

Resolution No.: 17-1208
Introduced: September 9, 2014
Adopted: September 9, 2014

**COUNTY COUNCIL
FOR MONTGOMERY COUNTY, MARYLAND**

By: County Council

SUBJECT: Approval of Executive Regulation 27-13, Administration of the Long Branch/Takoma Park Enterprise Zone

Background

1. On August 28, 2014, the County Council received Executive Regulation 27-13, Administration of the Long Branch/Takoma Park Enterprise Zone, from the County Executive.
2. The regulation must be reviewed under method (1) of Section 2A-15 of the Code.
3. Under method (1), this regulation does not take effect until the County Council approves it.

Action

The County Council for Montgomery County, Maryland approves the following resolution:

The Council approves Executive Regulation 27-13, Administration of the Long Branch/Takoma Park Enterprise Zone.

This is a correct copy of Council action.


Linda M. Lauer, Clerk of the Council



MONTGOMERY COUNTY EXECUTIVE REGULATION

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Subject Executive Regulation – Long Branch/Takoma Park Enterprise Zone	Number 27-13
Originating Department Department of Economic Development	Effective Date September 9, 2014

Montgomery County Regulation on:

Administration of the Long Branch/Takoma Park Enterprise Zone

DEPARTMENT OF ECONOMIC DEVELOPMENT

Issued by: County Executive
Regulation No. 27-13
COMCOR No. 02.64L.03

Authority: Md. Ann. Code Economic Development Article, Sections 5-701 et seq.
Montgomery County Code Sections 2A-14 and 2-64L
Supersedes: Executive Regulation 29-03
Council Review: Method (1) under Code Section 2A-14
Register Volume 31, Issue 1

SUMMARY: This regulation establishes policies and procedures for the administration of the Long Branch/Takoma Park Enterprise Zone and eligibility criteria for enterprise zone benefits.

ADDRESS: Tina Benjamin, Director of Special Projects
111 Rockville Pike, Suite 800
Rockville, MD 20850

STAFF CONTACT: Tina Benjamin, (240) 777-2006

BACKGROUND INFORMATION: Md. Ann. Code Art.83A. Section 5-401 et seq. authorize the establishment of Enterprise Zones under certain circumstances. By council resolution 15-205, adopted June 10, 2003, and council resolution 15-120 adopted April 8, 2003, the Council consented to the County's application to designate the area generally described as the Long Branch, Takoma Langley Crossroads, and New Hampshire Avenue business communities as the Long Branch/Takoma Park Enterprise Zone. The State of Maryland approved the County's application on June 23, 2003. By Council resolution 17-717, adopted April 16, 2013, the Council consented to the County's application to the State of Maryland to re-designate the Long/Branch Takoma Park area as an Enterprise Zone. The State of Maryland approved the application for re-designation on June 15, 2013.



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These policies and procedures establish the qualifying criteria for the determination and certification of eligibility of businesses and/or commercial property located in the boundaries of the Long Branch/Takoma Park Enterprise Zone for property or employment tax credits made available under the Maryland Enterprise Zone Program, and sets forth the process for certification by the County.

Determination of eligibility for tax credits under this program shall be done in a fair and equitable manner, open to public scrutiny, in accordance with the policies and procedures herein.

Section 1. Purpose

The Long Branch/Takoma Park Enterprise Zone is established to accomplish the following purposes:

1.1 To encourage new business investment

Encourage expansion and enhancement of existing companies by improving their profitability. Recruit new businesses to Long Branch/Takoma Park.

1.2 To preserve existing scale of commercial development

Encourage retention and enhancement of existing businesses. Support redevelopment projects that complement existing commercial and residential infrastructure.

1.3 To improve the attractiveness of commercial areas

Increase enforcement of property maintenance codes. Provide technical assistance and training, rehabilitation loans and grants. Invest in streetscape improvements. Expand maintenance efforts in public right of way. Promote pedestrian friendly improvements.

1.4 To diversify the mix of goods and services

Develop an economically diverse mix of goods and services.

1.5 To preserve public investments

Promote and support investment that preserves past public investments and furthers ongoing revitalization efforts.



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1.6 To create new jobs

Encourage the employment of neighborhood residents by new and existing businesses. Promote use of available job training and educational programs.

Section 2. Applicability

2.1 These policies and procedures apply to all property owners and employers located within the boundaries of the Long Branch/Takoma Park Enterprise Zone (the Zone) who meet the eligibility requirements and qualification standards established by this Executive Regulation during the period when the Zone is in effect.

Section 3. Definitions

3.1 **ADMINISTRATOR.** The Administrator of the Local Enterprise Zone is the Director, Montgomery County Department of Economic Development or the Director's designee.

3.2 **CAPITAL INVESTMENT.** The investment in property improvement defined as a capital expense by the Internal Revenue Service in Publications 334 and 535. See Minimum Qualifying Capital Investment.

