE

- WHEREAS the Sec. 6-80.17 (a) of the Code of Takoma Park requires the City Council to conduct an annual review of the rent stabilization provisions of Article 7; AND
- WHEREAS the City Council has been provided with substantial information which evidences emergency housing conditions in the Washington Metropolitan Area and in particular, in the City of Takoma Park Maryland; AND
- WHEREAS the Department of Housing and Community Development has recommended that rent stabilization be continued in the City of Takoma Park, and that the rate for rent increases be limited to five percent (5%) per annum; AND
- WHEREAS the aforesaid recommendations are the results of thoughtful analyses which included consideration of the Washington-Area Consumer Price Index, the Washington-Area Consumer Price Index figures for rents, in accordance with the Sec. 6-80.17 (a), and included consideration of other appropriate factors; AND
- WHEREAS the City Council held a public hearing on June 25, 1990 and received relevant testimony from persons representing tenant and landlord interests; AND
- WHEREAS the City Council, in accordance with Sec. 6-80.17 (a) has conducted an annual review of the rent stabilization provisions taking the recommendations of the Department of Housing and Community Development, along with public testimonies, into consideration.

NOW, THEREFORE, BE IT ORDAINED by the Council of the City of Takoma Park, Maryland:

SECTION 1. THAT Rent Stabilization shall continue in the City of Takoma Park.

SECTION 2. Chapter 6, Article 7, Division 2, Section 6-80.17 (c)(2) is hereby amended as follows:

Section 6-80.17 (c)(2)

It shall be unlawful for the landlord or anyone acting on behalf of a landlord to [charge or collect any rent for any dwelling unit which exceeds the lawful rent chargeable for such unit, on September 30 of this calendar year, by more than four percent (4%)] impose or attempt to impose a rent increase for any dwelling unit that is more than [[five and one-half percent (5.5%)] five percent (5.0%), [unless the landlord has first obtained a determination] without first obtaining authorization from the Commission on Landlord-Tenant Affairs [that a rent in excess of four percent (4%) of the lawful rent chargeable on September 30 of this calendar year is justified] in accordance with this section of this Article.

SECTION 3. This Ordinance shall become effective on August 1, 1990.

ADOPTED THIS \_\_\_ DAY OF JULY, 1990  
by ROLL CALL VOTE AS FOLLOWS:

AYE:  
NAY:  
ABSTENTION:  
ABSENT:

Brackets ( [ ] ) indicate deletion for 1st reading; Double brackets ( [ [ ] ] ) indicate deletion for 2nd reading; Underlines indicate addition for 1st reading; Double Underlines indicate addition for 2nd reading.

Introduced by: Councilmember Douglas  
Drafted by: A. R. Giancola

Adopted: July 9, 1990  
(Single Reading)

Ordinance No. 1990 - 36

An Ordinance to Provide Street and Drainage Improvements  
throughout the City of Takoma Park

WHEREAS, the City received \$93,350 in CDBG Program year 15; AND  
WHEREAS, bids were solicited from qualified contractors by  
advertising in the Washington Post and the Dodge  
Report; AND  
WHEREAS, bids were publicly opened at 2:00 p.m., May 22, 1990  
with ten bids received; AND  
WHEREAS, NZI Construction Corporation of Beltsville, Maryland  
has submitted the lowest bid which is considered both  
responsive and responsible.

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

SECTION 1: THAT the bid received from NZI Construction  
Corporation is hereby accepted; AND

SECTION 2: THAT a contract award amounting to \$89,790.50 be  
made.

SECTION 3: THAT CDBG Program Year 15 funds be used to fund this  
project

Adopted this 9th day of June 1990.

AYE: Douglas, Elrich, Leary, Moore, Prensky, Sharp

NAY: None

ABSTAIN: None

ABSENT: (for vote) Hamilton

Drafted by: V. VinCola

Introduced by: Mayor Del Giudice

Resolution 1990-70

**A resolution authorizing the City Administrator to execute Cooperation Agreements with both Montgomery County and Prince George's County under the federal Community Development Block Grant program for Federal Fiscal Years 1991, 1992, and 1993.**

WHEREAS, Title I of the Housing and Community Development Act of 1974 as amended provides for a program of Community Development Block Grant funds; and

WHEREAS, the "Block Grant Program" is a mechanism by which federal assistance to local governments is made available to undertake essential community development activities and housing assistance programs pursuant to the Counties' community development programs and Housing Assistance Plans; and

WHEREAS, the magnitude of the City's population in the respective Counties, among other factors, is a determinant of the amount of resources which maybe made available to the Counties to undertake these essential activities; and

WHEREAS, it is in the interest of Takoma Park to participate in the Community Development Block Grant program by entering into Cooperation Agreements with both Montgomery County and Prince George's County for a duration of three years commencing in Federal Fiscal Year 1991 and terminating at the end of Federal Fiscal Year 1993, or when such projects are completed.

NOW, THEREFORE BE IT RESOLVED, BY THE CITY COUNCIL OF TAKOMA PARK, MARYLAND THAT the City Administrator is hereby authorized to execute Cooperation Agreements with both Montgomery County and Prince George's County under the federal Community Development Block Grant program.

ADOPTED THIS 9th DAY OF JULY.

CAC/Co-opagr.res

CITY OF TAKOMA PARK, MARYLAND  
REGULAR MEETING OF THE CITY COUNCIL  
Monday, July 23, 1990

CITY OFFICIALS PRESENT

Mayor Del Giudice	City Administrator Wilson
Councilmember Douglas	Asst. City Administrator Habada
Councilmember Elrich	City Clerk Jewell
Councilmember Hamilton	Personnel Officer Hobbs
Councilmember Leary	Housing Services - Weiss
Councilmember Moore	Comm. Planner Schwartz
Councilmember Prensky	Housing Coordinator Walker
Councilmember Sharp	Asst. Corp. Counsel Perlman

The City Council convened at 8:01 p.m. on Monday July 23, 1990, in the Council Chambers at 7500 Maple Avenue, Takoma Park, Maryland. Following the pledge, Mayor Del Giudice made his remarks.

MAYOR DEL GIUDICE'S COMMENTS AND PRESENTATIONS: The Mayor noted for the record that this will be the final meeting of the City Council for the legislative year; the Council will reconvene on September 4, 1990 the Tuesday following Labor Day. He stated at the end of the meeting, there would be a resolution taken up for the purpose of calling a recess. The Mayor commented that Sue Weiss, who has served the City of Takoma Park for a number of years as the Director of Housing Services, is leaving the City's employ. He also said that the City owed Ms. Weiss a note of gratitude and appreciation for the work that she has done. The Mayor stated that before Ms. Weiss took over the department it was not in good condition, and since that time, the Department of Housing and the Department of Economic and Community Development had been combined to create one department, the Department of Housing & Community Development and a new person the City has hired will be moving into that position at the end of July.

Mr. Sharp announced that the Housing Committee would be meeting tomorrow July 24th at 7:00 PM in the Mayor's Office. Mayor Del Giudice then moved to the next portion of the meeting, stating that staff had brought to his attention a number of misspellings of names in the Minutes and they have pursued corrections of those misspellings. He said that the Council had the choice to move adoption with the corrections of the spelling errors staff is already incorporating or postpone consideration of this or deferring adoption until those corrections were made and brought back before the Council. Mr. Sharp suggested proceeding forward with adoption. Motion was made by Councilmember Douglas; duly seconded by Councilmember Hamilton to adopt the minutes with the corrections that staff identified including the misspelling of names and Mr. Sharp's notation of one error on page 6 of the 3/26/90 minutes; the minutes of 3/26, 4/11 and 4/23 were adopted.

CITIZEN COMMENTS (Items not on the agenda)

Paul Plant, 7411 Carroll Avenue. Mr. Plant stated that he was at this meeting to see about seceding as a city. He said that he thought the City would be better served if it was part of Montgomery County and part of Prince George's County without a City government. He said that it is becoming embarrassing never to hear anything good about Takoma Park. He brought up the fact there was a very good trash service in Takoma Park, a good Police Department and Fire Department. He said that the reason he would like to secede from the City is because of the many recent changes; i.e., 1) he did not understand the recycling program; and 2) he did not know that Takoma Park had a foreign policy of sending someone to El Salvador.



AGENDA

1. Variance Request for 7501 Central Avenue. Community Planner Lisa Schwartz said that the owners of the property were seeking to validate an enclosed carport which is being used as living space and to construct a deck on the rear of the property to go behind the enclosed carport area toward the rear of the property. She said that their request required a 4 foot variance from the side yard requirement, and a 15 foot variance from the rear yard requirement. Ms. Schwartz said that the proposed construction has been sketched in more clearly on Map #2 in the staff report.

A Resolution of No Position was moved by Councilmember Prensky; duly seconded by Councilmember Moore and passed without objection; and will be forwarded to the Prince George's Board of Appeals for the Hearing in the matter.

RESOLUTION #1990-72  
(Attached)

2. Resolution Concerning A Variance for 707 Boston Avenue  
Ms. Schwartz stated that the variance request was for a 1 foot variance from the side yard requirement to validate the existing side yard for the existing house. Ms. Schwartz said that the addition itself, did not require any variances. Councilmember Leary moved passage of the Resolution; duly seconded by Councilmember Hamilton. The Resolution carried by unanimous vote.

RESOLUTION #1990-73  
(Attached)

3. Resolution Concerning 102 Tulip Avenue, Accessory Apartment  
Ms. Weiss stated that she wanted to clarify the attached report on the property, that the apartment had been constructed but not completed and that is why an internal inspection has not taken place. She referred to an attached report by the Maryland National Capital Park and Planning Commission and statements made by the owners of the property. She said that the statement included promises to provide one off-street parking space for the occupants of the rental unit. The Department of Housing recommends opposing this particular accessory apartment on the basis that the application cannot be filed until the construction of the dwelling is 5 years of age and that time-period has not yet lapsed, and also there is a concentration of accessory apartments and other uses that differ from a single-family use in this particular neighborhood.

Diane Macheachern, 102 Tulip Avenue stated that there had been no construction. She also said that when she tried to clarify when she could have the apartment, she was told, both at the county and city level, that the apartment could be occupied after a period of 5 years. She said that she was not told that she had to wait for that and when she submitted her application to the Board of Appeals, they did not inform her either. She said she feels the Park & Planning Commission did recommend that the Appeal not be granted until October. Also, she said that it is not the opinion of the Park & Planning Commission or the neighbors that there is an undue concentration of vehicles in the street.

Mayor Del Giudice asked about the off-street parking. Ms. Weiss replied that there was one available space and that the neighbors that live behind them have agreed to let the future tenant use that space.

Delores Milmoie 7212 Cedar Avenue presented 12 letters signed by close neighbors along with another letter opposing the accessory apartment from an adjacent neighbor. She read parts of the letter signed by the 12 neighbors. Councilmember Leary moved to oppose the request for an accessory apartment; the motion was duly seconded and the motion to oppose carried by unanimous vote.

MOTION/RESOLUTION #1990-74  
(Attached)

4. Second Reading Ordinance Condemning The Building at 801 Colby Avenue

Councilmember Hamilton moved adoption of the Ordinance at second reading and it was seconded by Councilmember Sharp. Mayor Del Giudice indicated that this matter had been before the Council for some time and that an ordinance was previously adopted setting a public hearing date at the time of the first reading on July 9, 1990. At the July 9th meeting, staff presented a report which included a video tape showing of the property in question. The Mayor stated that the owners of the property had been working with the city and are fully aware of the actions that are being taken this evening. The question was called and Ordinance was adopted at second reading, by Roll Call vote as follows: AYE: Douglas, Hamilton, Leary, Moore, Prensky, Sharp. NAY: None; ABSTAINED: None; ABSENT: Elrich.

ORDINANCE #1990-38  
(Attached)

5. Second Reading Ordinance Establishing a Hearing Date of September 10, 1990 for Hearing re the Condemnation of 6729 Poplar Avenue.

Councilmember Prensky moved adoption; duly seconded by Councilmember Douglas. Mayor Del Giudice indicated that this matter was taken up in Special Session held on July 16th. For the record, Mayor Del Giudice stated, that the Council was not condemning the property at this point, but setting up a public hearing to consider that question and the Hearing would take place on September 10th. Mayor Del Giudice indicated for the record, the receipt of a letter addressed to Mr. Prensky from J.W. Hartman of Poplar Avenue.

Jim Schwartz, who lives close to the property, stated that his concern is that the poor condition of the property is in full view. The house is a public nuisance. Mayor Del Giudice indicated for the record that the property has been cited and staff has met with the owners and have made offers to assist them, and informed them of loan programs that are available that they could apply for that would aid them in repairing the property. To this point, nothing has been done by the owners in following through on the offers of assistance. He said that it is the Council's hope and intent that the city would continue to work with the property owners if they do come forward to make some improvements in the property, if that is possible. Mr. Prensky remarked that since he became a member of the Council last November, the work that had been done with the owners of the aforementioned property, through the city staff, had been reported to him on a regular basis. He said that he has been in regular communication with the president of B.F. Gilberts Citizens Association and the Circle Woods Community Association and informed them of every meeting relating to this property. He expressed his concern, stating that anything that happens in such serious terms as condemnation and demolition of property in his ward, will have very careful scrutiny and nothing will be done without the complete awareness of everybody involved. The question was called and the Ordinance carried at second reading by Roll Call vote: AYE: Douglas, Hamilton, Leary, Moore, Prensky, Sharp; NAY: None; ABSENT: Elrich. The Mayor stated that notice will be made available for the public hearing on September 10th. Councilmember Douglas commented that if the property were to be condemned, staff should seek ways to recover the City's costs.

ORDINANCE #1990-41  
(Attached)

6. Second Reading of an Ordinance Concerning a Handicapped Parking Space at 7314 Trescott Avenue.

Councilmember Sharp moved adoption; duly seconded by Councilmember Hamilton. An unidentified citizen stated that in looking around the community, he noticed a lot of handicapped spaces. He said that while he is not opposed to that, however, he said that it bothered him that people take advantage of those spaces when they are set aside for the handicapped. The Ordinance was adopted at second reading by Roll Call Vote: AYE: Douglas, Hamilton, Leary, Moore, Prensky, Sharp; NAY: None; ABSENT: Elrich.

