

**MEMORANDUM**

TO: County Council

FROM: Robert H. Drummer, Legislative Attorney 

SUBJECT: **Action:** Bill 23-09, Unused Vehicles – Storage

**Planning, Housing & Economic Development Committee recommends approval of the Bill as introduced.**

Bill 23-09, Unused Vehicles - Storage, sponsored by the Council President at the request of the County Executive, was introduced on May 5, 2009. A public hearing was held on June 9. The Planning, Housing and Economic Development Committee held worksessions on Bill 23-09 on July 13 and September 14.

**Background**

Bill 23-09 would amend Chapter 26 (“Housing and Building Maintenance Standards”) and Chapter 48 (“Solid Waste”) to (1) harmonize the treatment of “unused vehicles”; (2) authorize the Director of the Department of Housing and Community Affairs to grant an extension of time for storing an unused vehicle; and (3) shorten the permissible period for storing an unused vehicle from 90 to 30 days.

Under current law, an “unused vehicle” is categorized as “rubbish” in Code §26-2. Code §48-24 prohibits an owner of real property from leaving rubbish on the property outside of an approved container for more than 30 days. However, Code §48-24A prohibits the storage of an “unused motor vehicle” on residential property visible to an individual on adjoining property for more than 90 days without a permit. These two statutes provide conflicting time periods for the storage of an unused vehicle on residential property.

Bill 23-09 is based upon a recommendation from the Final Report of the Executive’s Code Enforcement Work Group. The Bill would remove “unused vehicle” from the definition of rubbish in §26-2 and prohibit the storage of an “unused vehicle” on residential property for more than 30 days as a basic requirement for the maintenance of dwelling units in §26-9. The Bill would also create a new §26-17A that would authorize the Director of the Department of Housing and Community Affairs to extend the 30-day time period for good cause. Finally, the Bill would harmonize §48-24A (Storage of motor vehicles) of the Solid Waste Chapter with the revised provisions of Chapter 26, Housing and Building Maintenance Standards. The Bill would have a delayed effective date of 180 days after it becomes law to be consistent with the other Bills proposed by the Executive as a result of the recommendations of the Code Enforcement Work Group.

## **Public Hearing**

The Council held a joint public hearing on June 9 for Bill 23-09 along with ZTA 09-03, Home Occupations and Residential Off-Street Parking, Bill 22-09, Enforcement of County Laws – Notice of Violation – Appeals, and Bill 24-09, Buildings – Permits and Inspections. All three Bills and the ZTA were recommended by the Executive’s Code Enforcement Work Group. Although more than 30 people testified at the joint hearing, most of the testimony concerned the ZTA and the other 2 Bills.

The testimony concerning Bill 23-09 was generally favorable. However, 5 different individuals opposed Bill 23-09 because it would shorten the time for an individual to restore an antique or historic vehicle on their property to 30 days unless it can be done in a garage. Each of these individuals argued that it takes more than 30 days to restore a historic vehicle. The Greater Colesville Citizens Association made the same point in written correspondence attached at ©9-10.

Finally, much of the testimony at the hearing pointed out that none of the Code Enforcement Work Group recommendations directly addressed the problem of overcrowding in single family homes in the County. Many of the individuals and citizens groups testified that overcrowding in single family homes has become a major problem in the County that should be directly addressed by the Council.

## **July 13 Worksession**

Tom Street, Assistant CAO, Richard Nelson, Director, DHCA, and Dan McHugh, DHCA, explained the purpose of the Bill and responded to questions from the Committee. The Committee requested further information about the number of complaints received and violations found for unused vehicles. The Committee made no decisions on the Bill.<sup>1</sup>

## **September 14 Worksession**

The Committee reviewed the statistics on complaints and violations provided by the Executive Branch. The Committee recommended approval of the Bill (3-0) as introduced.

## **Issues**

### **1. How many complaints has the County received for unused vehicles in recent years and how many of the complaints resulted in violations?**

The Department of Housing and Community Affairs provided the following complaint data for the last 5 fiscal years:

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<sup>1</sup> The Committee did decide that it did not want to consider a separate Bill to address overcrowding in single family homes.

