

Regular Meeting

Agenda Item #	2
Meeting Date	May 27, 2014
Prepared By	Sara Anne Daines HCD Director
Approved By	Brian T. Kenner City Manager

Discussion Item	First Reading Ordinance Amending Takoma Park Code Chapter 8.36 Commercial Management Districts and Authorities Authorizing the Continuation of the Takoma/Langley Crossroads CDA
Background	<p>The Takoma Langley Crossroads Community Development Authority (“CDA”) has requested Council consideration of a proposal to amend <i>Takoma Park Code Chapter 8.36 Commercial Management Districts and Authorities</i> to allow for the continuation of CDA operations through June 30, 2021; the expansion of the boundaries of its service area; the restructuring of its Board of Directors; and an increase in the license fees assessed to all of its members. The request was presented to the Council and considered by the Council on May 19. Additional modifications including the incorporation of an annual reporting requirement and language allowing the City to assume billing responsibilities for the CDA were also considered.</p> <p>Following the May 19 work session, a proposal was forwarded by Councilmember Schultz, the CDA’s Ward representative, to increase the membership of the Board of Directors to allow for the selection of a fifth Area Director. As proposed, the individual would be selected by and would represent the businesses and property owners joining the CDA as a result of the expansion of the commercial management district boundaries. The proposal has been endorsed by the President and Executive Director of the CDA.</p> <p>Each of these revisions has been incorporated into the attached Ordinance.</p> <p>This is the first reading of the requested Ordinance. A second reading of the Ordinance is tentatively scheduled for June 23. If approved, the amendment would become effective July 1, 2014.</p>
Policy	<p>“(To) ensure a Takoma Park that is fiscally, environmentally, and economically sustainable while ensuring the delivery of high quality City services.”</p> <p>Strategic Plan FY 2010-FY 2015</p>
Fiscal Impact	N/A

Attachments	<ul style="list-style-type: none"> • Ordinance Amending Takoma Park Code Chapter 8.36 Commercial Management Districts (Preliminary Draft – May 19, 2014) • Takoma Langley Crossroads CDA – District Boundaries Map
Recommendation	To review and comment on proposed amendments
Special Consideration	<p><i>City Code Chapter 8.36 Commercial Management Districts and Authorities</i> is to be automatically repealed effective June 30, 2014 “unless extended by an ordinance adopted by the Council.” The Ordinance serves as the enabling legislation for the Takoma Langley Crossroads Development Authority, Inc. (the “CDA”), sets forth the powers of the CDA and governs its general operation.</p>

**CITY OF TAKOMA PARK, MARYLAND
ORDINANCE NO. 2014 -**

**(Amending the Takoma Park Code to extend the effective date of Chapter 8.36,
Commercial Management
Districts and Authorities, and to amend certain sections
governing district boundaries, license fees, and other operational matters.)**

WHEREAS, Takoma Park Code, Section 8.36.130, Expiration, provides that Chapter 8.36, Commercial Management Districts and Authorities, is repealed effective June 30, 2014; and

WHEREAS, the Board members of the Takoma/Langley Crossroads Development Authority (the “CDA”), established under the provisions of Maryland Local Government Code Annotated, Section 5-214(b) and Takoma Park Code, Chapter 8.36, believe that the continued operation of the CDA is in the best interests of the commercial district represented by the CDA; and

WHEREAS, the CDA has requested that the City extend the term of the CDA and also amend certain sections of Chapter 8.36 dealing with the district boundaries, license fees, and other operational matters; and

WHEREAS, the Council supports the continuation of the CDA and its ongoing operation as a commercial district management authority serving the Takoma Langley Crossroads commercial district and desires to repeal the Takoma Park Code provision for expiration of the CDA.

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

SECTION 1. Title 8, Business, Chapter 8.36 Commercial Management Districts and Authorities, of the Takoma Park Code is amended as follows:

**Chapter 8.36
COMMERCIAL MANAGEMENT DISTRICTS AND AUTHORITIES**

Sections:

8.36.010	Definitions.
8.36.020	Establishment.
8.36.030	Purpose.
8.36.040	District boundaries.
8.36.050	Limitations on the powers of Authority.
8.36.060	Composition of the Authority.
8.36.070	Bylaws.
8.36.080	Board of Directors—Officers.
8.36.090	Budget.
8.36.100	Licenses.