3.3 **EAST SILVER SPRING MASTER PLAN.** The Comprehensive Amendment to the 1977 Silver Spring – East Master Plan approved by the Montgomery County Council on December 12, 2000 and adopted by the Maryland-National Capital Park and Planning Commission on January 17, 2001.

3.4 **CERTIFICATE OF OCCUPANCY.** The permit to occupy a building in Montgomery County issued by the Department of Permitting Services.

3.5 **ECONOMICALLY DISADVANTAGED PERSON OR PEOPLE.** A person or people certified as such by the Maryland Job Service, Department of Labor, Licensing and Regulation.

3.6 **EMPLOYMENT TAX CREDIT.** The credit on income tax that may be allowed by the State of Maryland for new Maryland employees hired in the Zone.



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3.7 ENTERPRISE ZONE PROGRAM. The administration, policies and procedures established pursuant to Article 83A, Sections 5-401 et seq., the application for re-designation filed April 15, 2013 by the County to the State of Maryland, and these Executive Regulations for determination and certification of eligible property owners and employers to receive applicable tax credits in accordance with the requirements for eligibility set forth herein for the Long Branch/Takoma Park Enterprise Zone.

3.8 FOCUS AREA. The area within the Zone generally referred to as Long Branch, noted as areas 1 and 2 in the maps provided in the Long Branch/Takoma Park Enterprise Zone application dated April 15, 2003, and designated as such by the State of Maryland on June 23, 2003.

3.9 LONG BRANCH/TAKOMA PARK ENTERPRISE ZONE. Referred to herein as the Zone, those portions of Montgomery County, Maryland, shown in the Map of the Long Branch /Takoma Park Enterprise Zone Application, dated April 15, 2013, and designated as such by the State of Maryland on June 15, 2013. Where the Zone boundary is shown in the rights-of-way, the properties contiguous to the rights-of-way of these streets are included in the Zone. The Zone begins at the intersection of Flower Avenue and Piney Branch Road in Silver Spring. It continues north on Flower Avenue to Arliss Street, running south a half block on Flower Avenue, north on Piney Branch Road to Carroll Avenue. From the intersection of Piney Branch and University Boulevard, the Zone extends east to New Hampshire Avenue and Prince George's County. At New Hampshire Avenue, the zone runs south to Eastern Avenue, and the border with Washington D.C. All commercially zoned properties located in either the City of Takoma Park or Montgomery County, and contained within the described corridor, are included in the Zone.

3.10 MINIMUM QUALIFYING CAPITAL INVESTMENT. In accordance with section 6.2.2.2 through section 6.2.2.4 of this regulation, the minimum amount of property improvement that will qualify for real property tax credit.

3.11 NORTH AMERICAN INDUSTRIAL CLASSIFICATION SYSTEM (NAICS) CODE. The system generally used to classify commercial establishments by type of business in which they are engaged.

3.12 PERSONAL PROPERTY TAX CREDIT. The credit that may be allowed by Montgomery County and/or the City of Takoma Park on new investment in personal property within a focus area



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within the Zone.

3.13 **PROPERTY TAX CREDIT.** The credit that may be allowed by Montgomery County and/or the City of Takoma Park on the increased assessment after capital investment in property in the Zone, and/or the credit that may be allowed on new investment in personal property within a focus area in the Zone.

3.14 **TAKOMA PARK MASTER PLAN.** The Comprehensive Amendment to the City of Takoma Park Master Plan, the 1974 Sector Plan for the Transit Impact Area in Takoma Park, and the 1989 Master Plan for Langley Park-College Park-Greenbelt approved by the Montgomery County Council on December 12, 2000 and adopted by the Maryland-National Capital Park and Planning Commission on January 17, 2001.

3.15 **TAKOMA-LANGLEY CROSSROADS PLAN.** The Planning Board Draft Takoma/Langley Crossroads Sector Plan amends the Approved and Adopted Takoma Park Master Plan, December 2000; the Approved and Adopted East Silver Spring Master Plan, December 2000; the General Plan (On Wedges and Corridors) for the Physical Development of the Maryland –Washington Regional District in Montgomery and Prince George’s Counties, as amended; and the Master Plan of Bikeways, as amended. It was approved and adopted with revisions by the County Council, sitting as the District Council, on April 24, 2012. The Takoma/Langley Crossroads Sectional Map Amendment (0-953) was approved by the County Council, sitting as the District Council, on December 11, 2012.

3.16 **NEW HAMPSHIRE AVENUE CORRIDOR CONCEPT PLAN.** Takoma Park County Council adopted the Plan in 2008 to guide redevelopment of the New Hampshire Avenue corridor from Eastern Avenue to Sligo Creek.