**DHCA  
INOPERABLE/UNTAGGED VEHICLES**

	FY-05	FY-06	FY-07	FY-08	FY-09
<b>Cases with Vehicle Violations</b>	533	630	791	929	951
<b>Vehicle Cases Unfounded</b>	98	114	116	114	84
<b>Total Vehicle Related Cases</b>	631	744	907	1,043	1,035
<b>Vehicle Cases with Citations</b>	41	49	98	122	158
<b>Addresses with More Than 1 Vehicle Related Case</b>	12=2 cases	20=2 cases 1=3 cases	24=2 cases 1=3 cases	33=2 cases 2=3 cases	22=2 cases 2=3 cases

This information shows a strong upward trend in both the number of unused vehicle complaints and the number of violations found. Shortening the time period to store an unused vehicle would likely increase the number of violations found. It is difficult to determine if the upward trend in complaints is due to more violations or greater sensitivity to violations in the community, or both. Either way, it appears to be a growing problem in the County.

**2. Should the Bill permit the owner of a historic vehicle to store it on property outside of a garage for more than 30 days while the owner is restoring the vehicle?**

Bill 23-09 would shorten the time period to store an unused vehicle on residential property outside of a garage or other building from 90 days to 30 days. Current law permits an owner to store an unused vehicle for more than 90 days if it is “completely shielded from the view of individuals on adjoining property; for example, as by a six-foot solid wood fence or dense evergreen hedge.” Bill 23-09 would define an unused vehicle as a vehicle that is “inoperable or, if operable, not currently registered by a government agency which registers vehicles of that type in Maryland” and is “not completely enclosed in a garage or other building.” Bill 23-09 would limit storage of an unused vehicle on residential property to a maximum of 30 days unless the time is extended by the Director of Housing and Community Development.

The undisputed testimony at the public hearing was that 30 days is often not long enough to restore a historic vehicle.<sup>2</sup> Maryland law defines a historic vehicle as a passenger vehicle motorcycle, or truck that is at least 20 years old and has not been substantially altered from the manufacturer’s original design. Md. Code, Transportation §13-936. The Code Enforcement

<sup>2</sup> An owner who restores a valuable historic vehicle in a garage would not be subject to this 30-day limit.

Work Group recommended the 30-day limit in Bill 23-09 in response to complaints from residents about unused vehicles stored outside on residential properties for extended periods of time.

Bill 23-09 permits the Director to extend the 30-day period to store an unused vehicle for good cause. See lines 30-38 of the Bill at ©3. The Bill would provide the following non-exhaustive list of examples of good cause:

- (a) the owner of the vehicle is recovering from an illness or accident;
- (b) the owner of the vehicle is on a foreign assignment for the United States Government;
- (c) the owner demonstrates extreme financial hardship; or
- (d) suspension of the driver's license of the owner of the vehicle.

The Director could extend the 30-day time period for an owner to restore a historic vehicle under this standard, but it would not be automatic. The Committee considered each of the following options:

1. *No amendment.* The Director would have the discretion to extend the 30-day time period to restore a historic vehicle for good cause on a case by case basis. This would leave some uncertainty that would be unlikely to satisfy historic vehicle restorers without a garage.

2. *Create an exception to the 30-day period for restoration of historic vehicles.* This would lessen the uncertainty for owners of these vehicles, but would not satisfy the complaints of nearby residents who contend that the storage of unused vehicles on residential property is unsightly and leads to reduced property values. It also may be difficult for code enforcement staff to determine if a vehicle is being actively restored or simply stored on the property.

3. *Add historic vehicle restoration as an example of good cause if the owner can show that the project will be complete in a definite period of time.* This option would reduce the uncertainty of option 1 and still avoid the visible storage of an unused historic vehicle for an indefinite time period. It would also require the owner to show that there is a definite and predictable timeline for completion of the project in order to receive the extension.

**Committee recommendation (3-0):** no amendment. The Committee decided to leave this issue to the discretion of the DHCA Director on a case by case basis.

This packet contains:	<u>Circle #</u>
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Bill No. 23-09  
Concerning: Unused Vehicles - Storage  
Revised: September 21, 2009  
Draft No. 3  
Introduced: May 5, 2009  
Expires: November 5, 2010  
Enacted: \_\_\_\_\_  
Executive: \_\_\_\_\_  
Sunset: None  
Effective: \_\_\_\_\_  
Ch. \_\_\_\_\_, Laws of Mont. Co. \_\_\_\_\_

## COUNTY COUNCIL FOR MONTGOMERY COUNTY, MARYLAND

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By: Council President at the Request of the County Executive

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**AN EXPEDITED ACT** to:

- (1) amend the definition of rubbish in Chapter 26;
- (2) limit the storage of unused vehicles on residential property; and
- (3) generally amend County law governing the storage of unused vehicles.