- 8.36.110 License fees.
- 8.36.120 Meetings.
- 8.36.130 Annual Reporting.
- 8.36.140 Expiration.

8.36.010 Definitions.

For the purpose of this chapter, the following terms shall have the meanings indicated:

“At-large” means elected by all voting members of the authority.

“Authority” means the Takoma/Langley Crossroads Development Authority.

“Business” means any person or organization operating or conducting an occupation, profession, trade or business, including, without limitations, retail and wholesale enterprises and property owners.

“City” means the City of Takoma Park, Maryland, a municipal corporation.

“District” means the geographical area designated in this chapter in which the Authority shall operate and perform its responsibilities.

“Exempt business” means a business within the district which is not subject to the assessment of fees by the Authority. “Exempt businesses” shall include:

1. Federal, State, County or City governments or their agencies;
2. A place or house that is actually used exclusively for public religious worship or a parsonage, or convent for a house of public worship;
3. ~~Volunteer fire companies and rescue squads;~~ Residential facilities and properties; and
4. Warehouses.

“Fees” means the license fees of the members of the Authority used to finance the programs and accomplish the purpose of the Authority.

“Hotel/motel” means an establishment which contains six or more guest rooms where temporary lodging is provided for compensation.

“Professional” means any ~~establishment~~ person or organization that:

1. Provides professional services by members of a licensed or otherwise recognized profession, including but not limited to, attorneys, medical practitioners, architects, engineers, surveyors, and the like; and

2. Does not sell retail goods.

~~1. Sells goods other than retail or services directly to ultimate consumers; and~~

~~2. Uses space that does not have direct access to:~~

~~a. The street;~~

~~b. The ground floor of a building;~~

~~c. A mall; or~~

~~d. Parking lot of a shopping center or mall.~~

“Retail” means a business establishment that:

1. Sells goods or services directly to ultimate consumers; and/or

2. Uses space that has direct access to:

a. The street;

b. The ground floor of a building;

c. A mall; or

d. A parking lot of a shopping center or mall.

“Residential facility” means an apartment, single family house, accessory apartment or condominium unit that is occupied or is intended to be occupied by one or more individuals.

“Warehouse” means a building used for the storage of goods or materials.

8.36.020 Establishment.

A. Pursuant to Section 5-214(b), of the Maryland Local Government Code Annotated Article 23A, Section 2(b)(35), of the Annotated Code of Maryland, there is established the Takoma/Langley Commercial Management District and the Takoma/Langley Crossroads Development Authority, as an independent entity.

B. The Authority shall incorporate and obtain liability insurance.

8.36.030 Purpose.

The purpose of the Authority shall be to promote and market the district, and to provide security, maintenance and amenities within the district.

8.36.040 District boundaries.

The Takoma/Langley Crossroads Commercial Management District is described as follows:

A. All land bounded on the east by New Hampshire Avenue, on the north by University Boulevard, on the west by Carroll Avenue, and on the south by Merrimac Avenue, Hammond Avenue, Anne Street, Kennewick Avenue, and Kirklynn Avenue, except those lots abutting Hammond Avenue and Lockney Avenue between Merrimac Avenue and Anne Street;

B. All land bounded on the east by New Hampshire Avenue, on the north by Kirklynn Avenue, on the west by Hammond Avenue, and on the south by Holton Lane, except lots 13, 14, 15, 16, 17, 18 and 19;

C All land bounded on the north by University Boulevard, on the west by New Hampshire Avenue, on the south by Holton Lane and extending to the east to the eastern limits of the City; and

D All land bounded on the east by the corporate limits of the City, on the north by Holton Lane, on the west by New Hampshire Avenue and extending south to include parcels B and C of the property known as the "Cohen Brothers' Property" recorded in the Land Records of Prince George's County in Plat Book WWW55 at Plat No. 6.

8.36.050 Limitations on the powers of Authority.

The Authority shall not:

A. Be able to exercise the power of eminent domain;

B. Purchase, sell, construct or ~~as~~ as a landlord, ~~lease~~ lease office or retail space;

C. Except as otherwise authorized by law, engage in competition with the private sector; or

D. Enter into any contract, agreement, undertaking or obligation which could result in any pecuniary liability to the City or a charge against the general credit and taxing powers of the City.