ORDINANCE #1990-37  
(Attached)

7. Public Hearing Concerning Metrobus Transportation Service To The Prince George's County Portion of the City. Mayor Del Giudice Stated that the City had been discussing with Prince George's County officials and Montgomery County officials, the question of bus service to the Prince George's portion of the City. He stated that their most recent meeting was very productive and went on to say that the City has an opportunity to create an experimental metrobus route that would travel the New Hampshire Avenue corridor and go to the subway station in Takoma/DC on the district line. He said that this would be an experimental bus route and that it is anticipation that it would have a very high ridership, regardless which route it takes. Mayor Del Giudice said that Mr. McGarry, the Director of Transportation in Montgomery County, pointed out to him that while there may be additional funds available with the opening of a number of metro Red Line stations in Montgomery County, along the Georgia Avenue corridor, it was not known if any of those funds will be available to dedicate to new services elsewhere. The Mayor also said that there were 2 routes that have been proposed for this metrobus route -- one would travel New Hampshire Avenue, from the Langley Park area going to the intersection of East West Highway and New Hampshire Avenue, then proceeding down East West Highway toward the Takoma junction area at Carroll Avenue, and proceeding on Carroll to and through Old Town to the subway station. The alternative route would essentially follow New Hampshire Avenue all the way up to the DC line at Eastern Avenue and proceed down Eastern Avenue toward Old Town, through Old Town to the subway station. Mayor Del Giudice said that the purpose of the public hearing was to determine if there is interest in pursuing a bus route and which route citizens would be more interested in pursuing. He noted that the City previously published a survey in the newsletter that requested citizens to comment on both of the routes, and the vast majority of citizens supported the bus route that would travel along Ethan Allen Avenue. He said it was anticipated that route would be serviced by Ride-On buses. He added that the City has been assured by authorities in Prince George's County that the funds are available to make this bus route a reality and that it can happen once the City determines which route to proceed with, and the details are worked out with Metro.

CITIZENS COMMENTS

Sally Taber stated that she is in favor of the buses to the Takoma Metro. She said that she personally likes the Ethan Allen route because it will be most convenient for her and that anything that can be done to get bus services in her area would make her happy. She also said that she was in favor of the Metro bus as opposed to Ride-On. Mayor Del Giudice stated that high ridership is anticipated because the bus will service New Hampshire Avenue where there is the New Hampshire Towers Apartments and other indicators of heavy residential use as well. He said that the fare would be a regular Metro fare, which was no different from Ride-On because Ride-On had increased their fares. It would be a 30 cents savings to anyone who is presently taking a metrobus into the DC area to go to the Ft. Totten station.

Kathy Porter, president of the South of Sligo Citizens Association stated that she was there to speak on her own and not for the Association. She said that the issue of the buses has been discussed among her neighbors frequently. She went on to say that people moving into the neighborhood often ask why there are no convenient Metrobus services; why the area is the only part of Takoma Park that doesn't have metrobus services to the closest subway station. She implied that she feels this a very important service to the people who live in the neighborhood.

Erwin Mack, Owner of Denis Sleep Shop, and President of Takoma-Langley Crossroads Development Authority said that this kind of service interests the merchants, and that he does not understand how service would be applied to that intersection from the Metro. Mayor Del Giudice said that he was not sure of the details of where the turnaround point would be.

Steven Quick, President of the Old Takoma Citizens Association asked whether or not the Metrobus alternative is going to be worked out in detail by Metrobus and then presented to the citizens or is this meeting the only opportunity that citizens will have to comment on the plans. Mayor Del Giudice replied that it could be any way that the citizens preferred, saying that there can be a second hearing in the fall where the Metrobus representatives would present the exact details of a route, but they have asked the Council to get an idea from the community of the routes that the citizens preferred. He said that it will be a commitment of time and energy and cost to Metro to plan a route and they wanted to hear from the City. He also said that Metro will start with an experimental route and he stressed the importance of the citizens seeing it as only as experiment; if the ridership shows that Ride-On buses can be used, they may be preferred. However, this was going forward as an experiment.

Daphne White 512 Ethan Allen Avenue said that she seconded everything that was said by previous speakers, and that she did not support use of large diesel buses.

Mr. Herman (who identified himself as residing on Lee Avenue) said that he opposed the Metrobuses going through his neighborhood on Lee Avenue, especially Old Town. He implied that there was no room for a big bus to turn the corners and not be hazardous to the public. Also, he said that he was against the big buses because of the pollution they cause.

Mayor Del Giudice said that he was in favor of the proposed route for the New Hampshire Avenue-Eastern Avenue corridor route. He said that the City was about to get a new postal station in Old Town and there were a lot of people on the New Hampshire Avenue side of the City who depend on public transportation and don't have public transportation to Old Town. He said that if the route were to run along Eastern Avenue, it would put those citizens at least two store fronts away from the Post Office. Mayor Del Giudice said that if the route were to run along Carroll Avenue, riders would be let off at the intersection of Carroll and Laurel which was not a "friendly" pedestrian intersection for the elderly, etc. The Mayor continued by saying that if an experimental bus route were put on New Hampshire and Eastern Avenue the most good would be served. He said he would like to have the Council's authority to move forward to continue discussions with the transportation authorities to request a more detailed plan on this recommendation with a report back to the Council at a later time.

Mr. Sharp said that he disagreed with the Mayor's recommendation; to have bus service down to Eastern Avenue, and then up to New Hampshire and Carroll; he said that a rider might as well take the Fort Totten bus. Mr. Sharp said that there was no time saved by doing this and it did not make the Metrobus more accessible to the people who live on East-West Highway. He said that he recognized the issue with the diesels, but said that he was troubled by the

argument that there should be no more diesels put on the street if that was the only bus that is available at the present time. He went on to say that the people who are arguing for no more diesels have to also think about getting rid of the diesels that we have in the City now. Mr. Sharp said he felt that the most desirable thing to do was to get some type of gasoline bus service that ran down New Hampshire, up East West Highway and into Old Town.

Mr. Moore agreed with Mr. Sharp's suggestions concerning the routes. Mr. Douglas said that his fear was not that the bus will not run between now and this time next year; but that they will run forever. He said that he felt that the leverage with Montgomery County will be lost and he said he agreed with the Mayor to have a one year stopgap measure with the emphasis of the effort on Prince George's County. Mayor Del Giudice said that he did not think that people are going to come out until they see a design of a bus route in the Newsletter that shows the actual route -- only then would you get a response. He said that he would like to have the authority to go back to the transportation authorities in Montgomery and Prince George's Counties and the metrobus people and see if they can give more specifics and details on a route. He stated that this was unfortunate because it meant that the citizens on the Prince George's County side of the City will go an additional 3 months without bus service because it will take 3 months to get the matter back before the Council. Mayor Del Giudice asked the citizens present to work with the Council to accomplish this goal and to try to find out the critical service need; for the people who work as well as the for others including the ones who need to get to Old Town and to the Post Office.

Mr. Hamilton, said that he agreed that there was a need to get people from the Prince George's side of the City to the Montgomery County side. He proceeded by saying that he had found out that just to get a #17 Ride-On Bus converted to a #25 to get a #13 bus extended to Houston Avenue, it took a demonstration project of over 3 years, and already they are into the second year at the present time. He felt the concern is Ride-On was willing to extend the bus with funding and he still wished to pursue that issue. Mayor Del Giudice said it may, in fact, be worth the City's while to get the notion of trying to find a solution to the problem short of bringing Ride-On buses on a route. He said he didn't think there would be gas buses - but there may be diesel buses. He said that the results of ridership surveys would be too high to be accommodated by the smaller gas buses. He stated that they will be serving a number of apartment facilities and there will be some significant ridership. Mayor Del Giudice called the public hearing to a close.

#### 8. Second Reading Ordinance Amending The Rent Stabilization Ceiling From 4% to 5%.

Councilmember Douglas moved adoption of the Ordinance and seconded to adopt at second Reading.

#### CITIZENS COMMENTS

Mike Johnson, 116 Lee Avenue. Mr. Johnson stated that he speaks on behalf of he and his wife; who are both opposing the annual rent increase of 5% because it is too high for them; he is a full-time student and his wife may be laid off from her current job.

Michael Clinansmith came forth and read a letter of opposition to the rent increase from State House Delegate, Dana Dembrow. He presented copies of the letter to the Council. Mr. Clinansmith then stated that he moved to Takoma Park because of its diversity and variety of people. He implied that he resents it when someone says to him "oh you live in 'tacky' park". He said that he vehemently fought that sort of insinuation that Takoma Park is substandard by any measure. He also said that we can make this City alive and in the best interest of its citizens by defeating motions like the present one. He said that he only heard seven

landlords out of over 500 ask for a rent increase.

Michael Mead, Owner of 7406 and 7408 Hancock Avenue and 108 and 110 Lee Avenue stated that he'd been a landlord before the rent stabilization bill was passed and he testified in favor of it at that time; but now, he was sorry because of the implementation of it. He went further on to thank the Council for really trying to avoid the emotionalism and the politics that were involved in it. He stated that no tenants want to pay more rent; all landlords want to make a profit and somewhere between, there is a right decision. He called attention to the fact that Washington DC has a rent control law that exceeds Takoma Park's and that the District had a 5.6% rent increase ceiling which started in May 1990. Takoma Park homeowners, Montgomery County and D.C. homeowners know that the costs of owning a home has gone up significantly more than 5%.

Barbara Jones 7520 Maple Avenue. Ms. Jones stated that she has lived in DC, California and other areas of the U.S. She said that she is very saddened that in the 3 years she has lived in Takoma Park; her apartment has been vandalized, she has never met the landlord and she thinks that the Mayor and the City Council need to "tighten-up" on the landlords and managers. She went on further to say that she has had to wait for 3-4 months for repairs to be done in her apartment. She spoke of it being almost like a "trap"; too expensive to move out.

Mary Sinclair-Jacobs read a lengthy letter opposing the rent increase.

Sakinah Shakur asked if there was anyone in the Department of Housing present who could answer a question for her. She spoke of the experience in her building over the weekend where there was no air conditioning, and stated that she called the Department of Housing and an answering machine referred callers to the Police Department. She said that the person at the Police Department was rude and unresponsive to her and suggested that she should open her windows. She asked why the police department's number was on the Housing Department's answering machine when they cannot give any help. Mayor Del Giudice replied that this was a problem that needed to be addressed; it was brought to his attention on Saturday afternoon and he did contact the Asst. City Administrator and a code enforcement officer was sent over that same afternoon. He went on to say that the process had to be reviewed because citizens cannot be directed from the Housing Department to the Police Department. He apologized to the tenants and stated that the chain-of-command would have to be cleaned up. Ms. Shakur went on to say that she was also testifying to reject the 5% rent increase, stating that the building she lives in has so many code violations that she didn't think that there is enough paper to record all of them on. She said that the violations had been going on for a number of years and to impose a 5% increase or any increase in her building (the Essex House) should be unheard of.

Harold Smith resident of Takoma Park for 5+ years, 116 Lee Avenue stated that he was a retired senior citizen and on a fixed income. He appealed to the council that they would create a burden for people such as him, when they consider increasing the rent.

Sally Ramsey, Essex House resident repeated Ms. Shakur's statements, adding that the air conditioning was out and she could not reach anyone this weekend. She said that she called the Police Department and was told to hire someone to come in and repair the air conditioning. She said that there have been no repairs done at Essex House at all.

Marian Cole, 112 Lee Avenue said that her building is not air conditioned and it is shabby. She stated that the costs are high and the repairs don't last an hour or a day. All faucets leak in all of the apartments. She said that she has taken pictures of

all the things that need repairing and will bring these to the Housing Department. She also said that her landlord has asked for a 20% increase.

Joffrion Tower, 7777 Maple Avenue, read a statement about the poor conditions at Park Maple apartments, now named the Essex House. Mr. Tower said that this afternoon he received a Certified Letter from the landlord informing him of the 3.8% raise in his rent. He cited several cases of businesses in the building relocating because of the high rent. He strongly opposed the 5% rent increase.

Gary Klinmen, 6613 Westmoreland Avenue, stated that one of the members of the City Council is, in fact, a tenant in Takoma Park and that was a potential for abuse of office, and was prejudiced for personal gain. He said he felt this person should be encouraged to abstain from voting on this issue. He went on to say that rent control stagnates the resale of rental property thereby reducing the real estate values of rental property and placing an additional tax burden on owner-occupied property to fill the tax base for Takoma Park. He also said that rent control does nothing to encourage or stimulate landlords to improve or enhance rental property. He said that he felt that there was more political gain than action which would be in the best interest of the community. He finally submitted to the Council that if they wanted to keep the landlords and the tenants happy, and put controls on rent, they should take the initiative to put a 5% annual ceiling on the fee for inspections, licenses and the requests for funds to operate the City of Takoma Park. He said that everyone needed to pitch in and do their part to keep this a historic community.

David MacSpadden came forth and said that he had originally intended to express the anger that he left with at the last meeting but decided not to. He said that he was more saddened than anything, by what he has seen, stating that there are 2 groups of people who have legitimate interests but he's not seeing an honest and rational argument presented. He went on to say that he sees tenants speaking of rent, landlords and services; but does not see any factual evidence. However, he said that the issue is not being able to afford the rent, but increases in rent to help alleviate increases in operating expenses. Mr. MacSpadden said that rent control in Takoma Park took away the incentive to maintain a building. He cited the Park Ritchie Apartments as an example of a group that was able to alleviate their problems as well as the tenants in 7611 Maple Avenue. He said that he feels that rent increases can be healthy for a lot of people.

Sue Johnson indicated that her buildings are inspected by the City as well as by the owners of the buildings and this was costly. She said that all of her rents included all utilities and this was still competitive with the other complexes in the area. She also indicated that most of their clientele are older and there was a minimal amount of turnover; therefore the rent increases were also based on a minimum. She said to try to operate on 4% is unreal and the landlords have no choice but to "let the property slide" as they do not have the sufficient funds to continue to make necessary and needed repairs. She also said that the rate of increase at this time does not meet the rate of inflation. The low rent ceiling lead to deterioration of the rental stock, she implied. She said that all businesses need to cover costs and there is a need to have a reasonable increase.

Barbara Dunn, Owner and Manager of 96 apartments, 15 in Takoma Park including 112 Lee Avenue, said that since 1983, rent controls have hit her properties and she was currently getting about 6%. She went on to say that a year ago she tried to put in a rent increase petition. COLTA misinformed her and after 6 months, the petition was rejected. She said that perhaps a voluntary increase might be the solution to the problems.

Mark Nelson, President of Takoma Park Housing Providers Association said that 6.5% ceiling was correct and he approved of it.

Rein Parris, 7620 Maple Avenue said that he was testifying for his son, Roberto Parris. Mr. Parris said that he and his son have been living in the area for 16 years and that he came to Takoma Park in 1976. He said that as soon as the Metro started in the area, the area deteriorated with drug dealers, etc. Mr. Parris said that he did not see why the rent increase should be any more than 4%. He said that he did not see why the landlord should take advantage of people who have been residents for so long.

Tom Gagliardo brought up the fact that during this same period, landlords who came to the first Commission on Landlord & Tenant affairs on which he served, have since refinanced as is the custom in the industry. He stated that financing runs on 7 year cycles. Many landlords who enjoyed large rent increases because of high mortgages have since refinanced. He also said that he has not seen any factual presentation by the landlords who were present, on how money could have been plowed back into buildings or if there had been any rebates made to tenants, the tenants would have expressed that tonight. He went on to say that whatever ceiling is enacted by the Council, 4% or whatever, any landlord has the legal right to come before the Commission on Landlord and Tenant Affairs and ask for more. Some landlords have done that and have gotten substantial rent increases. Mr. Gagliardo said that it is only fair and just to permit tenants to have the corresponding right to come before COLTA. He said that until Takoma Park has a law to allow tenants to come forth to file their own petitions for less than the law set by the City Council, there will not be a complete system of justice in Takoma Park. He informed the Council that he had given a specific written proposal to Councilmember Hamilton with the hope that he would introduce it and he hoped that no action would be taken on changing the current rent guideline until there was a full investigation of the last 9 years of history and until consideration was given to the proposal which he has put forth tonight. He also reminded the Council that in past years, rent control changes were not made until October.

