

Action

MEMORANDUM

November 19, 2010

TO: County Council

FROM: Amanda Mihill, Legislative Analyst *A. Mihill*

SUBJECT: **Action:** Bill 48-10, Technical Corrections

Bill 48-10, Technical Corrections, sponsored by the County Council, was introduced on October 5, 2010. A public hearing was held on October 26.

Bill 48-10 corrects technical, typographical, grammatical, and codification errors in, and makes stylistic, clarifying, and conforming amendments to, several provisions in County law. This bill represents an accumulation of technical and stylistic errors that individually were not significant enough to warrant separate corrective legislation, but which now cumulatively justify a technical corrections bill. This legislation is a result of the continuous vigilance and technical skills of Sharon Gemperle of the County Attorney's Office, who is responsible for editing the County Code.

After the bill was introduced, staff in the County Attorney's Office and Council staff identified several additional errors that could be corrected by this bill. An amendment incorporating these corrections is on ©56.

This packet contains:	<u>Circle #</u>
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Bill No. 48-10
Concerning: Technical Corrections
Revised: 9/21/2010 Draft No. 2
Introduced: October 5, 2010
Expires: April 5, 2012
Enacted: _____
Executive: _____
Effective: _____
Sunset Date: _____
Ch. _____, Laws of Mont. Co. _____

COUNTY COUNCIL FOR MONTGOMERY COUNTY, MARYLAND

By: County Council

AN ACT to correct technical, typographical, grammatical, reference, and codification errors in, and make stylistic, clarifying, and conforming amendments to, various provisions of County law:

By amending

Montgomery County Code
Chapter 1, General Provisions
Section 1-301

Chapter 2, Administration
Sections 2-11A and 2-128

Chapter 2B, Agricultural Land Preservation
Article 6

Chapter 8, Buildings
Section 8-26

Chapter 8A, Cable Communications
Section 8A-23

Chapter 10B, Common Ownership Communities
Section 10B-5

Chapter 11B, Contracts and Procurement
Section 11B-49

Chapter 13, Detention Centers and Rehabilitation Facilities
Section 13-8

Chapter 17, Electricity
Section 17-38

Chapter 19, Erosion, Sediment Control and Storm Water Management
Sections 19-1 and 19-36

Chapter 20, Finance
Sections 20-3 and 20-32

Chapter 21, Fire and Rescue Services
Section 21-1

Chapter 22, Fire Safety Code
Sections 22-2, 22-3, 22-4A, 22-5, 22-6, 22-7, 22-8, 22-10, 22-23, and 22-37

Chapter 29A, Legislative Oversight
Section 29A-9

Chapter 30, Licensing and Regulations Generally
Section 30-12

Chapter 31, Motor Vehicles and Traffic
Section 31-22

Chapter 33, Personnel and Human Resources
Sections 33-35, 33-38, 33-41, 33-42, 33-46, 33-52, 33-84, 33-103, 33-111, 33-118, 33-128
and 33-159

Chapter 35, Police
Section 35-13A, 35-13B, 35-18

Chapter 36A, Public Service Company Underground Facilities
Section 36A-2

Chapter 52, Taxation
Section 52-11, 52-16C, 52-18A, 52-18B, 52-18I, 52-18Q, 52-18R, 52-32, 52-35, 52-68, 52-
96

Chapter 54, Transient Lodging Facilities
Sections 54-20 and 54-26

Chapter 56, Urban Renewal and Community Development
Section 56-10

Chapter 60, Silver Spring, Bethesda, Wheaton and Montgomery Hills Parking Lot Districts
Section 60-2

2010 Laws of Montgomery County Chapter 20

By repealing:

Chapter 33, Personnel and Human Resources
Sections 33-48 and 33-49

Article VI
Sections 33-86 through 33-100

Boldface	<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:

27 **2-11A. Evaluation of reorganization.**

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* * *

29 (c) Within [fifteen (15)] 15 days [following] after receipt of a written report
 30 from the [county executive] County Executive, the [council shall]
 31 Council must determine whether the report, or any part of the report,
 32 [shall] must not be made public. The only basis on which a report or
 33 any part of a report may not be made public is if the report or part
 34 contains information that would not be available for public inspection
 35 [pursuant to article 76A (public information) of the Annotated Code of
 36 Maryland] under Title 10, Subtitle 6 of the State Government Article of
 37 the Maryland Code.

38

* * *

39 **2-128. Appointment of [county attorney] County Attorney as [assistant state's**
 40 **attorney] Assistant State's Attorney; powers, duties[, etc].**

41 (a) The [state's attorney] State's Attorney for the [county] County [is
 42 hereby authorized and empowered to] may appoint the [county attorney]
 43 County Attorney and any [assistant county attorney] Assistant County
 44 Attorney as an assistant state's attorney.

