

Bill No. 35-01  
Concerning: Technical Corrections  
Revised: Nov. 16, 2001 Draft No. 5  
Introduced: October 30, 2001  
Enacted: November 20, 2001  
Executive: November 28, 2001  
Effective: Feb. 27, 2002 (see §16)  
Sunset Date: None  
Ch. 28, Laws of Mont. Co. 2001

## COUNTY COUNCIL FOR MONTGOMERY COUNTY, MARYLAND

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By: Council President

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**AN ACT** to correct technical, typographical, grammatical, and codification errors in, and make stylistic and conforming amendments to, County law regarding:

- (1) animal control;
- (2) arts and humanities and the Public Arts Trust;
- (3) cable communications franchise procedures;
- (4) County employee benefits and personnel laws;
- (5) road construction;
- (6) taxes and tax credits;
- (7) the Office of the Inspector General; and
- (8) other subjects of laws enacted after the 1994 codification of County laws.

By amending

Montgomery County Code  
Chapter 5A, Arts and Humanities  
    Sections 5A-1 and 5A-6  
Chapter 8, Buildings  
    Section 8-44  
Chapter 8A, Cable Communications  
    Section 8A-9(l)  
Chapter 33, Personnel  
    Sections 33-35, 33-38A, 33-42, 33-43, 33-46, 33-47, and 33-116  
Chapter 49, Streets and Roads  
    Sections 49-37 and 49-57  
Chapter 52, Taxation  
    Section 52-74 and Article XI

Chapter 21, Laws of Montgomery County 1998  
Chapter 23, Laws of Montgomery County 1998  
Chapter 5, Laws of Montgomery County 2000  
Chapter 15, Laws of Montgomery County 2000

<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:*



exchange, historic preservation, and other activities that advance the artistic, cultural, and intellectual environment in the County.

\* \* \*

**8-44. Public arts trust.**

\* \* \*

(b) The Chief Administrative Officer or a designee must administer the trust in consultation with:

(1) Arts and Humanities Council [of Montgomery County];

\* \* \*

**Sec. 3. Section 8A-9(l), as amended by Chapter 18 of the Laws of Montgomery County 1998, is amended as follows:**

(l) Every franchise grant is subject to a franchise acceptance fee in an amount that does not exceed the County's costs to consider the application, less the amount of the filing fee. \* \* \*

**Sec. 4. Section 33-35, as amended by Chapter 27 of the Laws of Montgomery County 1998, is amended as follows:**

**33-35. Definitions.**

In this Article, the following words and phrases have the following meanings:

\* \* \*

**Fiduciary:** A person who:

\* \* \*

(3) renders investment advice for a fee or other compensation about assets of a retirement system or has authority or responsibility to render that advice; or

\* \* \*



78 **33-43. Disability retirement.**

79 \* \* \*

80 (d) *Non-service-connected disability retirement.* A member may be  
 81 retired on a non-service-connected disability retirement if:

82 (1) The member has 5 years of credited service [and is not eligible  
 83 for normal retirement];

84 \* \* \*

85 **33-46. Death benefits and designation of beneficiaries.**

86 (a) *Beneficiary death benefits of an active member whose death is not*  
 87 *service connected.* Upon the death of a member under circumstances not  
 88 covered by subsection (b), the designated beneficiary must receive a  
 89 death benefit payment equal to:

90 (1) member contributions, including **picked-up contributions**, with  
 91 credited interest, or a spouse's, or domestic partner's, and  
 92 children's benefit as provided in subsection (e); plus

93 (2) 50 percent of average final earnings if the member was a member  
 94 of the employees' retirement system of the state of Maryland as  
 95 of August 15, 1965, and became a member of the employees'  
 96 retirement system of the County on or before December 31, 1966,  
 97 or such later agency entrance date without a break in service, and  
 98 who is not on leave without pay except for authorized leave  
 99 without pay for illness.

100 \* \* \*

101 (e) *Spouse's, or domestic partner's, and children's benefits when an active*  
 102 *member eligible for vesting or retirement dies.*

103 (1) A surviving spouse, domestic partner, or child who is the  
 104 designated beneficiary of a member who [dies after becoming

105 eligible for vesting or retirement, but before pension payments  
 106 begin,] died after becoming eligible to vest or retire may elect  
 107 within 60 days after the member's death a benefit equal to the  
 108 yearly amount of benefits that would have been payable if the  
 109 member had vested or retired immediately before death and had  
 110 elected a 100-percent joint and survivor pension option. The  
 111 payments must begin on the member's normal retirement date if  
 112 the member was eligible for vesting, or immediately if the  
 113 member was eligible for retirement.

114 \* \* \*

115 **33-47. Administration.**

116 \* \* \*

117 (e) *Payment of expenses and contributions.*

118 (1) The [county] County must pay contributions of the [county]  
 119 County to the retirement system from appropriations approved  
 120 by the County Council.

121 (2) The board must pay:

122 (A) operating expenses of the integrated retirement plan and  
 123 the optional retirement plan from the assets of these  
 124 plans; and

125 (B) operating expenses of the elected officials' plan from  
 126 plan assets or from County government assets, at the  
 127 direction of the Chief Administrative Officer.