Bill Luksenbur indicated that he had been before the Council a few times asking for a rent increase. He said that he received compensation for buying his building during the War. He asked the Council how could he operate his building on 4%. He said that he sympathized with the tenants and that maybe the landlords do not keep up their property because they do not have enough money. He inquired as to how the landlord can still operate on 4% now as they did in 1981. He asked the Council to consider a 6.5% increase since there had not been a raise for such a long time.

Anita Bond came forward to speak about the problems at the Essex House. She stated that she was the woman whose story was in the Montgomery Journal and that her problems still had not been alleviated. She went on to say that she was against the rent increase and that if a landlord had valid reasons to get the increase, she would go along with that.

Godwin Foncham stated that his reason for moving into the Essex was that he was shown a model apartment, but when it was time for him to move in, he was told that it was not ready and he was given another one and was told that it was going to be just like the model apartment he had been shown. He said that it had been almost a year now, and nothing had been done. He stated that in the winter, the air conditioning unit blew cold air and in the summer, the air conditioning unit blew hot air. Both he and his wife were students and his wife is pregnant and that because of the heat, her legs were swollen. He said that her doctor advised him to move her to a cooler residence for her health. He talked about the pool of water that was in the hallway. The carpet was taken away and he was told by management that the carpet would be replaced the next



day. Now, he said, it had been over a month and he had received a rent increase in September.

Vincent Abel, Manager of 7667 Maple Avenue-Parkview Towers stated that he wanted everyone to think about the City's budget over the past years. He said that in order to maintain the quality and the services in the City, 9-10% was needed. He said that landlords had to pay at least 8-9% per year to maintain services and that landlords could not do this on just 4%. He said that he felt the rent increase should be tied to what the managers needed to maintain the quality of life in the City.

Kay Dellinger, 7333 New Hampshire Avenue announced that she wanted to dedicate her statements to the memory of Mitch Snyder and Brint Dillingham; stating that Brint's spirit was in the Council Chamber tonight. She said that she came to the debate in disbelief. She believed that the City Council was looking at the rent increase in a vacuum without considering any rent increases given in the past. She quoted the rent increases of the past years and indicated that the rent increases were not based on the expenses of landlords. She suggested using another Index that shows the increase in certain items; natural gas, electricity, water, paint, etc., the items that landlords supply to tenants if they are good landlords. Ms. Dellinger also produced letters from tenants who lived in her apartment complex who also opposed a rent increase.

Mr. Brown said he has noticed that vacancy rates have risen from 2.8 to 3.7%. He said that if rents are increased, more poor people will be out in the streets, and there were already lots of people on the streets and that this caused an increase in crime and health costs. He said that voluntary rents increases have lead to a drastic increase in evictions. He stated that there were 8,000 evictions in 1989 and that when rents escalated, it produced a drastic escalation in evictions and a lot of shelters would be needed.

Larry Ravitz, Wedgewood Apartments, 111 Lee Avenue Owner and tenant, said that he suggested to the Council to try to set up some department in Takoma Park that deals directly with hardship cases. He also suggested that a consensus was needed in the City.

Bruce Ross, 112 Lee Avenue indicated that 6 years ago, he spoke to the Council on the same issue and he felt that he had to come every year to speak on the same issue. He said if you have rent control then the 1% is irrelevant; than not to have rent control and let the rents increase. He also said that the 4% that has been established is for a reason and should be kept at that amount or not have rent control and let the rents rise.

Lynne Bradley encouraged the Council to pass a 4 percent ceiling. She said that there werelandlords who don't keep their properties up and she did not believe that those type of landlords even deserved a 4 percent increase. Ms. Bradley said that she didn't think that the difference between 4 and 5 percent necessarily was going to hurt landlords that cannot be held under the processes that have been outlined through COLTA. She suggested to the Council, that with the vacancy rates both in Takoma Park and Montgomery County, the 4 percent is not a bad number.

#### COUNCIL DISCUSSION

Mr. Leary stated that as Mr. Gagliardo pointed out, what was discussed was whether the 4% or 5% rent control ceiling would be approved. He said that he agreed with Mr. Gagliardo that it was time for the City to examine the history of rent control. He said that the figures presented are accurate and rents in Takoma Park have increased an average of 70% in the 9-year history of rent control; that was close to 8% yearly. He said that maybe rent control had not restrained the increase in the cost of renting in comparison to comparable properties in nearby areas. Mr. Leary went on to say that the decision that had to be made was to find

an objective analysis of economic data. He said that the Housing Department had recommended a 5% increase for this year, as they did last year. Mr. Leary said that the complaints about the Essex House were serious; however, they are a different problem. For any person living in a unit that had code violations, the City law forbids any rental increase in such a unit. Further, if there were serious violations in the common area, no rental increases in that building or in any unit were permitted under City law. He said the Council agreed with the tenants at the Essex House that there should not be any rental increase for that property.

Mr. Elrich said he thought last year's Housing Department recommendation of 5% was incorrect and that he supports 4% then and this year he still supports 4%. He said that the issue is how much more this comes on top of what was already being asked of people to pay for rent. He said that poverty and low income conditions are not a temporary condition of life; that they tend to be conditions that people are born into; conditions they will live with; and conditions that their children will be raised in.

He said that he hoped the Council could understand this. He went further to say that his efforts to control rents in the City were an effort to help the private sector. He mentioned the Greer Report and the shortage of affordable housing in the DC area and the problem it was creating for the economic expansion. He suggested that the landlords lobby for tax breaks. He said that the state of Maryland had only one area where one could legislate for wages and prices. He said that he did not believe that going from 4% to 5% was going to change the landlord's situation so much, that they will not appeal to COLTA. He said that he objected to using enormous price increases in the resale of apartment buildings as the basis for "busting" out of rent control.

Mr. Hamilton said that he had always been in the position to believe that rent control was a means of providing places for people to live and to control how much rents were. He said that this City had to make a public policy decision. He commented on the issue of his not voting on rent control because he is a tenant. He indicated that he had paid a 5% rent increase and had been doing so for the last 3 years in the Park Ritchie. He said he had supported a 4% increase in the last 2 years, and he said that the 5% increase in his building took care of 1,100 code violations; and 1 million dollars worth of renovations. He felt that the City had a COLTA process that worked for landlords and that he would propose an amendment that the rate be changed to 4%. This was duly seconded by Councilmember Elrich.

Mr. Prensky commented that for 42 years he was a renter and that for one and one-half years he had been a homeowner. He suggested that the landlords go to COLTA if they cannot make ends meet and he advised the landlords to take the 4% increase.

Mr. Moore indicated that the argument was not over whether there would be zero percent rent increase versus 4% or just to let rents escalate. He said the issue was whether a tiny increase in the rent cap reflected the higher general costs as indicated by the CPI and other costs that have been placed on property owners in the past year. He said that he felt that if some degree of flexibility was not allowed, when inflation accelerates, then, it appeared that what was being asked was a major increase in the number of petitions filed for extraordinary rent increases. He said that there should be a system where no rent increases were permitted as a documented justification through the petition process. He indicated his support for the proposed 5% cap and would vote against the amendment to change it to 4%.

Mayor Del Giudice informed the tenants who live at 7777 Maple Avenue, that if any one of them received a notice of an increase, to understand that the increase should not be allowed to go into effect and that there were actions that could be done about it.

Mayor Del Giudice said that he recognized the fact that some people were on fixed incomes, however, that there was a limit to what the Council could do. He said that he was not sure that the Council could do some of the things that people have suggested. He also said that there is a process where a tenant can get a roll-back in rents. The Mayor went on to announce that in Montgomery County last year, rent increases averaged 5.4%. In Takoma Park, rents were kept on an average of 4%. In the DC area, rents averaged 5.8% increases. Rent control was working in Takoma Park, he said, despite the problems that everybody has testified to. He also said that he felt that 5% is the fairer amount for this particular year.

Mr. Hamilton questioned if it was fair for those who live on Maple Avenue to pay for trash pickup fees, or to pass these fees on to the landlord. He went on to say that salaries are a big issue also along with the issue of rent control. The question was called on the motion to amend the Ordinance to allow a 4% guideline limit in the Rent Stabilization provision. The Amendment failed by a 4 to 3 vote.

Mr. Douglas said that he supported the 5%. He said the percentage was not the issue; that he felt that the issue was not making or breaking affordable housing in the City. Mr. Douglas went on to say that a lot of people have indicated a desire to look at issues and examine some fundamental assumptions and he that he hoped that this would happen. He said he continues to be concerned about small owners and what the imposition of a very restrictive stabilization rate does to owners of small properties and the kind of work that's involved in seeking relief through the COLTA process. Secondly, he said that this was not an issue of right or wrong; that everyone shared the same goals. He urged everyone to put away the absolutes and look at ways where an agreement could be made and where progress could be made by compromise.

Councilmember Elrich moved an amendment to change the ceiling to 4.5%; this was duly seconded by Councilmember Prensky and this motion failed by a 4 to 3 vote.

The question was called on the ordinance amending the rent stabilization ceiling to 5% and the Ordinance carried by roll call vote: AYE: Douglas, Leary, Moore, Sharp. NAY: Elrich, Hamilton, Prensky. ABSTAINED: None; ABSENT: None.

ORDINANCE #1990-40  
(Attached)

9. Second Reading of No Smoking Ordinance

Councilmember Prensky moved adoption of the Ordinance; duly seconded by Councilmember Leary. Mayor Del Giudice announced that there were some suggested changes made at the last worksession: 1) adding 3 "whereas" clauses on page 2 and; 2) changing enumeration of a number of paragraphs. It was moved and seconded to amend the Ordinance with those provisions that were discussed at the last worksession. The Mayor stated that the ordinance prohibited the distribution of coupons on public streets and in public places but did not prohibit the distribution of coupons through the mail or otherwise. The amendment carried.

Councilmember Prensky explained that the "grandfathered" Amendment stated that current holders of state licenses for the distribution of tobacco products through vending machines would not have to seek separate, additional Takoma Park licenses until the expiration of their current licenses on April 30, 1991. Also the amended ordinance, stated that the Takoma Park cigarette vending machine permit shall be issued annually and shall expire on March 31st; this would mean that City licensing will be required one month before the new state license is required. Mr. Prensky said that this City was seeking to get the assistance of the state licensing board to look at applications to determine whether that person or

corporation has gotten their license from Takoma Park and if so, proceed with the state license process. The amendment was moved and seconded and carried unanimously by all present.

Victor Crawford, an attorney with the Tobacco Institute announced that there were only three vending machines in the City and that the Council controlled two of them; one is in City Hall and is controlled by the Independence Day Committee and the money goes to this committee to help fund the 4th of July parade every year. The other one is in the Firehouse and there may be a third one in Langley Park. He said that there were eleven restaurants in Takoma Park, all of which will come under the law. He went on to say that he did not agree with non-smoking in restaurants. He brought up the fact that the restaurant business was a very shaky business, and that the restaurant was the only place for the "true believers" to attack. He referenced the argument made about secondary smoke and said that the Montgomery County Ordinance took care of that in the workplace. He also said that by having the ordinance prohibit smoking in certain areas of restaurants this would put them out of business.

Thomas McMahon stated that he was with the National Automatic Merchandising Association and said that their association sells food, beverages and cigarettes through vending machines. He went on to say that the cigarette vending industry is in fast decline and proceeded to give statistics. He did not agree with the restrictions on the cigarette vending machines. He said that a commonsense solution would be, if you believed that there are a significant number or a small number of minors purchasing cigarettes through your vending machine, to take the machine and put it in full view of the person(s) in charge of the property.

Mr. Aldrighetti said that he is an ex-smoker having smoked three packs a day. He went on to say that he felt that Takoma Park could have gone along with the Montgomery County Ordinance, but that Takoma Park felt as if it had to be the leader and the best in everything. He said that the ordinance needed reevaluating and said that he felt it was all a waste of time and he suggested the Council adopt the same ordinance that Montgomery and Prince George's counties have. Rino Aldrighetti said that alcohol is as dangerous as cigarette smoking, and said that alcohol was legal in Takoma Park after many years of being illegal and beverage licenses were expanding in Takoma Park. He said that drugs were dangerous also and that he sympathized with the Council saying that it was easy to get trapped. He referred the article in the Washington Post on June 28th with the headline "Enforcer Aids Takoma Park Recycling Effort". He quoted from the end of the article in which the Recycling Coordinator said "people for the most part are very willing to do this, but if they need some reminding I'm here". Mr. Aldrighetti said that the garbage police were here in Takoma Park and the tobacco police may be on their way. He said that he was not saying that recycling was bad, no more than he was saying that smoking was good. He said that it was not right to notify citizens of changes in a recycling law on Sunday, when changes go into effect on Monday, and it was wrong to notify affected small business people on Friday of this Hearing being held on Monday night. He said that if this law passed, the Council must provide police enforcement. He cited an incident where on a particular night, one of his former neighbors sat in his car and saw a drug deal going on, on the hood of his car, and said that Takoma Park faces real problems in enforcing its ordinances.

Phillip Boyer stated that he cared about the City and said in contrast to what Mr. Crawford had said, the City was not dealing with fur coat wearing, alcohol drinking, etc. but dealing only with a reasonable limitation on smoking and non-smoking in restaurants and a restriction on vending machines. He pointed out that Takoma Park may be covered under the Maryland law that made it illegal for minors to buy cigarettes. He said that in regards to the restaurants, most in Takoma Park were fairly small and changing the

Ordinance and limiting it to restaurants seating 25 was perfectly reasonable under the circumstances. He disagreed with Mr. Crawford and others who said that the smaller restaurants cannot accommodate a smoking/non smoking section.

Kathleen Scheg, from Action on Smoking and Health commended the Council for a solid anti-smoking ordinance and urged them to pass it.

Patricia Kustner said that she thought that she was the person who started this law. She said that she was very happy to be able to walk into stores in downtown Takoma Park without having to breath smoke and said that she cannot eat in a restaurant where there is smoking; it makes her physically ill. She said that she was not a person who wanted to make it impossible for people who are addicted to smoking to not be allowed to smoke, but she thought that non-smokers should also be protected.

Lynne Bradley said that she was very enthusiastic when the smoking ordinance was brought to her attention but that now she could not support the ordinance. She spoke of the need for equalizing the coverage of the non smoking legislation across the City, by using Montgomery County's law and said that she supported moving, if not abolishing the vending machines. She went on to say that if the Council wanted to do it symbolically, vending machines should be abolished and then other steps should be taken, for example, offering a higher percentage of premiums for smokers, i.e., stop smoking campaign, etc. She did not agree with the total abolishment of smoking in restaurants and said that there were other educational tools that would communicate to people that the City wanted to take a stand both real and symbolic to end smoking. She said that if there really was so much smoking that restaurants would be changing their ventilation system. Ms. Bradley said that she was not defending vending machine owners or various restaurants and that she was in favor of abolishing the vending machines at least in City Hall and under the City's control; however, she would not speak in favor of the general legislation but she would support equalizing it using the Montgomery County Ordinance.