By amending

Montgomery County Code  
Chapter 26, Housing and Building Maintenance Standards  
Sections 26-2 and 26-9  
Chapter 48, Solid Waste  
Section 48-24A

By adding

Montgomery County Code  
Chapter 26, Housing and Building Maintenance Standards  
Section 26-17A

<b>Boldface</b>	<i>Heading or defined term.</i>
<u>Underlining</u>	<i>Added to existing law by original bill.</i>
[Single boldface brackets]	<i>Deleted from existing law by original bill.</i>
<u>Double underlining</u>	<i>Added by amendment.</i>
[[Double boldface brackets]]	<i>Deleted from existing law or the bill by amendment.</i>
* * *	<i>Existing law unaffected by bill.</i>

*The County Council for Montgomery County, Maryland approves the following Act:*



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(13) A person must not store any unused vehicle on residential property for more than 30 days unless a person living in the household has received an extension under Section 26-17A.

**26-17A. Unused vehicle storage extensions.**

The Director may grant an owner or occupant of a residential property an extension to store an unused vehicle on residential property for more than 30 days for good cause shown. Good cause includes:

- (a) the owner of the vehicle is recovering from an illness or accident;
- (b) the owner of the vehicle is on a foreign assignment for the United States Government;
- (c) the owner demonstrates extreme financial hardship; or
- (d) suspension of the driver’s license of the owner of the vehicle.

**48-24A. Storage of [motor] vehicles.**

- (a) In this section, “unused [motor] vehicle:”
  - (1) Means a vehicle that is:
    - [[a.]] (A) [Not] Inoperable or not currently registered by a government agency; and
    - [[b.]] (B) Not subject to Section 48-24 [of this Code];
  - (2) Includes trailers; and
  - (3) Does not include farm tractors or any farm equipment such as automobiles and trucks that are:
    - [[a.]] (A) Kept on properties consisting of [two (2)] 2 or more acres on which crops are being grown and harvested; and

- 51                   [[b.]] (B) Used for the purpose of growing and harvesting  
 52                   crops.
- 53       (b) A person must not store an unused [motor] vehicle on residential  
 54       property in violation of Section 26-9(a)(13). [for more than ninety  
 55       (90) days unless the unused motor vehicle:
- 56           (1) Is completely shielded from the view of individuals on  
 57           adjoining property; for example, as by a six-foot solid wood  
 58           fence or dense evergreen hedge; and
- 59           (2) Is stored within the building setback lines of the property; or
- 60           (3) Has a permit issued under this section.
- 61       (c) (1) A person living in the household may apply to the department  
 62       for a permit to store an unused motor vehicle on residential  
 63       property for more than ninety (90) days in cases of serious  
 64       hardship.
- 65           (2) Serious hardship includes:
- 66               a. The owner of the vehicle recovering from an illness or  
 67               accident;
- 68               b. The owner of the vehicle on a foreign assignment for the  
 69               United States Government; or
- 70               c. Suspension of the driver's license of the owner of the  
 71               vehicle.
- 72       (d) The department must issue a permit to store an unused motor vehicle  
 73       on residential property if the application for the permit is complete  
 74       and includes satisfactory documentation of eligibility for the permit.
- 75       (e) A permit issued under this section:
- 76           (1) May be issued for up to one (1) year; and

77 (2) May be renewed.

78 (f) The county executive must adopt regulations under method (2) of  
79 section 2A-15 of this Code to carry out this section.]

80 **Sec. 2. Effective Date.**

81 This Act takes effect 180 days after it becomes law.

82 *Approved:*

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Philip M. Andrews, President, County Council Date

86 *Approved:*

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Isiah Leggett, County Executive Date

90 *This is a correct copy of Council action.*

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Linda M. Lauer, Clerk of the Council Date