8.36.060 Composition of the Authority.

A. Every business in the District is a member of the Authority and may participate in the activities of the Authority.

B. Every member of the Authority may vote on matters before the Authority except:

1. Exempt businesses;
2. Businesses that have not paid all fees that are due;
3. Any other business that is not in good standing under the bylaws.

8.36.070 Bylaws.

A. The Authority shall adopt bylaws consistent with the requirements of Section 5-214(b), of the Maryland Local Government Code Annotated and this chapter. A copy of the bylaws shall be provided to the City for its review. The first meeting of the members of the Authority must be announced 14 days in advance. At that meeting, a majority of the voting members present shall adopt bylaws consistent with the requirements of Article 23A, Section 2(b)(35), of the Annotated Code of Maryland and this chapter. A copy of the bylaws shall be provided to the City for its review.

B. An amendment to the bylaws cannot be adopted at the same meeting at which the amendment was introduced. The bylaws may be amended by a two-thirds vote of the members present.

8.36.080 Board of Directors—Officers.

A. The Authority shall be directed and administered by a Board of Directors elected by the voting members of the Authority in accordance with the bylaws.

B. The Board shall consist of not more than eleven ~~include one~~ voting members.

C. There shall be two types of Directors: At Large Directors and Area Directors. Directors shall be equivalent in all respects and shall have the same rights, privileges, obligations and responsibilities.

D. There shall be not more than six At Large Directors elected to the Board; one of which shall be elected as President of the Authority, and second shall be elected as the Vice President of the Authority.

E. There shall be not more than a total of five Area Directors representing each of the following areas, elected by the members in those areas as provided for in the bylaws.

1. Southeast quadrant of University Boulevard and Carroll Avenue, west of Anne Street;

2. Southwest quadrant of University Boulevard and New Hampshire Avenue, north of Kennewick Avenue;

3. Southwest quadrant of University Boulevard and New Hampshire Avenue, south of Kennewick Avenue;

4. Southeast quadrant of University Boulevard and New Hampshire Avenue, north of Holton Lane;

5. Southeast quadrant of University Boulevard and New Hampshire Avenue, south of Holton Lane;

~~Director from each of the following areas, elected by the members in those areas (and any other areas provided for in the bylaws). The boundaries of these areas shall be established in the bylaws:~~

- ~~1. Southwest quadrant;~~
- ~~2. Southeast quadrant north of Holton Lane;~~
- ~~3. Holton Lane/Hampshire Place Property;~~
- ~~4. Langley Professional Building (7676 New Hampshire Avenue).~~

~~C. The voting members of the Authority shall elect at-large a Chair, Vice Chair and enough other Directors not to exceed 10.~~

~~D. Except as provided in the bylaws, there shall be no more than one at-large Director in each of the following categories:~~

- ~~1. Owner-operator;~~
- ~~2. Chain store;~~
- ~~3. Professional; and~~
- ~~4. Property owner.~~

~~EE.~~ The Board shall also include, as ex officio, up to five nonvoting Directors:

1. The City Councilmember ~~(or members)~~ in whose Council Ward(s) the Takoma/Langley Commercial Management District is located, or a designee;

2. A representative of the ~~Maryland State Secretary of the~~ Department of Housing and Community Development;

3. A representative of the City of Takoma Park designated by the ~~City Manager~~ Mayer;

4. A representative of Prince George's County designated by the County Executive; and

5. A representative of Montgomery County designated by the County Executive.

~~C.F.~~ In addition to the Chair and Vice Chair who are elected at large, the Directors shall elect ~~two~~2 Directors as Secretary and Treasurer. These 4 Directors shall constitute the officers of the Authority.

8.36.090 Budget.

A. The Board shall submit a proposed annual budget to the members of the Authority and the Mayor and Council of the City. The Board shall adopt a budget at a meeting of the Authority within 30 days of the date the proposed budget is submitted to the members and to City officials.

B. The Board may amend the budget without 30 days' notice if the amendment involves less than the amount of money specified in the ~~proposed annual budget~~bylaws.

8.36.100 Licenses.

Every business in the District must obtain an annual license issued by the Authority and pay the annual license fee. License fees are due and licenses shall be issued on or before the first day of July of each year. ~~Failure to obtain an annual license, and to pay the annual license fee, shall be a Class C municipal infraction.~~

8.36.110 License fees.

A. The annual license fee shall be based on the nature of the business and the number of square feet used in the business.