Michael Meade said that he did not care about the vending machines because he usually kept a carton of cigarettes in his car. He said that he probably spends at least \$40.00 per week in restaurants in Takoma Park and he felt that if he could not have a cigarette with his coffee, then he knew what he had was an addiction. He indicated that he had been through a number of stop smoking programs and that he was not continuing to smoke by choice. He went on to say that he believed that non-smokers have a perfect right to not smell or breathe his smoke and he was in favor of non-smoking areas in restaurants.

Mayor Del Giudice indicated that the ordinance currently before the Council did not propose banning cigarette smoking in restaurants, but it set a requirement that would require separate smoking facilities in restaurants that had a seating capacity of 25 or greater and it did limit the availability of cigarette products through vending machines.

Mr. Prenskey commented that this was not a symbolic law; the steps that the Council had taken that go beyond the Montgomery County law were taken specifically to protect the children of the community. He said the specifics were a prohibition of smoking in daycare facilities, the prevention of distribution of free samples, and the limitation on the placement of vending machines and that these were to further protect the children in this community. Mr. Prenskey went on to say that it is hoped that the law would prevent children from starting to smoke. He indicated that he felt some of the vending machine problems that Mr. Plant pointed out were being dealt with by the vending machine manufacturers. He expressed his sorrow at the fact that the press had chosen to focus on what they consider "the sexy hook" of this legislation, and said that the

"sexy hook" was that the Council was attempting to limit the placement of cigarette vending machines. Mr. Prenskey also said that it had never been his intention to tell anyone to stop smoking but that his intention was to protect the people who don't smoke, who don't want it around them and to protect those who cannot tolerate it. He spoke about his visit to the Takoma/Langley CDMA to discuss the possibilities of the anti-smoking ordinances.

Mr. Douglas said that the vote had been very much missed on the particular piece of legislation; 17 pages of ordinances, and a bunch of "whereas" clauses, which were a large part of the ordinance and nearly all of the rest of it was restating the Montgomery County Law to make it applicable on both sides of the County line. He said that a small part of the ordinance had to do with vending machines, coupons, extending coverage to day-care centers, etc.; all of which in Takoma Park, had only a minimal effect. Mr. Prenskey said that he feels that they are good and right but he said that he did not feel that they were a central part of the legislation and he believed that the citizens had been misled by the media to believe that what Takoma Park is doing and only doing is banning vending machines for cigarettes or licensing them, which was not true.

City Clerk, Paula Jewell, read into the record, phone messages pertaining to the Ordinance: Ms. Rugby, New Hampshire Avenue resident is in favor of the ban; Issa Kosh, owner and manager of the Takoma Charbroil was against the ordinance; Carol Kiley, 8020 Maple Avenue, in favor, Jackie Nguyen, 6850 New Hampshire, in favor of a smoking ban in restaurants but not in favor of any type of designated seating areas; and Loris Noritz, 7414 Jackson Avenue, who indicated that she and her husband were in favor of both ordinances. The question was called on the amended ordinance and it was unanimously adopted by all present.

ORDINANCE #1990-39  
(Attached)

10. First Reading of Ordinance Prohibiting Smoking in Takoma Park Eating and Drinking Establishments.

Councilmember Prenskey moved adoption of the ordinance; duly seconded by Councilmember Hamilton.

Mr. Leary mentioned that the ordinance was just passed that required smoking and non-smoking seating in every restaurant in Takoma Park which seats 25 or more persons. The question, he said, was whether or not a total ban on smoking as opposed to that requirement, might be a more practicable measure to deal with.

Adele Abrams, 311 Lee Avenue, Takoma Park, stated her opposition to the total ban on smoking in eating and drinking establishments. She said that she found it rather ironic that within a week of the Senate voting on the most comprehensive Civil Rights Act in the history of this country, that she was watching the City Council vote on such a "draconian" ordinance. She believed smoking flexibility in restaurants should be left as it is and such an arrangement should be on a voluntary basis, rather than mandated as a law of Takoma Park. She said if the ordinance were to pass, it would be a major step backwards for the City.

Erwin Mack, Owner of Denis Sleep Shop and President of the Crossroads Development Authority said the time element of this ordinance was impossible for people to relate to and if there was going to be further discussion, adequate information needed to be given to the people who were going to be affected by the ordinance.

Tally Southerland, Owner of Taliano's Pizza said that he thought that if the ordinance was passed, it would really harm his business. He said that the business would go towards Silver Spring and in other directions and he hoped that the bill would not be passed.

A Horn & Horn Smorgasbord Representative said that they already have a non-smoking area in the restaurant, and it was done voluntarily. He stated that to pass a ban that would totally prohibit smoking, would be unfair to other patrons and that they would leave the restaurant. He said that smoking did not bother him, even though he was a non-smoker. He indicated that if the ordinance passed it would hurt businesses and employees will have to be laid off because there will be a decrease in revenue and it would also hurt the people who live in Takoma Park.

Mike Manna, Owner of Electric Maid Restaurant said that he already has a section in his restaurant for non-smoking; there was a total of 49 seats, of which 19 are non-smoking and are very close to the exhaust fan. He said that he depends on 95% of his customers smoking.

Victor Crawford said that if the City enacted a total ban, it would wreck the few restaurants in Takoma Park that were now making a profit. He said that there were restaurants in Takoma Park that could not survive with the total ban. He also said that if there were enough votes to "kill" the ordinance, then it should be "killed", so as not to re-surface again.

Marsha Harris, Executive Vice President of Restaurant Association of Maryland, said that the key was choice; that if you prohibit restauranteurs from seating smokers in their restaurants, you are denying them access to at least 30% of their potential customer base, since it was estimated that at least 30% of the adult population still chose to smoke. Ms. Harris went on to say that competition among restaurants in Maryland was fierce, and Takoma Park restauranteurs could not survive if 30% of their customers had to dine in nearby jurisdictions where smoking was still allowed. She cited a case in Beverly Hills where attempt was made to enforce a smoking ban and the City was forced to rescind the law after businesses in the City suffered severe losses of customers to the surrounding areas that still offered a choice.

Mr. Aldrighetti said that he was a non-smoker and that he looked at how the bill was put together and wondered why a business person was being asked to enforce this kind of a law. He said that this seemed to create a situation where people were put in conflict with one another.

Mr. Plant said that he recently read in the papers about the new rent stabilization ceiling and said that he felt that a lot of people will have a negative attitude about this ordinance as well when they read about it. He said that he was a non-smoker also and he expressed his sorrow for the smokers. But he said that a total ban of smoking in restaurants is ludicrous.

Mr. Prensky said that he spoke with restauranteurs in Takoma Park and that 16% of them do not allow smoking in their premises which is 2 out of 12. Mr. Prensky said that the law that he had proposed did not ban smoking in bars in Takoma Park. Mr. Prensky said that the only difficulty that he heard was the threat of the loss of business. He maintained that he had spoken with representatives of the Lung Association, the Heart Association, and the Cancer societies, both locally, statewide and nationally and said that they encouraged all of their members and supporters to come to Takoma Park and to allow people to have a smoke-free workplace. Mr. Prensky also indicated that this proposed ordinance could be too much and too soon for Takoma Park. Indicating that if it was, he would accept that fact graciously and continue to press for more protection for the people of Takoma Park in any other way that he could. Mr. Prensky continued that if five members of the Council expressed an interest in going forward with the ordinance to ban smoking in restaurants in Takoma Park and the City Council saw fit to hear from a larger number of citizens, then the Council could go forward with first reading of the ordinance now with the

complete understanding that the second reading and final adoption of such an ordinance wouldn't take place until 6 or 7 weeks from

now. He said that consideration was given to the fact that this was quick and abrupt but final legislation was never intended without a very wide and adequate public debate. He went on further to say that he hoped that his colleagues on the Council would see fit to keep alive the possibility for a public debate in the City of Takoma Park. He said that Giorgio's, Everyday Gourmet, and the Tropicana have a smoking and non-smoking section that have complete and separate ventilation systems which was the only truly acceptable way to separate smokers and non-smokers without risking the health of everyone.

Mr. Sharp asked Ms. Harris whether or not her organization had a particular reason for their position on smoking other than for business reasons, and if it were not for 30% of the business that would be lost, would her organization's views change. Ms. Harris responded that there was an abiding interest by many of their members regarding health. She said that she did not know if that is an appropriate concern of the association but stated that they have found that the establishment of non-smoking sections is as much an economic issue as it is a health issue and that smart restaurateurs statewide are voluntarily accommodating their patrons' requests.

Mr. Leary said that although he has not completely made up his mind, he was voting in favor of the proposal.

Mayor Del Giudice said that his fear was that the people who will suffer would be the ones who smoke, indicating that he was a smoker himself. The Mayor said that it would be a mistake to exclude the segment of the community who smoke. He said that to do that would be dealing with it as a disease; people who smoke are addicted, it's a medical problem. He went on to say also that he was in favor of smoking restrictions in the Municipal Building as well as other public places, including his immediate office in the Municipal Building, but he said to exclude a segment of society, was going a bit too far.

Mr. Prensky said that his fear is that those people who do smoke will be the ones who suffer. He said that he felt it would be a terrible mistake to exclude the segment of the community who do smoke. Mr. Prensky said that smokers had a disease--a medical problem. He stated that he was in full support of the parts of the legislation that were previously passed that would restrict smoking in the City Council Building and other public places, including his office. He said that he feared that if a majority-ruled contest took place, the ordinance would be enacted. He went on to say that if the ordinance were enacted, he would submit that consideration was needed regarding an effective date. Mr. Prensky said that this legislation can in no way be effective the same date as the previously legislation was adopted. There was no way that a total ban could go into effect on October 1st; that an effective date was needed that was further in the future.

Mr. Hamilton said that he agreed with Mr. Prensky's comments about the process. Also, he said he felt uncomfortable because the testimonies presented this evening were not really supported by anyone. He said that he did not want to see the same issue come up as with the rent control e.g., tenants versus landlords. He said although he seconded the motion to get the ordinance onto the table for discussion, he would now like to make a motion to table the issue indefinitely.

Mr. Elrich said that he personally did not agree that there should be a ban on what a person can do or cannot do. He said that he was not comfortable with what was trying to be accomplished and he stated that he felt if the ordinance passed at first reading, it may be perceived that it would pass at the second reading. He felt



that the ordinance needed to be discussed more in a less-prejudicial manner and that a vote to support it in a lot of people's mind will be read as a vote to guarantee passage at the second reading.

Mr. Prenskey said that he appreciated all of the comments and the situation that some restaurateurs find themselves in. However, he reemphasized two points: the reason smoking had been banned on all airline flights, is not because of morality or because people think that others will stop smoking if they aren't permitted to smoke around non-smokers. He said it was banned because there was no effective way to separate cigarette smoke from the lungs of non-smokers if there was only one ventilation system. He said that if everyone in the restaurant business took a stand together in Takoma Park, the potential loss of business would be vastly reduced. Mr. Prenskey deferred to the Motion on the floor, to table the proposed ordinance until October 8, 1990.

ORDINANCE #1990-42  
(Attached)

11. Resolution Authorizing Staff to Go Forward With A Preliminary Application Re: City Sponsorship Of A Grant For 6 Grant Avenue. Councilmember Douglas moved passage of the resolution; duly seconded by Councilmember Moore.

Mr. Douglas said that based on comments made at the worksession, there was sufficient reason to go ahead with preliminary applications on both of the projects.

City Clerk Jewell entered into the record a phone call from William Gay, Sr., a real estate agent with Star Enterprise, which owned the Grant Avenue Texaco station. Mr. Gay indicated that he was in support of the City's sponsorship of the MICRF grant for #6 Grant Avenue.

Mr. Leary said that he was in opposition to the Resolution and would explain his reasons at the Public Hearing in September. The Resolution carried by a 3 to 1 vote. (Councilmembers Hamilton, Elrich and Prenskey were not present for the vote).

RESOLUTION #1990-76  
(Attached)

12. Resolution Authorizing staff To Go Forward With A Preliminary Application On The Grant For The Takoma Junction Center. The Resolution was moved by Councilmember Douglas and seconded by Councilmember Sharp, and carried by a 4 to 0 vote. (Councilmember Hamilton, Elrich and Prenskey were absent for the vote.)

RESOLUTION #1990-76  
(Attached)

13. Resolution Authorizing Acceptance of a Canine Grant. Resolution Version 2 was moved by Councilmember Moore and seconded by Councilmember Sharp. Mr. Hamilton expressed concern about what would happen when the dog handler went on vacation. Chief Fisher responded that other police jurisdictions would be called in during that time as there would be only one handler for the Canine. Mr. Douglas inquired about the estimate cost and Chief Fisher responded that it was \$6,000.

Councilmember Moore stated that people really care about crime and police protection and said that the proposed Canine Unit is of obvious utility and he felt that the resolution should be adopted.

Councilmember Leary said that he continued to have serious

misgivings about the Canine issue. He expressed concern about the additional overtime involved, the cost of the vehicle and the pressure to make a more efficient operation by having 2 dogs and 2 officers. However, he said that he also recognized the positive benefits of the Canine Unit. He said that he reluctantly will vote yes.

Mr. Douglas stated that he would vote against this on the matter of process. He said that he believed that this kind of budget decision should be made during the budget process and that he hoped that before the next budget was done, there would be a better strategy that involved not only money, but organization, and an understanding between the Council and the Police Department on what will be done about various kinds of crime and related issues in this City.

Mr. Hamilton said that he still had a concern about one of the issues that was discussed during the budget process and that was the dispatcher's position. He said that the Council had not seen anything pertaining to how the dispatcher issue would be handled. Mr. Hamilton said that the Chief had stated that it took 35 officers to take care of the City. He said that he agreed with the Canine issue, and that the more that is done, the more citizens will feel safe.

Mr. Elrich said that he was uncomfortable with the addition of the dog, largely, because it meant that there will be a reduction in the police force at the price of getting the Canine; he said that he was not convinced that there would not be an enormous amount of overtime as a result of it.

Chief Fisher responded by saying that there had been a misinterpretation of the facts; that having a handler who would be working specifically evening hours would supplement the allocation of officers who would be working evening hours as it stood now and it would not be a reduction. That officer's responsibility would also involve responding to calls, backup and writing reports and it would make an additional person available for the time period that most calls were received for service.

Mr. Sharp said that the number of officers was not being reduced and that it may turn out that the City finds that a Canine Unit is beneficial and may want to continue the program next year.