3.17 **LONG BRANCH SECTOR PLAN.** Planners, working on a sector plan for Long Branch, presented a staff draft to the Planning Board on December 13, 2012. Long Branch was covered in part of the East Silver Spring and City of Takoma Park Master Plans, which were approved and adopted in 2000. The staff draft has yet to be approved by the Planning Board and submitted to the County Council for its review and approval.



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Section 4. Process and Administration

4.1 Responsibilities of the Administrator. The responsibilities of the Administrator include:

4.1.1 Determining the eligibility of the businesses and/or property owners for the tax credits under the Enterprise Zone Program.

4.1.2 Notifying the State Department of Assessment and Taxation and the Montgomery County Department of Finance that the applicant is eligible for property tax credits in accordance with the Enterprise Zone Program.

4.1.3 Providing certification to the applicant of eligibility for income tax credits in accordance with the Enterprise Zone Program within 60 days of the receipt of application. It is the responsibility of the applicant to file this certification of eligibility when filing the appropriate income tax form with the State.

4.1.4 Submitting an Annual Report to the Maryland Department of Business and Economic Development (MDBED) by January 15 of each calendar year following adoption of these Executive Regulations so long as the Enterprise Zone Program is in effect.

4.1.5 Acting as the principal point of contact between the public and the State of Maryland with respect to questions concerning the Enterprise Zone Program.

4.1.6 Developing applications for tax credits in the Zone.

4.1.7 Preparing a short fact sheet describing the Enterprise Zone and its benefits to business.

4.2 Application and Reporting Requirements. Property owners and/or businesses must complete separate applications for property tax credits and employment tax credits on forms provided by the Administrator. The application(s) must provide evidence that all State and local qualification standards have been met. At a minimum, the application(s) must contain the following information:

4.2.1 Name and address of the business/property owner, type of business (corporation, partnership, etc.), and North American Industry Classification System (NAICS) code.



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4.2.2 For employment tax credit, previous address of the business, and number of employees at previous address if moving into the Zone from another location.

4.2.3 For employment tax credit, total employment and verification of increases in employment wages paid for new jobs created in the Zone. The applicant may be asked to provide payroll documentation and employee time sheets for the period for which the tax credit is being applied or any other information the Administrator may deem necessary to determine eligibility or compliance with these regulations.

4.2.4 For the property tax credit, description and date of completion of the improvement, certification of the costs of the new construction or renovations or personal property and party responsible for payment thereof; a copy of the certificate of occupancy if the area being improved is currently being occupied, and any other information the Administrator may deem necessary to determine eligibility or compliance with these regulations.

4.2.5 Property owners seeking property tax credit on the next applicable July 1 tax bill must apply by December 10 of the preceding year in order for the Administrator to certify the property's eligibility by December 31 of the preceding year. A property owner may file an application for pre-certification of eligibility for property tax credit on a form provided by the Administrator prior to making the minimum qualifying capital investment in order to determine in advance whether such investment will be eligible. In this case, the Administrator will send a notice of pre-certification to the applicant. In no case will certification be granted until the minimum qualifying capital investment is completed.

4.2.6 Property owners receiving property tax credit must provide notice to the Administrator on a form provided by the Administrator, of the dollar value of the tax credit, and provide notice of same to any tenant or other third party responsible for direct payment or reimbursement to the property owner for payment of such tax within 30 days of payment of property taxes for the tax year in which credit is applied.

4.2.7 A business seeking personal property tax credit must apply for certification at least 30 days before the personal property tax return is due, on a form provided by the Administrator, in order for the



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Administrator to certify the business is eligible for the tax credit.

4.2.8 A business seeking employment tax credit must apply for certification at least 30 days before the income taxes for which a credit is being applied are due, on a form provided by the Administrator, in order for the Administrator to certify the business is eligible for the tax credit. Businesses receiving employment tax credit must provide notice of the tax credit, number of employees, and total wages paid for which the credit has been taken, to the Administrator, on a form provided by the Administrator, by December 10 of the tax year for which the credit is received.

4.2.9 Failure to submit information required in Section 4.2 may result in a notification of incomplete application insufficient for determining eligibility. Failure to comply with the local and State Enterprise Zone regulations may result in decertification of eligibility for tax credit.

Section 5. General Conditions

5.1 Property owners and businesses currently located within the boundaries of the Zone or new businesses that locate within the boundaries of the Zone must meet the qualification standards set forth in these Executive Regulations in order to be certified by the Administrator as eligible to receive tax credits under the Enterprise Zone Program. The following general conditions must be met:

5.1.1 The business activity conducted on the property must constitute a legal use of the property.

5.1.2 The property must be current with respect to payment of real property taxes and the business must be current with respect to payment of income and personal property taxes.