## LEGISLATIVE REQUEST REPORT

Bill 23-09

### *Unused Vehicles - Storage*

- DESCRIPTION:** This Bill amends Chapter 26 (“Housing and Building Maintenance Standards”) and Chapter 48 (“Solid Waste”) to (1) harmonize the treatment of “unused vehicle”; (2) authorize the Department of Housing and Community Affairs to grant an extension of time for storing an unused vehicle; and (3) shorten the permissible period for storing an unused vehicle from 90 to 30 days.
- PROBLEM:** Currently, Chapters 26 and 48 define “unused vehicle” and treat the storage of unused vehicles on residential properties differently. Chapter 26 defines unused vehicles differently than Chapter 48. Further, under Chapter 26, there is no permissible storage period for unused vehicles. By comparison, Chapter 48 permits the storage of unregistered vehicles for 30 days in some instances, and 90 days in others, and the storage period can be extended through obtaining a permit, the denial of which is susceptible to an appeal process.
- GOALS AND OBJECTIVES:** To ensure consistency throughout the Code in the definition of unused vehicles, and the treatment of the storage of unused vehicles, and to strengthen enforcement measures so that unused vehicles can be removed from the community in a timely manner.
- COORDINATION:** Department of Housing and Community Affairs and Department of Permitting Services.
- FISCAL IMPACT:** To be requested.
- ECONOMIC IMPACT:** To be requested.
- EVALUATION:** Subject to the general oversight of the County Executive and the County Council.
- EXPERIENCE ELSEWHERE:** N/A.
- SOURCE OF INFORMATION:** Nowelle A. Ghahhari, Assistant County Attorney, Division of Public Safety Litigation; Dan McHugh, Housing Code Enforcement Manager, Department of Housing and Community Affairs; and Reginald Jetter, Chief, Division of Work Management, Department of Permitting Services.
- APPLICATION WITHIN MUNICIPALITIES:** Amendments to Chapter 26: all but the City of Rockville and the City of Takoma Park.  
Amendments to Chapter 48: Town of Brookville, Chevy Chase View, Town of Chevy Chase, Chevy Chase, Town of Kensington, Town of Laytonsville, Village of Chevy Chase, Town of Poolesville, and City of Takoma Park.
- PENALTIES:** Class A Violation.

BILL



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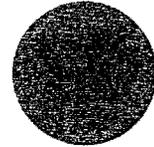
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Isiah Leggett  
County Executive

OFFICE OF THE COUNTY EXECUTIVE  
ROCKVILLE, MARYLAND 20850

MEMORANDUM

April 2, 2009



TO: Phil Andrews, President  
Montgomery County Council

FROM: Isiah Leggett, County Executive 

SUBJECT: Proposed Legislation – Unused Vehicles - Storage

I am attaching for the Council's consideration a bill which amends the County Code to: (1) harmonize conflicting provisions relating to the treatment of an "unused vehicle"; (2) clarify that the permissible period for storing an unused vehicle on residential property is 30 days rather than 90 days; and (3) authorize the Department of Housing and Community Affairs to grant an extension of the time for storing an unused vehicle. I am also attaching a Legislative Request Report for the bill.

This bill is one of four legislative proposals that I am submitting to Council today to implement the recommendations included in the November 2008 final report of the Code Enforcement Work Group. Each of these proposals is intended to address code enforcement problems which erode the quality of life in the County. Chapter 26 (Housing and Building Maintenance Standards) and Chapter 48 (Solid Waste) of the County Code currently define "unused vehicle" differently and treat the storage of unused vehicles on residential property differently. This bill defines "unused vehicle" consistently throughout the Code and imposes consistent requirements governing the storage of unused vehicles.

Thank you for your prompt consideration of this legislation. I look forward to working with the Council as it considers this proposal.

Attachments (2)

cc: Thomas Street, ACAO  
Marc Hansen, Deputy County Attorney  
Carla Reid, Director, DPS  
Robert Hoyt, Director, DEP  
Richard Nelson, Director, DHCA

Bill



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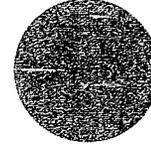
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OFFICE OF MANAGEMENT AND BUDGET

Isiah Leggett  
County Executive

Joseph F. Beach  
Director

MEMORANDUM



April 30, 2009

2009 MAY -1 PM 2:49  
MONTGOMERY COUNTY  
COUNCIL

TO: Phil Andrews, President, County Council  
FROM: Joseph F. Beach, Director  
SUBJECT: Council Bill - Unused Vehicles - Storage

The purpose of this memorandum is to transmit a fiscal impact statement to the Council on the subject legislation.

LEGISLATION SUMMARY

This Bill amends the definition of rubbish in Chapter 26; limits the storage of unused vehicles on residential properties and generally amends County law governing the storage of unused vehicles.

FISCAL AND ECONOMIC SUMMARY

This Bill clarifies Chapter's 26 and 48 of the County Code and does not have a fiscal impact to the County.

The Department of Finance confirms there is no economic impact.