Mr. Prensky said that his interest in the Canine Issue was limited to one eventuality--that the Chief said that this can be done absolutely within the realm of the 35 member force and that there would never be a request for a 36th officer. More importantly, Mr. Prensky said that the Council is being told that this has become the number one priority of the Police Department and that this was more important than the sixth dispatcher and that it took precedence over the "unfunded" space problems of the Police Department that may remain after the reallocation of space in the Municipal Building. Mr. Prensky said that unless it is that absolute, he could not begin to support this.

Chief Fisher responded that this was not the number one priority in the Police Department, and that it was obvious in dealing with the budget, that here was an opportunity to obtain the necessary funds that will not impact the current funds that are available to the City. Chief Fisher said that they suggested in the memo that there was approximately \$40,000 in escrow from funds that have been recovered from drug operations which could supplement the \$6,000 and provided an opportunity to utilize the program for a year. He said it was their hope that the program will be very beneficial; not only in recovering additional resources such as drug seizures, but for also saving some lives. He said that the Police Department would not come back and say that they absolutely needed a 36th officer; they hope to be able to present the evidence of the success or failure of this Canine program. He said the Police

staff are committed to provide the Council and the public with the evidence and to provide a recommendation on continuing the program.

Mayor Del Giudice stated that the money was available and that he was not sure that the canine issue would impact on the reserves. He said that the dispatcher problem would not be solved with \$6,000. He said that the canine issue should be judged on its own merits and he suggested that a flexible schedule for the police officers be looked into to avoid excess overtime.

Mr. Aldrighetti said that he understood the problem of budgets but that it was difficult to see an issue come back again. He said, that when you have an opportunity to get a leverage grant you should encourage staff to match the grant.

Resolution, Version 2, carried by a 6 to 1 vote. (Councilmember Douglas voted Nay)

RESOLUTION #1990-77  
(Attached)

14. Resolution Appointing Members To The Newsletter Editor Selection Committee.

Councilmember Douglas moved passage of the Resolution and it was seconded by Councilmember Sharp. September 10th was recommended as the date that the Committee should report back to the Council. The Resolution carried unanimously.

RESOLUTION #1990-78  
(Attached)

15. Single Reading Ordinance Authorizing \$5,000 To Purchase Computer Software For Parking Enforcement Program

Councilmember Hamilton moved passage of the Ordinance; duly seconded by Councilmember Elrich and the Ordinance passed unanimously by Roll Call vote: AYE: Douglas, Elrich, Hamilton, Leary, Moore, Prensky, Sharp.

ORDINANCE #1990-43  
(Attached)

13. Resolution Setting Forth The Council's Summer 1990 Recess

The Resolution was moved by Councilmember Hamilton and duly seconded, and carried unanimously.

RESOLUTION #1990-79  
(Attached)

Upon motion duly made and seconded, the meeting adjourned at 2:00 a.m. on July 24th, to reconvene in Regular Session on September 10, 1990.

Introduced By: Councilmember Prensky

ADOPTED: JULY 23, 1990

Resolution No. 1990-72

WHEREAS, Kenneth Barnes and Barbara Barnes Marizett have submitted an application to the Board of Appeals for Prince George's County for variances for part of Lot 26, Block D, Cunningham Subdivision, being 7501 Central Avenue, Takoma Park, Maryland (Case No. 10722); AND

WHEREAS, this property is located in the City of Takoma Park and the application has therefore been referred to the City for review and comment; AND

WHEREAS, the Mayor and Council have reviewed the application and the staff report dated July 13, 1990, and have received public comments on the subject application;

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF TAKOMA PARK, MARYLAND THAT, the Council hereby takes NO POSITION on the subject variance application..

BE IT FURTHER RESOLVED THAT the City Administrator is hereby directed to send a copy of this Resolution to the appropriate Prince George's County authorities.

ADOPTED THIS 23RD DAY OF JULY, 1990.

7501cent.res

Introduced By: Councilmember Leary

ADOPTED: JULY 23, 1990

Resolution No. 1990-73

WHEREAS, Matthew Grefsheim has submitted an application to the Board of Appeals for Montgomery County for a one-foot side yard variance for Lot 82, Block 67, T.P.L.&T. Company of Takoma Park Subdivision, being 707 Boston Avenue, Takoma Park, Maryland (Case No. A-3017); AND,

WHEREAS, this property is located in the City of Takoma Park and the application has therefore been referred to the City for review and comment; AND

WHEREAS, the Mayor and Council have reviewed the application and the staff report dated July 18, 1990, and have received public comments on the subject application;

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF TAKOMA PARK, MARYLAND THAT, the Council hereby SUPPORTS the subject variance application, and recommends that the Board of Appeals for Montgomery County APPROVE the subject application.

BE IT FURTHER RESOLVED THAT the City Administrator is hereby directed to send a copy of this Resolution to the appropriate Montgomery County authorities.

ADOPTED THIS 23RD DAY OF JULY, 1990.

707bost.res

Introduced by: Councilmember Hamilton 1st Reading: July 9, 1990  
(Drafted by: P. Jewell and L. Perlman) 2nd Reading: July 23, 1990

ORDINANCE #1990-38

(Condemning the building at 801 Colby Avenue Condemned as unfit for human habitation)

WHEREAS, the Council has received information from the Inspector of Buildings that the building located at 801 Colby Avenue, Takoma Park (Prince George's County), Maryland (hereinafter "the building") is so structurally unsound, dilapidated, unsanitary, and unsafe that it is a danger to public safety, and recommending that it be condemned as unfit for human habitation; AND

WHEREAS, on June 11, 1990, the City Council adopted Ordinance #1990-23, establishing a date for a hearing in order to determine whether or not the building should be condemned as unfit for human habitation; AND

WHEREAS, notices of the hearing stating the nature of the alleged defects in the building were sent, by certified mail, to the building owner of record, Mamie Lewis Robinson, and to all other persons who appeared to have possible ownership interest in the building in a newspaper of general circulation, and posted in a conspicuous place on the building in accordance with Article 6, Chapter 6, Section 6-71 of the Takoma Park Code; AND

WHEREAS, on July 9, 1990, the Council held a hearing on the condition of the building to determine whether or not the building should be condemned as unfit for human habitation.

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

SECTION 1. THE Council, based on the information presented at the hearing on July 9, 1990, and other competent evidence bearing on the condition of the building at 801 Colby Avenue, finds that the building is so structurally unsound, dilapidated, unsanitary, and unsafe that it is a danger to public safety; AND

- SECTION 2. THAT in accordance with Article 6, Section 6-72, of the Takoma Park Code, the Council does hereby determine that the building at 801 Colby Avenue shall be condemned as unfit for human habitation;  
AND
- SECTION 3. THAT, the Council also determines that the defects in the building are so extensive that they cannot be corrected and, therefore that the building should be destroyed. The Council directs City staff to take appropriate action to move forward with demolition of the building located at 801 Colby Avenue.
- SECTION 4. THE Council directs City staff to promptly placard the building with a notice that it has been condemned as unfit for human habitation.
- SECTION 5. THAT this ordinance shall become effective upon adoption.

Adopted this 23rd day of July, 1990 by roll call vote as follows:

AYE: Douglas, Elrich, Hamilton, Leary, Moore, Prensky, Sharp  
NAY: None  
ABSTAINED: None  
ABSENT: None

Introduced by: Councilmember Prenskey 1st Reading: July 16, 1990  
(In Special Session)  
2nd Reading: July 23, 1990

ORDINANCE NO. 1990-41

(Setting a hearing as to the condition of the building at 6729 Poplar Avenue, to determine whether the building should be condemned as unfit for human habitation.)

WHEREAS, it has been reported to the Council by the Inspector of Buildings that the building located at 6729 Poplar Ave., Takoma Park (Prince George's County), Maryland (hereinafter "the building") is unfit for human habitation as it:

- 1) is so structurally unsound, dilapidated, unsanitary, and unsafe that it is a danger to the occupants within; and
- 2) lacks illumination adequate to protect the health and safety of the occupants; and
- 3) because of its general condition, is unsanitary and dangerous to the health or safety of the occupants; AND

WHEREAS, inspections of the building by the City of Takoma Park Code Enforcement Officers revealed the following housing code violations:

CODE SECTION	BOCA PM SECTION	VIOLATION DESCRIPTION
<u>FIRST FLOOR</u>		
6-4	302.4	FRONT DOOR DOES NOT CLOSE TIGHT
6-4	302.4.1	FRONT DOOR IS NOT WEATHER TIGHT
6-4	303.21	HOLE IN FLOOR IN FRONT OF FRONT DOOR
6-4	602.2	ELECTRICAL OUTLET HAS EXPOSED WIRES, RIGHT LIVING ROOM WALL
6-4	303.21	PANELING LOOSE IN KITCHEN
6-4	801.1	BOTH STOVES ARE IN AN UNSANITARY CONDITION
6-4	601.3	RIGHT STOVE IS UNSAFE AND IN STATE OF DISREPAIR
6-4	601.3	LEFT STOVE, OVEN DOOR DOES NOT CLOSE COMPLETELY
6-4	303.21	HOLES IN KITCHEN WALLS
6-4	302.4	KITCHEN DOOR IS NOT WEATHER TIGHT



CODE SECTION	BOCA PM SECTION	VIOLATION DESCRIPTION
<u>FIRST FLOOR (CONTINUED)</u>		
6-4	303.3.2	BATHROOM FLOOR MISSING TILES EXPOSING WOOD FLOORING
6-4	303.1	BATHROOM FLOOR UNSAFE AND NOT STRUCTURALLY SOUND
6-4	602.2	COVER PLATE MISSING, BATHROOM LIGHT SWITCH
6-4	503.2	TOILET LOOSE FROM FLOOR
6-4	303.21	BATHROOM WALLS HAVE SEVERAL HOLES
6-4	303.21	WALL TILES MISSING BY TUB
6-4	303.21	BATHROOM DOOR FRAME IN STATE OF DISREPAIR
6-4	302.4.5	RIGHT BEDROOM DOOR HANDLE IN STATE OF DISREPAIR
6-4	303.21	POOR PAINT CONDITION ENTIRE FIRST FLOOR
6-4	401.3	POOR LIGHTING ENTIRE FIRST FLOOR
6-4	704.2	NO SMOKE DETECTOR

<u>SECOND FLOOR</u>		
6.4	303.8.2	HANDRAIL MISSING FOR STAIRS
6.4	302.4.5	DOOR KNOB MISSING BATHROOM DOOR
6.4	602.2	COVER PLATE MISSING, BATHROOM LIGHT SWITCH
6.4	303.21	WALL TILES MISSING BY TUB
6.4	602.2	OUTLET COVER PLATE MISSING BATHROOM
6.4	303.21	RIGHT BEDROOM WALLS HAVE HOLES
6.4	303.21	ATTIC DOOR IN STATE OF DISREPAIR, RIGHT BEDROOM
6.4	606.2	COVER PLATE MISSING LIGHT SWITCH, RIGHT BEDROOM
6.4	303.21	POOR PAINT CONDITION ENTIRE SECOND FLOOR
6.4	401.3	NO LIGHTING STAIR WELL
6.4	704.2	NO SMOKE DETECTOR

CODE SECTION	BOCA PM SECTION	VIOLATION DESCRIPTION
<u>BASEMENT</u>		
6.4	303.8.2	BASEMENT STAIRS HAVE NO HANDRAIL
6.4	401.3	NO LIGHTING BASEMENT STAIR WELL
6.4	602.3	LIGHT FIXTURE LEFT OF STEPS IN DISREPAIR
6.4	601.1	STRUCTURE HAS NO HEAT
6.4	601.3	FURNACE IS IN DISREPAIR AND NOT FUNCTIONING
6.4	504.4	STRUCTURE HAS NO HOT WATER
6.4	601.3	WATER HEATER IS IN DISREPAIR AND NOT FUNCTIONING
6.4	601.4.4	DEBRIS ABOUT FURNACE LIMITING COMBUSTION AIR
6.4	601.4.2	COMBUSTIBLE DEBRIS AROUND FURNACE, CLEARANCE NOT MAINTAINED
6.4	704.2	NO SMOKE DETECTOR
6.4	303.4.1	BASEMENT DOOR IS NOT WEATHER TIGHT
6.4	302.4	BASEMENT DOOR FRAME IN STATE OF DISREPAIR
6.4	303.4	BASEMENT IS NOT FREE FROM DAMPNESS
6.4	302.4	BROKEN WINDOW REAR OF BASEMENT
6.4	303.1	SILL IN STATE OF DISREPAIR ALLOWING DAY LIGHT AND THE ELEMENTS IN FROM OUT SIDE, FRONT AND REAR OF BASEMENT
6.4	401.3	POOR LIGHTING ENTIRE BASEMENT
<u>EXTERIOR</u>		
6.4	302.3.7	FRONT STEPS IN STATE OF DISREPAIR, UPPER AND LOWER
6.4	302.3.9	LOWER FRONT STEPS HAVE NO HANDRAIL
6.1	301.5	SIDEWALK HAS BEEN UNDERMINED AND IS UNSAFE
6.4	302.3.2	SIDING MISSING RIGHT OF FRONT DOOR
6.4	302.3.2	HOLE IN EXTERIOR WALL RIGHT OF FRONT DOOR, EXPOSING INTERIOR LIGHT SWITCH
6.4	302.4	FRONT DOOR FRAME DETERIORATED BY FOUNDATION
6.4	506.1	FRONT GUTTERS IN STATE OF DISREPAIR
6.4	302.3.2	LEFT EXTERIOR WALL HAS SEVERAL HOLES
6.4	302.3.2	LEFT SIDE OF STRUCTURE HAS MISSING SIDING
12-12	N/A	LEFT SIDE OF PROPERTY HAS DEAD TREE
6.4	506.1	LEFT REAR DOWN SPOUT BROKEN

CODE SECTION	BOCA PM SECTION	VIOLATION DESCRIPTION
<u>EXTERIOR (CONTINUED)</u>		
6.4	506.1	GUTTER IS RUSTED AND HAS LARGE HOLES REAR OF STRUCTURE
6.4	302.3.2	REAR EXTERIOR WALL HAS SEVERAL HOLES
6.4	302.3.7	REAR STEPS IN STATE OF DISREPAIR
6.4	302.4	REAR DOOR FRAME IS DETERIORATED, BY FOUNDATION
10-23	N/A	TRASH, RUBBISH, AND DEBRIS ABOUT PROPERTY
6.4	302.3.2	RIGHT EXTERIOR WALL HAS SEVERAL HOLES
6-39	N/A	AUTOMOBILE IN DRIVEWAY THAT IS ABANDONED, IN STATE OF DISREPAIR, OR UNREGISTERED; AND

WHEREAS, City tax records indicate that the property is owned by Hattie B. Patterson and Charles M. Patterson of 6729 Poplar Avenue, Takoma Park, Maryland, 20912; AND

WHEREAS, the City of Takoma Park has provided the owners of the property, Hattie Patterson and Charles M. Patterson, the opportunity to eliminate those conditions which cause the property to be unfit for human habitation, however those conditions remain unabated.