5.2 Any business entity located in the Zone before June 23, 2003 may not benefit from the tax credits and other incentives of the Enterprise Zone Program except with respect to any capital investment, personal property investment or expansion of its labor force occurring after June 23, 2003. Any new construction assessed in the tax year immediately preceding the tax year for the first credit is excluded from the tax assessment.

5.3 Location in the Zone or certification of eligibility for tax credit does not relieve property owners or businesses from building codes, zoning requirements and other regulations applicable to the



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property or business.

5.4 Since a minimum qualifying capital investment may not necessarily result in an increase in dollar value assessment, determination of eligibility by the Administrator for property tax credit shall not be deemed to create an assumption that a property tax credit will be given for a minimum qualifying capital investment in the Zone.

Section 6. Eligibility Requirements and Qualification Standards

6.1 Employment Tax Credit Qualification Standards. Businesses seeking employment tax credits must meet the following requirements:

6.1.1 State Standards

6.1.1.1 The new employee(s) for which tax credits are sought must have been hired after the business was located in the Zone and after June 15, 2009. If a business relocates from another location in Maryland into the Zone, its base employment remains the same as it was at the previous site.

6.1.1.2 The new employee(s) must have worked in the business for at least 35 hours each week for six months before or during the taxable year for which the credit is taken.

6.1.1.3 The new employee(s) must spend at least half of all work time in the Zone or in an activity related to the Zone.

6.1.1.4 The new employee(s) must have been hired to fill new positions or rehired after being laid off at least a year by that business. That is, the business' number of full-time employees must increase by the number of credits taken.

6.1.1.5 The new employees must be paid at least 150% of the Federal Minimum Wage by the employer.

6.1.1.6 In order to claim tax credit for hiring economically disadvantaged employees to fill newly created positions, the business must obtain a certification of eligibility for each employee provided by



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the Maryland Job Service, Department of Labor, Licensing and Regulation. The economically disadvantaged employee must remain in the position for three years. However, if the disadvantaged employee leaves the business and is replaced by another employee who is also qualified as disadvantaged, the business may take the remainder of the credit as if the original employee has remained.

6.1.2 Additional Local Standards.

6.1.2.1 When claiming tax credit(s) for hiring employees or relocating into the Zone from outside the State, the business must show a net increase of at least 35 work hours per week for each tax credit sought. The business may be required to document this employment on time sheets and payroll documents.

6.1.2.2 The business must show an increase of five percent (5%) to a minimum of one (1) new employee.

6.2 Property Tax Credit Qualification Standards. Credits will apply to increased property tax based on an increase in the assessed value of the property. Benefits will be triggered by increased assessment subsequent to a minimum qualifying capital investment in property in the Zone. Property owners seeking property tax credits must meet the following requirements:

6.2.1 State Standards.

6.2.1.1 The tax credit is granted on whole taxable years only. A property owner will have to pay any partial-year levy tax bills should the property improvement be assessed as complete before July 1 of the first year of eligibility. The property owner will then receive the tax credit for ten full years. Tax credits will be calculated in accordance with Md. Code Ann., Tax Prop., Section 9-103.

6.2.2 Additional Local Standards.

6.2.2.1 Property owners must make a minimum qualifying capital investment in the property through sources other than government grants. A minimum qualifying capital investment may include improvements made with funds obtained through government loan programs.



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6.2.2.2 The minimum qualifying capital investment is ten dollars (\$10) per square foot of the building floor area improved, and at least 20% of the total building floor area must be improved.

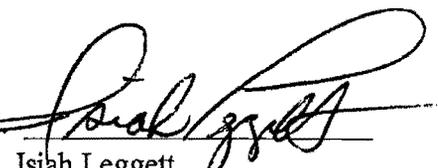
6.2.2.3 The minimum qualifying capital investment may include off-site investment in state-of-the-art technology, such as installation of new fiber optic wiring to the building, to meet modern standards, particularly those of technology-oriented companies.

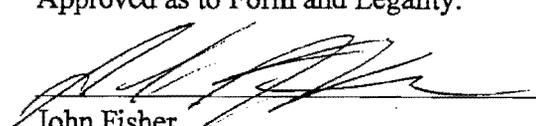
6.2.2.4 The minimum qualifying capital investment may include off-site improvements, such as streetscape improvements, and on-site improvements such a new landscaping in parking lots to implement specific objectives of the East Silver Spring or Takoma Park Master Plans. These improvements must be part of a building construction or building improvement project.

6.2.2.5 Construction of new parking facilities or improvements to existing parking facilities are not eligible for tax credit, except where such parking facility is an integral part of new building construction or improvement of an existing building.

Section 7. EFFECTIVE DATE.

This Executive Regulation takes effect upon approval by the County Council.

Approved 
Isiah Leggett
County Executive

Approved as to Form and Legality:

John Fisher
Associate County Attorney