B. Exempt businesses do not pay any fees.

C. Enumeration of Fees.

1. The fees shall be as follows:

<u>Category</u>	<u>July 1, 2014 through June 30, 2015</u>		<u>July 1, 2015 through June 30, 2016</u>		<u>July 1, 2016 through June 30, 2017</u>
	<u>Fee per Sq. Ft.</u>	<u>Maximum Fee</u>	<u>Fee per Sq. Ft.</u>	<u>Maximum Fee</u>	<u>Fee per Sq. Ft.</u>
<u>Retail</u>	<u>\$0.29</u>	<u>\$5,000.00</u>	<u>\$0.38</u>	<u>\$10,000.00</u>	<u>\$0.50</u>
<u>Professional</u>	<u>\$0.14</u>	<u>\$5,000.00</u>	<u>\$0.19</u>	<u>\$10,000.00</u>	<u>\$0.25</u>
<u>Hotel/Motel/Theater</u>	<u>\$0.10</u>	<u>\$5,000.00</u>	<u>\$0.13</u>	<u>\$10,000.00</u>	<u>\$0.18</u>
<u>Property Owner</u>	<u>\$0.07</u>	<u>\$5,000.00</u>	<u>\$0.09</u>	<u>\$10,000.00</u>	<u>\$0.13</u>

eater
owner

Category	Fee- per- Square- Foot	Fee	Maximum Fee
Retail	0	\$0.2	\$3,500.00
Professional		0.10	3,500.00
Hotel/motel/th		0.07	3,500.00
Property		0.05	3,500.00
Warehouse		0.00	—0.00

2. License fees shall be rounded to the nearest dollar.

32. If a business falls in more than one license fee category, it shall be charged a license fee for each category in which the business falls.

D. Effective on July 1st of each year, beginning with July 1, ~~2011~~2017, all license fees ~~shall~~may be increased by an amount equal the percentage increase in the Consumer Price Index-All Urban Consumers All Items, Washington-Baltimore from March in the preceding year to March in the current year. The CPI shall be the CPI published as of March in each year. If there is no increase in the CPI-U, then the license fee shall remain the same.

E. ~~At the request of the Board, the City shall collect license fees on behalf of the Authority, as its agent. Unpaid license fees shall be assessed an additional late payment fee of 5% of the fee per month or any portion of a month. The City may charge the Authority for the expenses incurred in collecting fees and for the costs and attorney's fees incurred by the City in connection with enforcement of the license requirement through the issuance and prosecution of municipal infraction citations. The Authority, by vote of its Board, is empowered to institute suit to collect unpaid fees, late payment fees, plus all reasonable legal fees and costs incurred in this collection of unpaid fees. License fees are nonrefundable and may be prorated for new businesses moving into the District during the course of the licensing period.~~

F. Unpaid license fees may be assessed a late fee of 5% per month for each month or portion of a month after July 1st that the license fee is unpaid.

G. The City Manager may, at his or her discretion and upon written request of the Board, assume responsibility for the billing and collection of license fees on behalf of the Authority. The Authority shall be charged for all expenses incurred by the City in billing and collecting license fees.

H. The Authority, by vote of its Board, is empowered to institute suit to collect unpaid fees, late payment fees, plus all reasonable legal fees and costs incurred in this collection of unpaid fees.

I. The Board ~~may shall~~ appoint an appeals panel ~~as provided in the bylaws. The appeals panel shall to~~ hear all objections to the license fee set for each business. The only issues that may come before the appeals panel are whether:

1. The nature of the business has been accurately determined;
2. The number of square feet of space used by the business is correct; and
3. The fee has been correctly calculated based on the rate and the square footage.

8.36.120 Meetings.

A. The Board shall meet at least quarterly. The Authority shall meet at least once a year.

B. All meetings shall be open to the public, except for executive sessions as provided for in the bylaws.

8.36.130 Annual Reporting.

The Authority shall prepare an annual report to the Council in July of each year and may provide additional briefings as needed.

8.36.140 Expiration.

Unless extended by an ordinance adopted by the Council, Sections 8.36.010 through 8.36.130 will no longer have any effect and are repealed effective June 30, 2021.

Takoma / Langley CDA Area