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

SECTION 1. The Council has received information from the Inspector of Buildings that the building: (1) is so damaged, decayed, dilapidated, unsanitary and unsafe that it creates a serious hazard to the health or safety of the occupants; (2) lacks illumination, to protect the health or safety of the occupants; and (3) because of its general condition is unsanitary and dangerous to the health or safety of the occupants.

SECTION 2. The building is located at 6729 Poplar Avenue, Takoma Park, Md., and is more particularly described as Lot 14, Block 12, in the subdivision known as "Gibbs and Kosacks" [Subdivision of Takoma Park], Prince George's County, within the City of Takoma Park, Maryland.

SECTION 3. The Council hereby initiates condemnation proceedings under Article 6, Chapter 6, Section 6-67 and Section 6-69 through 6-75 of the Takoma Park Code.

SECTION 4. The Council sets the date of September 10, 1990 at 8:00 p.m., in the Council Chambers at 7500 Maple Avenue, Takoma Park, Md. 20912 as the time and place for a hearing as to the condition of the building in order to determine whether or not the building should be condemned as unfit for human habitation.

SECTION 5. The City Administrator is directed to give notice of the hearing to the building owners of record, Hattie Patterson and Charles M. Patterson, or their agent(s) in accordance with the provisions of Article 6, Chapter 6, Section 6-70 of the Takoma Park Code.

THIS ORDINANCE BECOMES EFFECTIVE ON THE DAY OF ADOPTION.

Adopted the 23rd of July, 1990 by roll call vote as follows:

Aye: Douglas, Hamilton, Leary, Moore, Prensky, Sharp  
Nay: None  
Abstained: None  
Absent: Elrich (for vote)

Note: Deletions from the first reading of the ordinance are bracketed ([ ]); additions are italicized.

a:6729pop.ord

Introduced by: Councilmember Sharp  
(Drafted by: P. Jewell)

1st Reading: July 9, 1990  
2nd Reading: July 23, 1990

ORDINANCE #1990-37

AN ORDINANCE ESTABLISHING HANDICAPPED PARKING AT 7314 TRECOTT AVENUE

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

SECTION 1. THAT it has been determined that there is a need for the establishment of a parking space expressly for the handicapped on Trescott Avenue; AND

SECTION 2. THEREFORE THAT in conformance with Sec. 13-64(a)(10) of the Code of Takoma Park, Md., 1972, as amended, the following site is hereby designated, subject to annual review, 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:

On Trescott Avenue, one parking space opposite 7314  
Trescott Avenue

SECTION 3. FURTHER that a violation of subsection (a)(10) is a Class C Offense and that any person issued a citation in violation of this ordinance shall be subject to a Class C fine for each initial violation as prescribed in Sec. 13-64(a)(10)(A) of the Code of Takoma Park, 1972, as amended.

Adopted this 23rd day of July, 1990 by Roll Call Vote as Follows:

AYE: Douglas, Hamilton, Leary, Moore, Prenskey, Sharp

NAY: None

ABSTAIN: None

ABSENT: Elrich (for vote)

ORDINANCE NO. 1990 - 40

ORDINANCE TO CONTINUE RENT STABILIZATION AND TO  
SET A NEW RENT STABILIZATION RATE

WHEREAS the Sec. 6-80.17 (a) of the Code of Takoma Park requires the City Council to conduct an annual review of the rent stabilization provisions of Article 7; AND

WHEREAS the City Council has been provided with substantial information which evidences emergency housing conditions in the Washington Metropolitan Area and in particular, in the City of Takoma Park Maryland; AND

WHEREAS the Department of Housing and Community Development has recommended that rent stabilization be continued in the City of Takoma Park, and that the rate for rent increases be limited to five percent (5%) per annum; AND

WHEREAS the aforesaid recommendations are the results of thoughtful analyses which included consideration of the Washington-Area Consumer Price Index, the Washington-Area Consumer Price Index figures for rents, in accordance with the Sec. 6-80.17 (a), and included consideration of other appropriate factors; AND

WHEREAS the City Council held a public hearing on June 25, 1990 and received relevant testimony from persons representing tenant and landlord interests; AND

WHEREAS the City Council, in accordance with Sec. 6-80.17 (a) has conducted an annual review of the rent stabilization provisions taking the recommendations of the Department of Housing and Community Development, along with public testimonies, into consideration.

NOW, THEREFORE, BE IT ORDAINED by the Council of the City of Takoma Park, Maryland:

SECTION 1. THAT Rent Stabilization shall continue in the City of Takoma Park.

SECTION 2. Chapter 6, Article 7, Division 2, Section 6-80.17 (c)(2) is hereby amended as follows:

Section 6-80.17 (c)(2)

It shall be unlawful for the landlord or anyone acting on behalf of a landlord to [charge or collect any rent for any dwelling unit which exceeds the lawful rent chargeable for such unit, on September 30 of this calendar year, by more than four percent (4%)] impose or attempt to impose a rent increase for any dwelling unit that is more than [[five and one-half percent (5.5%)]] five percent (5.0%), [unless the landlord has first obtained a determination] without first obtaining authorization from the Commission on Landlord-Tenant Affairs [that a rent in excess of four percent (4%) of the lawful rent chargeable on September 30 of this calendar year is justified] in accordance with this section of this Article.

SECTION 3. This Ordinance shall become effective on August 1, 1990.

ADOPTED THIS 23<sup>rd</sup> DAY OF JULY, 1990  
by ROLL CALL VOTE AS FOLLOWS:

AYE: Douglas, Leary, Moore, Sharp  
NAY: Elirch, Hamilton  
ABSTENTION: None  
ABSENT: None

Brackets ( [ ] ) indicate deletion for 1st reading; Double brackets ( [ [ ] ] ) indicate deletion for 2nd reading; Underlines indicate addition for 1st reading; Double Underlines indicate addition for 2nd reading.

Introduced by: Councilmember Prensky 1st Reading: July 9, 1990  
2nd Reading: July 23, 1990

ORDINANCE NO. 1990-39

(Smoking Prohibitions and Restrictions)

WHEREAS, Takoma Park Code Chapter 10B, Section 10B-1 adopts by reference Montgomery County Code Chapter 24, Section 24-9A, Smoking in Eating and Drinking Establishments, and makes these provisions applicable to all restaurants seating 50 or more persons located in the Montgomery County portion of the City of Takoma Park; and

WHEREAS, Takoma Park Code Chapter 10B, Section 10B-2 adopts by reference Prince George's County Code Subtitle 19, Division 5, Smoking Regulations and Restrictions, and makes these provisions applicable to all restaurants seating more than 75 persons located in the Prince George's County portion of the City of Takoma Park; and

WHEREAS, the effect of Chapter 10B of the Takoma Park Code is that one set of smoking restrictions applies to restaurants located in the Montgomery County portion of the City of Takoma Park and a differing set of smoking restrictions applies to restaurants located in the Prince George's County portion of the City; and

WHEREAS, the Montgomery County Council has recently enacted amendments (Bill 51-89) to Montgomery County's "no smoking" law (Montgomery County Code, Chapter 24, Section 24-9) restricting smoking in various public places to apply to shared workplaces in private businesses; and

WHEREAS, the Council wishes to enact uniform smoking policies which would apply to both the Montgomery County and the Prince George's County portions of the City of Takoma Park so that all citizens within the City have the same right to a smoke-free environment; and

WHEREAS, the Council desires to eliminate the variations between the smoking prohibitions and restrictions which are effective in the Montgomery County and in the Prince George's County portions of the City of Takoma Park by repealing Takoma Park Code Chapter 10B, Smoking in Eating and Drinking Establishments, and reenacting said Chapter with amendments; and

WHEREAS, the Council hereby takes legislative action to extend the provisions of Bill 51-89 amending Chapter 24, Section 24-9 of the Montgomery County Code, regulating smoking in public places and in private workplaces, and the provisions of Chapter 24, Section 24-9A of the Montgomery County Code, regulating smoking in eating and drinking establishments, to apply within

the entire City of Takoma Park, to strengthen some of these provisions, and to provide for concurrent enforcement of these provisions by the City of Takoma Park and by Montgomery County.

WHEREAS, the Council wishes to discourage minors from experimenting with smoking and to make tobacco products less accessible to minors by restricting where cigarette vending machines are placed and by banning the free distribution of tobacco products; and

WHEREAS, the commercial distribution of free or nominally-priced tobacco products ("tobacco samples") and coupons for tobacco products to members of the public in public places promotes the use of tobacco products and, in particular, encourages and facilitates smoking by minors; and

WHEREAS, smoking by minors is detrimental to the public health and contrary to public policy; and

WHEREAS, enforcement of age-related restrictions on the commercial distribution of free or nominally-priced tobacco samples and coupons for tobacco products would be impractical and ineffective; and

WHEREAS, smoking has been linked to lung cancer, respiratory disease and heart disease; and

WHEREAS, the Surgeon General has determined that smoking is the leading cause of preventable death; and

WHEREAS, environmental tobacco smoke, from second-hand smoke exhaled by smokers and sidestream smoke emitted from the burning end of tobacco products, is one of the most widespread and harmful indoor air pollutants; and

WHEREAS, nicotine in tobacco has been found by the Surgeon General to be a powerfully addictive drug and it is therefore important to prevent minors from using nicotine until they are mature and capable of making an informed and rational decision; and

WHEREAS, every day more than 3,000 minors begin smoking; and

WHEREAS, one-half of all smokers began smoking before the age of 18; and

WHEREAS, Article 27, Section 404 of the Annotated Code of Maryland prohibits the sale of tobacco products to minors; and

WHEREAS, despite the Maryland state law, access by minors to tobacco products is a major problem; and



WHEREAS, cigarette vending machines are often located in unattended or unmonitored areas where minors can readily purchase tobacco products; and

WHEREAS, a City permit requirement which would allow the placement of cigarette vending machines only in establishments which are not generally accessible to or frequented by minors or are not open to the general public would help restrict the access of minors to tobacco products; and...

WHEREAS, a City cigarette vending machine permit is necessary for regulatory purposes to more effectively restrict the access of minors to tobacco products in the interest of public health;

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

SECTION 1. Chapter 10B of the Takoma Park Code entitled "Smoking in Eating and Drinking Establishments" is repealed and reenacted with amendments to read as follows:

CHAPTER 10B. SMOKING PROHIBITIONS AND RESTRICTIONS.

Article 1. In General.

Section 10B-1. Purpose.

The purpose of this Chapter is to promote the public health, safety, and general welfare by enacting smoking prohibitions and restrictions which protect the citizens of the City of Takoma Park against unwanted tobacco smoke in certain public places, shared workplaces, and eating and drinking establishments.

Section 10B-2. Definitions.

In this Chapter, the following words and phrases have the meanings indicated:

(a) Bar: An indoor, enclosed area where the primary activity is the service of alcoholic beverages and where the service of food is only incidental to the service of alcoholic beverages.

(b) Child care center: An agency, institution, or establishment that, for part or all of a day, or on a 24-hour basis on a regular schedule, and at least twice a week, offers or provides child care to children under the age of 16 years who do not have the same parentage. Child care center includes a nonpublic kindergarten or elementary school in which an instructional program is offered or provided for children.

(c) Cigarette vending machine: A mechanical device that automatically dispenses tobacco products.

(d) City: The City of Takoma Park, Maryland.

(e) City Administrator: The City Administrator of the City of Takoma Park, Maryland or the City Administrator's designee or designees.

(f) County Executive: The County Executive of Montgomery County, Maryland or the County Executive's designee or designees.

(g) Day care center for adults: A place that is operated to provide, with or without charge, care for medically handicapped adults, as defined in Title 14, Subtitle 3, Health - General Article, Annotated Code of Maryland, and either is designated for group day care for 4 or more medically handicapped adults or a family home that provides day care for 2 or 3 medically handicapped adults.

(h) Day care center for the elderly: A place that is operated to provide, with or without charge, care for elderly individuals, as defined in Title 14, Subtitle 2, Health - General Article, Annotated Code of Maryland, and either is designated for group care for at least 4 elderly individuals or a family home that provides care for 2 or 3 elderly individuals.

(i) Department of Health: The Department of Health of Montgomery County, Maryland.

(j) Distribute: To give, sell, deliver, offer to give, sell or deliver, or cause or hire any person to give, sell, deliver or offer to give, sell or deliver.

(k) Eating and drinking establishment: Any enterprise engaged in the preparation or merchandising of food or drink for human consumption including, but not limited to, restaurant, coffee shop, cafeteria, short order cafe, luncheonette, tavern, sandwich stand, soda fountain, and food service facilities in industries, institutions, hospitals, schools and camps, as well as kitchens or other places at a fixed location in which food or drink is prepared for sale on the premises.

(l) Employee: Any person who regularly provides services to a business for compensation. Employee includes a temporary or part-time employee, contractor, or consultant.

(m) Enclosed: Separated by walls that extend from floor to ceiling and under a roof.

(n) Health care facility: Any office or institution where individual care or treatment of physical, mental, or emotional

illness, or any other medical, physiological, or psychological condition is provided. Health care facility includes any hospital, clinic, nursing home for the aging or chronically ill, laboratory, or office of any physician, dentist, psychologist, psychiatrist, physiologist, podiatrist, optometrist or optician.

(o) Health officer: The Director of the Department of Health or the Director's designee or designees.

(p) Less than basic cost: Free of charge, a nominal or discount price, or any other price less than the distributor's cost, to which shall be added the full value of any cigarette taxes payable on them.

(q) Minor: An individual under the age of eighteen (18) years.

(r) Person: Any individual, firm, partnership, association, corporation, company, or organization of any kind.

(s) Private function: An event in an enclosed area to which entry is not available to the general public, but only to those whom the sponsor of the event invites. Private function does not mean an event held by a private club or association to which members of the general public are invited.

(t) Public area: An enclosed area in which members of the public are normally invited or permitted. A retail store is not a public area within the meaning of this definition.

(u) Public event: Any event to which the general public is invited or permitted, including but not limited to musical concerts or performances, athletic competitions, fairs, flea markets, and artistic or cultural performances or exhibitions.

(v) Public meeting: Any meeting, wherever held, open to the public with no membership requirement.

(w) Public place: Any area in which members of the public are normally invited or permitted, including but not limited to parks, streets, sidewalks, sports fields, gymnasiums, shopping centers, or property owned, occupied or operated by the City.

(x) Retail store: Any establishment whose primary purpose is to sell merchandise or food for consumption off the premises, directly to consumers.

(y) Shared workplace: A workplace or part of a workplace that is regularly used by more than one employee.

(z) Smoking: The act of lighting, smoking, or carrying a lighted or smoldering cigar, cigarette, or pipe, of any kind.

(aa) Tobacco product: Any substance which contains tobacco, including but not limited to cigarettes, cigars, smoking or chewing tobacco, and smokeless tobacco.

(bb) Tobacco shop: Any store that primarily sells tobacco, tobacco products, and pipes or other implements used to smoke tobacco. Tobacco shop does not include an area of a larger store in which tobacco is sold.

(cc) Workplace: An enclosed area or any part of an enclosed area used in the performance of employment or related activities. Workplace includes a motor vehicle owned or leased by the employer, conference room, auditorium, library, office machine station, lunch room, vending area, locker room, lounge, hallway, or stairwell.