The following contributed to and concurred with this analysis: Dan McHugh and Fred Wilcox, Department of Housing and Community Affairs, Jennifer Bryant, Office of Management and Budget; Mike Coveyou and David Platt, Department of Finance

JFB:jb

- cc: Kathleen Boucher, Assistant Chief Administrative Officer
- Jennifer Barrett, Department of Finance
- Rick Nelson, Director, Department of Housing and Community Affairs
- Fred Wilcox, Department of Housing and Community Affairs
- Dee Gonzalez, Office of the County Executive

Office of the Director

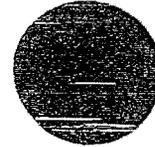
- ① BILL 22-09
- ② BILL 23-09
- ③ BILL 24-09
- ④ ZTA 09-03

CC  
BD  
JZ

Greater Colesville Citizens Association  
PO Box 4087  
Colesville, MD 20914

County Council  
Attn: Phil Andrews, President  
Stella B. Werner Council Office Building  
100 Maryland Avenue, Room 217  
Rockville, Maryland 20850

049488



June 9, 2009

Re: Bills 22-09, 23-09, 24-09 and ZTA 09-03

Dear Councilmember:

GCCA discussed the three bills and one zoning text amendment (ZTA) at its June 1 meeting and voted to take the positions provided below.

GCCA would like to thank the County Executive and Council for taking the time and effort to correct problems with the zoning laws and administration that will have a great benefit to citizens of the County.

**Bill 22-09.** GCCA supports the first part of this bill as a way to quickly address violations, but has not taken any position on the fire code standards and solid waste infractions. By eliminating the ability to appeal violations before the Board of Appeals, the time to address violations will be shortened by six months or more. Also allowing the inspectors at their discretion to issue a citation immediately, rather than just issuing a Notice of Violation, allows action to be taken quickly for major violations or violations from repeat offenders. These two steps will help restore faith in the zoning enforcement and help improve the morale of County inspectors, which must surely be poor under the existing law. We also support continuing the provision that allows citizens to appeal to the Board of Appeals in those rare situations where they feel that a building permit should not have been issued.

**Bill 23-09.** This bill as written created a lot of discussion on the GCCA Board. On the one hand we want to have old junked vehicles removed from residential properties. However, a number of people have antique cars or ones they are planning to restore which this bill as written would not allow them to keep, except in a garage or other building. Many citizens do not have a garage but keep such vehicles under a tarp or in a carport. Because of the last concern, the majority of the GCCA Board voted to oppose the bill as written. We urge the Council to find a way to address both issues.

**Bill 24-09.** GCCA supports this bill as a way of having structures built within a reasonable period of time once a building permit has been issued. One of the new members to the GCCA bought a house when they moved to Colesville that never had a final inspection but had been occupied for some 17 years. The fact that it was not a legal structure never came to light before the settlement and not until several months after they

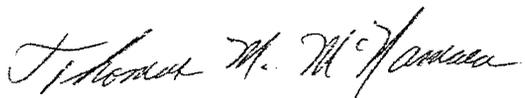
occupied the house. Having a time limit for when a valid inspection is made should help prevent that kind of event from occurring again. We also request that the inspector ensure that the building was not built as part of the process to revoke a building permit. GCCA also had the concern, not addressed by this bill, about completing a structure or demolishing a structure that had been started but not completed. With the recession and housing bust, this has been more of a problem. GCCA also urges the Council to address this problem, if there is not already a way to address it.

**ZTA 09-03.** GCCA supports this legislation to deal with home occupations and off-street parking. For home occupations, we support the requirement to require an inspection before a major home occupation can begin as a means of verifying the site conditions, and thus settle differences between the homeowner and neighbors before they occur. GCCA also supports the ability of the inspector to issue a notice of violation immediately rather than first issuing a warning. This will result in violations being rectified in a timely manner rather than dragging out for months. The last home occupation change of requiring the owner to show proof of home address will reduce problems that occur with the owner not actually living there, which is a requirement. (Now they only need to live there 220 days a year.)

GCCA strongly supports the provision to limit the amount of front yard that can be covered as a way of retaining a residential character of the house. Having a fully paved front yard, which occurs all too often today, makes the property look more like a commercial one. It also has a negative impact on the amount of storm-water run-off, which often impacts downhill neighbors and the environment.

GCCA also supports the other part of the ZTA that prohibits the parking of heavy commercial vehicles in one-family zones. Such parking is an eyesore to the remainder of the neighborhood and introduces a commercial feel, which doesn't belong in a residential area.

Sincerely,



Thomas M. McNamara  
President

Daniel L. Wilhelm  
Vice President

*P.S. If you have any questions, please talk to Dan Wilhelm*