128 **Sec. 7. Paragraph (3) of Section 33-116(a) of the Code, as added by**  
 129 **Chapter 30 of the Laws of Montgomery County 1998, is amended by**  
 130 **renumbering the paragraph as follows:**

131 **33-116. Participant Contributions.**

132 (a) *Percent of participant contributions.*

133 [(3)]

134 (4) A participant who rejoins County service after military service  
 135 that qualified under Section 33-119(b) as credited service may  
 136 contribute \* \* \*

137 **Sec. 8. Chapter 23 of the Laws of Montgomery County 1998 is amended**  
 138 **by renumbering Section 33-147 of the Code, as added by that Act, as follows:**

139 **33-~~147~~146A. Miscellaneous.**

140 **Sec. 9. Section 49-37(a) of the Code is amended as follows:**

141 **49-37. Construction by county.**

142 (a) No road shall be constructed by the county, whether on force account  
 143 or by contract or both, unless the right-of-way for such road has been  
 144 previously acquired by the county or dedicated to public use by  
 145 appropriate recording among the land records of the county, and the  
 146 cost of the road is to be charged against the benefited property in  
 147 accordance with sections 49-51 to 49-61 and subsection (b) of this  
 148 section. Any road so constructed shall conform to the minimum  
 149 requirements, standards, and specifications for its particular  
 150 classification as prescribed by this article[; provided, that the]. The  
 151 county may require such construction to be in excess of or better than  
 152 that prescribed as a minimum[; provided further, that nothing herein  
 153 shall prohibit]. Nothing in this Section prohibits the county from  
 154 constructing [roads pursuant to section 20-42 relating to] a road under  
 155 a contract [services for municipalities] with a municipality or pursuant  
 156 to [agreements made by the] an agreement between the county [with  
 157 other governmental agencies] and another government agency.

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**Sec. 10. Section 49-57(a) of the Code is amended as follows:**

**49-57. Roads partly in unincorporated area and partly in city, town, etc.**

(a) Whenever a road lies partly within the unincorporated area of the county and partly within a city, town, village, or special taxing area [therein which] of the county that has jurisdiction over the construction or maintenance of that part of the road [lying within such] in the incorporated area, the entire [length and width of such] road may be constructed by the county or by the city, town, village, or special taxing area [in accordance with] according to the laws, ordinances, rules, and regulations [relating to the] for construction of county roads[,] or of “public ways” [or such] in the city, town, village, or special taxing area [, as defined in the Annotated Code of Maryland, 1957, article 23B, section 74, in the same manner] as if [such] the road [lay] were wholly within the unincorporated area of the county or wholly within [such] the city, town, village, or special taxing area[; provided, however, that the]. The county executive [or] and the governing body of [such] the city, [[county]] town, village, or special taxing area [shall] must mutually consent [thereto to the other of such parties desiring so] to construct such road or public way, which consent may be granted without regard to the laws and ordinances of [such] the county or of [such] the city, town, village, or special taxing area [relating to the] regarding construction of roads or public ways and assessment [therefor] for the construction.



210 (A) 36 cents for each package containing 1.5 ounces or less;  
211 or

212 (B) for each package containing more than 1.5 ounces, 36  
213 cents for each unit or fraction [or] of a unit containing 1.5  
214 ounces.

215 (3) **Pipe tobacco** is:

216 (A) 36 cents for each package containing 1.5 ounces or less;  
217 or

218 (B) for each package containing more than 1.5 ounces, 36  
219 cents for each unit or fraction [or] of a unit containing 1.5  
220 ounces.

221 \* \* \*

222 **Sec. 14. Section 2 of Chapter 5 of the Laws of Montgomery County**  
223 **2000 is amended as follows:**

224 **Sec. 2. Section 2 of Chapter [26] 13 of the Laws of Montgomery County**  
225 **1997 is repealed:**

226 **Sec. 15. Rule of Interpretation.**

227 The amendments in this Act are intended to make technical, typographical,  
228 grammatical, codification, and stylistic changes that do not change the substantive  
229 effect of the laws that they amend. An amendment made by this Act must be  
230 interpreted as a restatement and correction of the corresponding statutory  
231 provision, without substantive effect.

232 **Sec. 16. Effective Dates.**

233 (a) Section 1 takes effect as if enacted in Chapter 21 of the Laws of  
234 Montgomery County 1998.

235 (b) Section 2 takes effect as if enacted in Chapter 24 of the Laws of  
236 Montgomery County 1999.

- 237 (c) Section 3 takes effect as if enacted in Chapter 18 of the Laws of  
 238 Montgomery County 1998.
- 239 (d) Section 4 takes effect as if enacted in Chapter 27 of the Laws of  
 240 Montgomery County 1998.
- 241 (e) Section 5 takes effect as if enacted in Chapter 26 of the Laws of  
 242 Montgomery County 1999.
- 243 (f) Section 6 takes effect as if enacted in Chapter 31 of the Laws of  
 244 Montgomery County 1998.
- 245 (g) Section 7 takes effect as if enacted in Chapter 30 of the Laws of  
 246 Montgomery County 1998.
- 247 (h) Section 8 takes effect as if enacted in Chapter 23 of the Laws of  
 248 Montgomery County 1998.
- 249 (i) Section 9 takes effect as if enacted in Chapter 39 of the Laws of  
 250 Montgomery County 1977 and recodified, as amended in this Act, in  
 251 Chapter 37 Laws of Montgomery County 1986.
- 252 (j) Section 10 takes effect on October 1, 1994.
- 253 (k) Section 11 takes effect as if enacted in Chapter 15 of the Laws of  
 254 Montgomery County 2000.
- 255 (l) Section 12 takes effect as if enacted in Chapter 16 of the Laws of  
 256 Montgomery County 1999.
- 257 (m) Section 13 takes effect as if enacted in Chapter 34 of the Laws of  
 258 Montgomery County 1998.
- 259 (n) Section 14 takes effect as if enacted in Chapter 5 of the Laws of  
 260 Montgomery County 2000.

261 *Approved:*

262 /S/ November 21, 2001

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Blair G. Ewing, President, County Council Date

263 *Approved:*

264 /S/ November 28, 2001

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Douglas M. Duncan, County Executive Date

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

266 /S/ November 30, 2001

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Mary A. Edgar, CMC, Clerk of the Council Date