Section 10B-3 through 10B-4. (Reserved).

Article 2. Smoking in Public Places and in Workplaces.

Section 10B-5. Smoking Prohibited in Certain Areas.

A person must not smoke in any:

(a) Elevator, regardless of capacity, except elevators in single family dwellings, as provided by state law;

(b) Health care facility, regardless of capacity, except:

(1) In the private, enclosed sleeping or living quarters of persons working in a health care facility where patients and members of the public are not normally present; and

(2) In patient sleeping quarters, if:

(i) All patients assigned to the room have agreed to have the room designated as a smoking area;

(ii) The administrator of the facility or his or her designee, has designated the room as a smoking area; and

(iii) A reasonable effort is made to assign patients to sleeping rooms according to the patients' nonsmoking or smoking preference;

(c) School or other educational facility operated by the City, Montgomery County public schools, Montgomery College, Prince George's County public schools, or Prince George's County Community College, except when expressly permitted under state law; or

(d) Building or part of a building owned or leased by the City or Montgomery County government, other than a City or Montgomery County government workplace, that is normally used by the public for public purposes, and any private building or part of a building during a public meeting called by a government body;

(e) Theater (other than a dinner theater) or movie theater;

(f) City or Montgomery County government workplace;

(g) Public area of a retail store, bank, barber shop, beauty salon, office, factory, or other private business, except:

(1) An eating and drinking establishment;

(2) When the public area is being used exclusively for a private function. A private function is an event open only to persons specifically invited, not to the general public, in which the entire public area is under the control of the sponsor of the event;

(3) A public reception area of a professional office operated by a sole practitioner; or

(4) A retail store, barber shop, or beauty salon in which not more than two persons work at any time.

(h) Restroom, except a restroom in a private residence;

(i) Enclosed auditorium, concert or lecture hall when it is open to the public;

(j) Shared workplace in a retail store, bank, barber shop, beauty salon, office, factory, or any other private business, except:

(1) A business in which not more than two persons work at any time;

(2) A shared workplace in a private residence where members of the public are not regularly invited; or

(3) A shared workplace in a public area of an eating and drinking establishment; or

(k) A child care center, day care center for the elderly, or day center for adults.

Section 10B-6. Exceptions.

Smoking is not prohibited by Section 10B-5:

(a) When any public area in which smoking is prohibited under Section 10B-5 is closed to the public, unless the public area is also a shared workplace;

(b) In that part of a large, open, indoor space (such as a hotel, theater, lobby, shopping mall, bowling alley, office reception area, or transportation waiting area) that is designated as a smoking area under Section 10B-7. Any smoking area designated within a large, open, indoor space must:

(1) Consist of less than 20 percent (in a bowling alley, less than 40 percent) of the open indoor space in which it is located, or a lower percentage specified in Department of Health regulations;

(2) Not be located in the center of the open indoor space or in an area that the public must pass through in order to gain access to an office, store, restroom, or other essential part of the building;

(3) Use barriers and ventilation systems, where practical, to minimize the effects of smoke in adjacent areas; and

(4) Conform to Department of Health regulations that include criteria for size of the open space, size and location of the smoking area, and adequacy of ventilation.

(c) In tobacco shops.

(d) In private, enclosed offices where members of the public are not normally present and when the door leading to another workplace is closed, except if the office is a shared workplace, smoking is permitted only if all employees regularly sharing the office consent.

(e) In those areas in buildings used by the City or Montgomery County government that the City Administrator or the Chief Administrative Officer, as applicable, designates as areas for smoking.

(f) By actors as part of a stage production.

#### Section 10B-7. Designated Smoking Areas.

The person in charge of any area specified in Section 10B-5 may designate separate areas where smoking is permitted.

(a) An area must not be designated as a smoking area if smoking in that area is prohibited by any other law or regulation, or by a fire marshal.

(b) In order to accommodate persons who desire to avoid contact with smoke, to the extent possible:

(1) Those areas which are best served by filters, air changers, other ventilation devices, and convection currents, should be reserved as non-smoking areas; and

(2) Walls, screens, or semi-partitions should be used to help keep a non-smoking area smoke-free, but this section does not require construction of walls or other structures.

(c) Designated smoking areas must not include shared workplaces or areas normally used by members of the public, except:

(1) An enclosed room within a private business, City or Montgomery County government workplace which is used exclusively as a smoking lounge; or

(2) An enclosed lunchroom, vending area, locker room, or lounge, if at least one similar, conveniently-located lunchroom, vending area, locker room, or lounge is reserved for non-smoking employees.

(d) Restrooms and elevators must not be designated as smoking areas, except that a restroom which is accessible only from a private office may be so designated.

#### Section 10B-8. Posting Signs.

(a) Signs prohibiting or permitting smoking, as the case may be, must be posted conspicuously in each room and area covered by Article 2 of this Chapter. However, in a workplace signs need only be posted in one prominent place on each floor of the building that is visible to each employee.

(b) Where smoking is prohibited by this Section, the sign must read:

(1) In the Montgomery County portion of the City: "No smoking by order of Montgomery County Code Section 24-9 and Takoma Park Code Chapter 10B. Enforced by the Montgomery County Department of Health and by the City of Takoma Park."

(2) In the Prince George's County portion of the City: "No smoking by order of Takoma Park Code Chapter 10B. Enforced by the City of Takoma Park."

(3) The international no smoking symbol may replace the words "No Smoking" on all signs.

(c) Signs need not be permanently attached to a structure. The owner and the person in control of the room or area are both responsible for posting the required signs.

Section 10B-9. Duty to Prevent Smoking in Certain Areas.

The owner or person in charge of a building or area covered by Article 2 of this Chapter must refuse to serve or seat any person who smokes where smoking is prohibited, and must ask the person to leave the building or area if the person continues to smoke after proper warning.

Section 10B-10. Optional Smoking Restrictions.

The owner or person in control of any property not covered by Section 10B-5 or exempted under Section 10B-6 may prohibit or restrict smoking as provided in Article 2 of this Chapter by notifying, in writing, the City and the Department of Health (or other department designated by the County Executive) and by posting appropriate signs. The City and the Department of Health (or other department designated by the County Executive) must enforce the prohibition or restriction wherever signs are posted until the owner or person in control of the property notifies the City and the Department of Health (or other department designated by the County Executive) in writing that the owner or person in control has revoked the prohibition or restriction and removed all signs.

Section 10B-11. Employers' Responsibilities.

(a) Each employer must provide a smoke-free work environment for non-smoking employees to the maximum extent practical.

(b) Each employer must inform its employees of this Chapter, as it applies to the employees' workplace, by permanently posting a summary of the law in a prominent place or regularly giving each employee a written summary. The Department of Health, for employers in the Montgomery County portion of the City, and the City, for employers on the Prince George's County portion of the City, must furnish each employer, on request, a summary of the law written in plain language.

(c) Each employer must establish and post a workplace smoking policy written in plain language. The policy must include a procedure to resolve complaints by employees about the application of this Chapter. The procedure must identify the person designated by the employer to receive complaints. The employer must keep a record of each complaint and how it is resolved.



(d) Each employer must protect its employees against retaliation by the employer or another employee for taking any action allowed under this Chapter at a workplace. An employer is not liable under this subsection for any action of an employee that does not occur at the workplace and is outside the scope of the employee's employment. This Chapter does not affect hiring, discharge, or any other personnel action.

(e) An employer need not modify any structural element of a workplace to comply with this Chapter.

#### Section 10B-12. Limitations.

This Chapter does not:

(a) Allow any person to smoke at any place where smoking is otherwise restricted; or

(b) Prevent an owner or person in charge from prohibiting smoking entirely at any business or workplace.

#### Article 3. Distribution of Tobacco Samples and Coupons.

#### Section 10B-13. Distribution of Tobacco Samples and Coupons Prohibited.

(a) No person shall distribute tobacco products to members of the public at less than basic cost in public places, in public areas, or at public events.

(b) No person shall distribute coupons which are redeemable for tobacco products to members of the public in public places, in public areas, or at public events.

(c) Exceptions: The provisions of subsection (b) shall not apply to the distribution of coupons which are redeemable for tobacco products when such coupons are:

(1) Contained in newspapers, magazines or other types of publications in which the coupon is incidental to the primary purpose of the publication; or

(2) Sent through the mail.

(d) Notwithstanding the foregoing, the distribution of tobacco products at less than basic cost or coupons which are redeemable for tobacco products at private functions or by retailers, manufacturers, or distributors of tobacco products to any employee of such companies who are over the age of majority is not prohibited.

#### Section 10B-14. (Reserved).

## Article 4 Cigarette Vending Machine Permits.

### Section 10B-15 Permits Required.

(a) No person shall sell tobacco products through a vending machine without first obtaining a permit for the placement of a cigarette vending machine in compliance with the provisions of Article 4 of this Chapter.

(b) Cigarette vending machine permits shall be issued annually and shall expire on March 31 next following their issuance. The fee for a cigarette vending machine permit shall be \$25.00 and a separate permit shall be required for each cigarette vending machine.

(c) Applications for cigarette vending machine permits shall be made to the City Clerk on forms to be furnished by the City Clerk and in accordance with any regulations established by the City Administrator under Section 10B-31 of this Chapter.

(d) The City Clerk shall notify all current holders of county or state licenses to make retail sales of cigarettes through a vending machine or to engage in the business of a cigarette vending machine operator in the City of the provisions of Article 4 of this Chapter by first-class mail to the last known address of the license holder.

(e) No permit under this Section shall be required of a current holder of a county or state license to make retail sales of cigarettes through a vending machine or to engage in the business of a cigarette vending machine operator in the City until the expiration of the term of their current license.

### Section 10B-16. Permit Restrictions.

(a) No permit shall be issued for placement of a cigarette vending machine except in locations which are not generally accessible to or frequented by minors, such as bars, cocktail lounges, liquor stores, and private clubhouses for members of fraternal or civic organizations not operated as public businesses or open to the general public.

(b) Notwithstanding the foregoing, no permit shall be issued for a cigarette vending machine which is:

(1) Located in a coat room, restroom, unmonitored hallway, outer waiting area, or similar unattended or unmonitored area of a bar, cocktail lounge, liquor store, private clubhouse or other place to which minors are not generally permitted access; or

(2) Accessible to the public when the establishment is closed.

(c) The burden of showing that a location is not generally accessible to or frequented by minors shall be on the person who is seeking a permit for a cigarette vending machine.

Section 10B-17. Display of Permit.

The permit issued under Article 4 of this Chapter for placement of a cigarette vending machine shall be displayed on the cigarette vending machine or posted conspicuously in the immediate vicinity of the cigarette vending machine.

Section 10B-18 through 10B-19 (Reserved).

Article 5. Smoking in Eating and Drinking Establishments.

Section 10B-20. Applicability.

(a) This Section applies to an eating and drinking establishment if the total seating capacity of all non-bar areas is 25 or more.

(b) This Section does not apply to any area of an eating and drinking establishment that is:

(1) A bar; or

(2) Being used exclusively for a private function.

Section 10B-21. Non-smoking Area Required.

A person who operates an eating and drinking establishment subject to Section 10B-20 must designate a contiguous, non-smoking area that is at least 50 percent of the total seating area of that part of the establishment that is not:

(a) A bar; or

(b) Being used exclusively for a private function.

Section 10B-22. Notice.

(a) Any person who operates an eating and drinking establishment subject to Section 10B-20, must:

(1) Post conspicuously at each entrance, a sign stating that a non-smoking area is available;

(2) Ask whether each patron wants to be seated in the smoking or non-smoking area;

(3) Refuse to seat or serve a person who smokes in a non-smoking area; and

(4) Ask a person who smokes in a non-smoking area to leave the establishment if the person continues to smoke after proper warning.

(b) Eating and drinking establishments with a total seating capacity of all non-bar areas of less than 25 that do not voluntarily designate a nonsmoking area shall conspicuously post a sign at each entrance stating that a nonsmoking area is not available.

#### Section 10B-23. Prohibition.

A person must not smoke in:

(a) An area that is designated for non-smoking under Section 10B-21; or

(b) Any restroom that is open to customers.

#### Section 10B-24. Election for Coverage.

Eating and drinking establishments not covered by Section 10B-20 may elect to have the provisions of Article 5 apply by so notifying, in writing, the City and the Department of Health and by following the notice requirements of Section 10B-22. Upon such election for coverage, the provisions of Article 5 shall apply and be enforceable by the City and the Department of Health until the person who operates the eating and drinking establishment notifies the City and the Department of Health in writing that such election is being withdrawn.

#### Section 10B-25. Prohibiting Smoking Entirely.

(a) Nothing in Article 5 of this Chapter prevents a person who operates an eating and drinking establishment from prohibiting smoking entirely in such establishment.

(b) If smoking is prohibited entirely in an eating and drinking establishment, then a sign so stating shall be posted conspicuously at each entrance to the establishment.

#### Section 10B-26 through 10B-29. (Reserved).

### Article 6. Administration.

#### Section 10B-30. Construction of Signs.

Unless otherwise provided by this Chapter, the construction, dimensions, letter size, color, placement, and other specifics relating to the signs required to be posted pursuant to this Chapter shall be in accordance with standards duly established by Montgomery County Executive Regulations and/or by the City of Takoma Park.

Section 10B-31. Regulations.

The City Administrator may adopt reasonable regulations in accordance with the procedures set forth in Chapter 2A, Article 5 (Administrative Regulations) of the Takoma Park Code, as amended from time to time, to carry out the provisions of this Chapter.

Section 10B-32. Other laws still apply.

(a) This Chapter adds to, and does not replace or restrict, any other applicable federal, state, or City law or regulation.

(b) This Chapter does not allow smoking where smoking is restricted by any applicable fire prevention rule or regulation.

Section 10B-33. Enforcement.

(a) Authority for enforcement of the provisions of this Chapter shall exist jointly and severally in the City Administrator and, in the Montgomery County portion of the City, in the County Executive and/or the Health Officer.

(b) Primary, although not exclusive, authority for the enforcement of the provisions relating to smoking in eating and drinking establishments for the Montgomery County portion of the City, shall rest with the Health Officer.

(c) The Corporation Counsel of the City, the Montgomery County Attorney (for the Montgomery County portion of the City), or any affected party may file an action in any court with jurisdiction to enjoin repeated violations of this Chapter.

Section 10B-34. Penalties.

(a) Any violation of Article 2 (Smoking in Public Places and in Workplaces) of this Chapter is a Class D civil violation under Section 1-19 of the Takoma Park Code and/or, in the Montgomery County portion of the City, a Class C violation under Section 1-19 of the Montgomery County Code. Each day a violation exists is a separate offense.

(b) Any violation of Article 3 (Distribution of Tobacco Samples and Coupons) of this Chapter is a Class D civil violation under Section 1-19 of the Takoma Park Code.

(c) A person who operates an eating and drinking establishment in violation of any provision of Article 5 (Smoking in Eating and Drinking Establishments) of this Chapter may be issued a citation for a Class D civil violation under Section 1-19 of the Takoma Park Code and/or, in the Montgomery County portion of the City, a Class C civil violation under Section 1-19 of the Montgomery County Code. Each day a violation exists is a separate offense.

(d) A person who smokes in a non-smoking area in violation of Article 5 (Smoking in Eating and Drinking Establishments) of this Chapter may be issued a citation for a Class D offense under Section 1-19 of the Takoma Park Code and/or, in the Montgomery County portion of the City, a Class C civil violation under Section 1-19 of the Montgomery County Code.

(e) For eating and drinking establishments in the Montgomery County portion of the City, the Health Officer may suspend a license issued under Chapter 15 of the Montgomery County Code for up to three (3) days if the Health Officer finds, under the procedures of Section 15-6 of the Montgomery County Code that the operator of an eating and drinking establishment has knowingly and repeatedly violated any provision of Article 5 (Smoking in Eating and Drinking Establishments) of this Chapter.

(f) A person who sells tobacco products through a vending machine or the person in charge of any area in which a cigarette vending machine is placed in violation of any provision of Article 4 (Cigarette Vending Machine-Permits) may be issued a citation for a Class C civil offense under Section 1-19 of the Takoma Park Code. Each day a violation exists is a separate offense. In addition, the City Administrator shall have the authority to revoke, suspend, or not renew the cigarette vending machine permit of any person who has violated any of the provisions of Article 4 of this Chapter.

#### Section 10B-35. Severability.

The provisions of this Chapter are severable and if any section, sentence, clause, phrase, or word is for any reason held to be illegal, invalid, or unconstitutional, or inapplicable to any person or circumstance by a decision of any Court, that decision shall not affect the validity of the remaining provisions of this Chapter or their application to other persons or circumstances. It is hereby declared to be the legislative intent of the Council that this Chapter would have been adopted if such illegal, invalid, or unconstitutional section, sentence, clause, phrase or word had not been included and if the person or circumstances to which this Chapter or part thereof is inapplicable had been specifically exempted therefrom.

SECTION 2. This Ordinance shall become effective on October 1, 1990.

ADOPTED THIS 23rd DAY OF July, 1990 BY ROLL CALL VOTE AS FOLLOWS:

Aye: Douglas, Elrich, Hamilton, Leary, Moore, Prensky, Sharp  
Nay: None  
Abstained: None  
Absent: None

smoking.ord  
corr64/cp

Introduced by:

1st Reading:

2nd Reading:

Drafted by: Linda S. Perlman  
Asst. Corp. Counsel

DEFERRED TO 10/8/90

Draft Date: July 20, 1990

ORDINANCE NO. 1990-

(Prohibiting Smoking in Restaurants)

WHEREAS, secondhand smoke exhaled by smokers and emitted by burning cigarettes ("environmental tobacco smoke") is a known cause of lung cancer and respiratory symptoms and has been linked to heart disease; and

WHEREAS, smoking in restaurants exposes nonsmokers to environmental tobacco smoke and jeopardizes the health of nonsmokers; and

WHEREAS, separating smokers and nonsmokers in restaurants reduces, but does not eliminate nonsmokers' exposure to environmental tobacco smoke because pollutants readily disperse through a common air space; and

WHEREAS, studies have shown that under typical conditions of smoking and ventilation, environmental tobacco smoke diffuses rapidly throughout buildings, persists after smoking ends, and represents a significant source of indoor air particulate pollution in buildings where smoking is permitted; and

WHEREAS, few restaurants have smoking areas which are separately ventilated and directed exhausted to the outside; and

WHEREAS, there is no safe level for exposure to cancer-causing agents.



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

SECTION 1. Chapter 10B, Article 5, Smoking in Eating and Drinking Establishments, of the Takoma Park Code as enacted by Ordinance No. 1990-39 is repealed and reenacted with amendments to read as follows:

CHAPTER 10B. SMOKING PROHIBITIONS AND RESTRICTIONS.

Article 5. Smoking in Eating and Drinking Establishments.

Section 10B-20. Applicability.

(a) Smoking is prohibited in all eating and drinking establishments in the City of Takoma Park.

(b) This section does not apply to a separate bar area of an eating and drinking establishment or when the establishment is being used exclusively for a private function.

Section 10B-21. Notice.

(a) A person who operates an eating and drinking establishment subject to Section 10B-20 must:

(1) Post conspicuously at each entrance a sign stating that there is no smoking in the eating and drinking establishment;

(2) Refuse to seat or serve a person who smokes in the eating and drinking establishment; and

(3) Ask a person who smokes to leave the establishment if the person continues to smoke after proper warning.

(b) Nothing in Article 5 of this Chapter prevents a person who operates an eating and drinking establishment from prohibiting smoking entirely in a separate bar area of the eating

and drinking establishment or at private functions in the establishment by following the notice requirements of this section.

SECTION 2. Chapter 10B, Article 6, Administration, Section 10B-34, Penalties, of the Takoma Park Code as enacted by Ordinance No. 1990-39, is amended as follows:

Section 10B-34. Penalties.

(a) No change.

(b) No change.

(c) No change.

(d) A person who smokes in [a nonsmoking area] an eating and drinking establishment in violation of Article 5 (Smoking in Eating and Drinking Establishments) of this Chapter may be issued a citation for a Class D offense under Section 1-19 of the Takoma Park Code and/or, in the Montgomery County portion of the City, a Class C civil violation under Section 1-19 of the Montgomery County Code.

(e) No change.

(f) No change.

SECTION 3. All provisions of Chapter 10B, Smoking Prohibitions and Restrictions, of the Takoma Park Code, as enacted by Ordinance No. 1990-39, which are not amended by this Ordinance shall remain in full force and effect.

Section 3. This Ordinance shall become effective on \_\_\_\_\_.

Adopted this \_\_\_\_\_ day of \_\_\_\_\_, 1990 by roll  
call vote as follows:

Aye:

Nay:

Abstained:

Absent:

nosmoke.res  
corr64/cp

Introduced by: Councilmember Moore

**RESOLUTION # 1990-77**

WHEREAS, The Takoma Park Police Department made application for a Drug Crime Reduction canine through the Governor's Office of Justice Assistance in February, 1990; AND

WHEREAS, The Governor's Office of Justice Assistance approved the grant awarding the City of Takoma Park the sum of \$18,000 in Federal funds; AND

WHEREAS, The City of Takoma Park is required to match the Federal funds in the amount of \$6,000; AND

WHEREAS, The grant would allow the purchase of a marked police cruiser, a canine with training, and necessary operating expenses;

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF TAKOMA PARK, MARYLAND, that the Mayor is authorized to execute an agreement with the Governor's Office of Justice Assistance for receipt of the grant.

Adopted this 23rd day of July, 1990.

Introduced by: Councilmember Douglas

ADOPTED: JULY 23, 1990

RESOLUTION 1990-75

WHEREAS, the firm of Constructive Alternatives, Inc. is seeking to develop the property at 6 Grant Avenue in Takoma Park as commercial office space; AND

WHEREAS, the City Council earlier supported the rezoning of this property from R-60 (one-family detached, residential) to O-M (office, moderate intensity); AND

WHEREAS, this rezoning application, G-599, was approved by Montgomery County in September of 1988; AND

WHEREAS, the remaining development approvals for the property were received from Montgomery County in March of 1990; AND

WHEREAS, since obtaining these approvals, Constructive Alternatives has been unsuccessful in obtaining private financing to develop the property due to the current lending climate in the Washington metropolitan area; AND

WHEREAS, Constructive Alternatives has therefore requested the City's assistance in obtaining State financing for the project; AND

WHEREAS, after a review of available State financing programs by City staff, staff has recommended use of the MICRF program for the following reasons:

- o The City would take a first trust position on the project with the MICRF loan;
- o The City could require a 5 year term instead of a 15 year term, thus reducing its exposure;
- o The City would not be required to put any of its own funds into financing the project;
- o The project is financially viable, with total project costs of \$330,000 and a recent appraisal of \$400,000, and achievement of a break-even point in the project cash flow when 77 percent of the project is leased;
- o The ability to obtain MICRF financing appears more certain than SALT, and the developers will not be required to obtain any further financing commitments. Thus, MICRF financing would permit the project to be completed in the most expeditious manner;

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF TAKOMA PARK THAT, the Council hereby authorizes City staff to work with the property developers and State MICRF representatives to begin preparing an application to the MICRF program for 90 percent financing for acquisition, development, and construction at 6 Grant Avenue.

BE IT FURTHER RESOLVED THAT the Council will review the proposed MICRF application for this property at public hearing in September 1990, and will make a separate determination as to whether to proceed with submitting the application to the State at that time.

ADOPTED THIS 23RD DAY OF JULY, 1990.

6gtmicrf.res

Introduced by: Councilmember Douglas

ADOPTED: JULY 23, 1990

RESOLUTION 1990-76

- WHEREAS, Takoma Junction, Inc., a partnership of local business owners, is seeking to develop a commercial building to be known as Takoma Junction Center on property on Carroll Avenue near Ethan Allen Avenue in Takoma Park; AND
- WHEREAS, the City Council earlier supported the subdivision of this property, conditioned on certain covenants and easements; AND
- WHEREAS, the preliminary subdivision application was approved by Montgomery County with the inclusion of these covenants and easements in August of 1989; AND
- WHEREAS, the City Council also supported the submission of a State Action Loan for Targeted Areas (SALT) loan application for this project to the State of Maryland, which resulted in approval by the State of an acquisition loan for \$300,000 in the spring of 1989; AND
- WHEREAS, since obtaining subdivision approval, Takoma Junction, Inc., has been unsuccessful in obtaining construction financing in the private market due to the current lending climate in the Washington metropolitan area; AND
- WHEREAS, the Takoma Junction Center project is fully leased, and thus a major impediment to obtaining private financing for the project has been the lack of a major investor; AND
- WHEREAS, Takoma Junction, Inc. has requested the City's assistance in obtaining state MICRF financing for the project; AND
- WHEREAS, the maximum loan amount likely to be attained through the MICRF program is \$600,000; AND
- WHEREAS, if obtained, these additional State funds will still be insufficient to complete the Takoma Junction Center project; AND
- WHEREAS, the City has invested over half a million dollars in the revitalization of the Takoma Junction Business District, and the development of this property is an essential step in this revitalization; AND
- WHEREAS, if Takoma Junction, Inc. is unsuccessful in completing development of Takoma Junction Center, the subdivision application will be nullified; AND

WHEREAS, additional subdivision approvals that have occurred in Montgomery County since August of 1989 have used up all of the remaining trip capacity in the area of this property, and a prospective future purchaser of the property would be required to wait until road capacity is increased before subdivision approval could be obtained; AND

WHEREAS, alternatively, the property could be sold off as individual lots, which would result in a substantially less attractive development with little possibility for site plan control by the City.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF TAKOMA PARK THAT, the Council hereby authorizes City staff to work with the property developers to structure the financing package and to attempt to involve a large investor in the project.

BE IT FURTHER RESOLVED THAT, if these negotiations are successful, and if warranted by underwriting criteria applied by the State MICRF program, the Council also authorizes City staff to work with the property developers and State MICRF representatives to begin preparing an application to the MICRF program for a portion of the acquisition, development, and construction financing for the Takoma Junction Center project.

BE IT FURTHER RESOLVED THAT, should staff proceed with preparation of the MICRF application, the Council will review the proposed application for Takoma Junction Center at public hearing, and will make a separate determination as to whether to submit the application to the State at that time.

ADOPTED THIS 23RD DAY OF JULY, 1990.

tjcmicrf.res



Introduced by: Councilmember Hamilton

**RESOLUTION NO. 1990-78**

**WHEREAS,** Article III, Section 309 of the City Charter does empower the Council to appoint standing committees as the Council may determine are necessary; AND

**WHEREAS,** On June 11, 1990, Resolution 1990-67 was passed establishing the Editor Selection Committee, with representation to be made up of one Councilmember and four citizen members.

**BE IT RESOLVED THAT** the following persons are hereby designated to serve on the Committee:

Michael D. Moore, Council Representative

Rino Aldrighetti, 7213 Central Avenue

Reid Baron, 6607 Allegheny Avenue (Ex Officio)

Randy Kubetin, 7103 Poplar Avenue

Lou De Salbo, 7407 Aspen Avenue

**BE IT FURTHER RESOLVED THAT** this Committee shall conduct its work to recommend an editor for the City Newsletter no later than September 10, 1990.

Adopted this 23rd day of July, 1990.

Introduced by: Councilmember Hamilton  
Drafted by: B. Habada

Adopted: July 23, 1990  
(Single Reading)

ORDINANCE NO. 1990-43

**AN ORDINANCE TO APPROVE PURCHASE OF PARKING ENFORCEMENT SOFTWARE FROM BRENNAN & ASSOCIATES.**

WHEREAS, the FY 91 Budget appropriated \$6,000 for the purchase and installation of a parking enforcement computer recordkeeping system; AND

WHEREAS, said recordkeeping system would enable the City to participate in the Maryland Motor Vehicle Administration's Flagging program by tracking outstanding parking ticket citations and submitting names of violators to the MVA to withhold vehicle registration until outstanding citations were paid to the City; AND

WHEREAS, a proposal has been made by Brennan & Associates to sell parking enforcement software to the City of Takoma Park; software that is currently being used by the City of College Park for their parking enforcement program and their participation in the State MVA Flagging program.

WHEREAS, in accordance with procurement requirements mandated by the City Code, City staff looked at three proposals from three different sources including Brennan & Associates software.

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

SECTION 1. THAT Brennan & Associates software purchase proposal for parking enforcement software, for a PC based system, is accepted at a cost of \$5,000.

SECTION 2. THAT the City Administrator or his designee is authorized to execute the documents necessary to purchase the software from Brennan & Associates.

SECTION 3. THAT this purchase be charged to Account 9100-8000, Capital Equipment.

Adopted this 23rd day of July, 1990.

AYES: Elrich, Douglas, Hamilton, Leary, Moore, Prensky, Sharp

NAYS: None

ABSTAINED: None

ABSENT: None

O-PRKNG

Introduced By: Councilmember Hamilton

**RESOLUTION NO. 1990-79**

**SETTING FORTH THE CITY COUNCIL'S SUMMER 1990 RECESS**

- WHEREAS,** It has been decided that in order to accommodate vacation schedules of the City Council, a summer recess shall be called; AND
- WHEREAS,** this recess shall commence after a Regular Council Meeting and Public Hearing scheduled for Monday, July 23, 1990; AND
- WHEREAS,** with the first Monday of September, 1990 being the Labor Day Holiday, the Council will reconvene their meetings on Tuesday, September 4th, in Council Worksession; AND
- WHEREAS,** further the Council will reconvene their first Regular Meeting of official business, scheduled on Monday, September 10, 1990.
- NOW, THEREFORE, BE IT RESOLVED THAT** the City Council does hereby set forth its summer recess from July 24, 1990 through September 3, 1990.

Dated this 23rd day of July 1990.