45 (b) Assistant state's attorneys so appointed [shall] have the same powers as
 46 an assistant state's attorney appointed under other applicable law and
 47 [shall have the duty of assisting] must assist the [state's attorney] State's
 48 Attorney in [the prosecution of] prosecuting violations of:

49 [(a) The acts, ordinances, standards, codes, regulations, permits or
 50 licenses specified in section 2 of chapter 18, Laws of
 51 Montgomery County, 1949, or any amendment thereto,]

52 (1) Chapter 5 (Animal Control);

53 (2) Chapter 8 (Buildings);

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[(b)] (3) Chapter 22 ([the fire code,] Fire Safety Code);
 (4) Chapter 24A (Historic Preservation);
 (5) Article 3 of Chapter 49 (Streets and Roads);
 (6) Chapter 50 (Subdivision of Land);
 (7) Chapter 59 (Zoning);
 [(c)] (8) [ordinances, rules, or regulations heretofore adopted by the
 board of county commissioners or hereafter adopted by the
 council] any County law, and any regulation adopted by the
Council sitting as [a county board of health,] the County Board of
Health;
 [(d)] (9) [article 97 of the Annotated Code of Maryland, 1957] Title 11
of the Agriculture Article of the Maryland Code, relating to
 standards of weights and measures[,]; and
 [(e)] (10) any other, law, rule, regulation, or ordinance [heretofore
 adopted by the board of county commissioners or hereafter]
 adopted by the [council] Council.
 (c) [Assistant] Any assistant state's [attorneys] attorney appointed under
 this [section shall] Section must serve without additional compensation.
 (d) Nothing in this [section shall be held to limit] Section limits any
 authority of the [county attorney] County Attorney or an assistant
 county attorney to prosecute any [such violation in his capacity]
violation listed in this Section as [county attorney] County Attorney or
 [assistant county attorney] Assistant County Attorney. [All such
 prosecutions shall] Each prosecution must be brought in the name of the
 [state] State or [county] County, as [may be] appropriate.

* * *

Article [III] 6. Agricultural Advisory Committee

81 **2B-21. Agricultural Advisory Committee.**

82 * * *

83 **8-26. Conditions of permit.**

84 (a) *Generally.* [No] A permit to begin work for new construction,
 85 alteration, removal, demolition, or other building operation [shall]
 86 must not be issued until the fees authorized in this [section] Section
 87 are paid to the [department] Department. [nor shall an] An
 88 amendment to a permit [necessitating] that requires an additional fee
 89 because of an increase in the estimated cost of the work involved must
 90 not be approved until the additional fee is paid. The [department]
 91 Department must not issue any building [permits] permit for a
 92 residence, except a building designed to be used as a residence for the
 93 person's own or immediate family use, under [the provisions of
 94 section 26A-12 of chapter 26A] Section 31C-1, to any person except a
 95 licensed building contractor or an authorized [agents] agent of the
 96 licensed building contractor.

97 * * *

98 **8A-23. Transfers.**

99 * * *

100 (b) An application to transfer a franchise must meet the requirements of
 101 [section] Section 8A-8(b) and provide complete information on the
 102 proposed transaction, including the legal, character, financial,
 103 technical, and other pertinent qualifications of the transferee, and on
 104 the potential impact of the transfer on subscriber services or rates.
 105 The proposed transferee must provide all information required in
 106 [section 8A-8(e)(1)] Section 8A-8(d)(1) through (3), (10), and (12)
 107 [must be provided by the proposed transferee]. The information

108 required in [section 8A-8(e)(4)] Section 8A-8(d)(4) through (9) must
 109 also be provided [whenever] if the proposed transferee expects
 110 material changes to occur in those areas as a result of the transfer.

111 (c) An application for transfer of an interest in a franchisee must describe
 112 the proposed transaction in detail and identify the interest to be
 113 transferred, the transferor, and transferee. If the proposed transferee is
 114 not a current equity owner of the franchisee, the application must
 115 include the information required by Section [8A-8(e)(1)] 8A-8(d)(1)
 116 and (2).

117 * * *

118 **10B-5. Duties of the Office of Consumer Protection.**

119 * * *

120 (h) advise common ownership communities and professional association
 121 managers of changes in the laws and regulations that affect their
 122 communities or operations; [and]

123 (i) operate a dispute resolution process to furnish mediation and
 124 administrative hearings[.]; and

125 * * *

126 **11B-49. Purchase of goods for non-profit organizations.**

127 (a) If goods are needed to perform a contract with the County, a non-profit
 128 organization that is exempt from taxation under Section 501(c)(3) of the
 129 United States Internal Revenue Code but which is not a public entity
 130 may:

131 (1) subject to subsection (d), [purchase] buy the goods under an
 132 existing County requirements contract;

133 (2) engage in cooperative procurement for the goods with the County
 134 under Section [11B-39] 11B-40; or

135 (3) [purchase] buy the goods from the County if [it is] all items are in
136 stock and not otherwise needed.

137 * * *

138 **13-8. [Same-Same-]Diminution of sentence.**

139 An inmate sentenced or held in a pre-trial or pre-sentence status is entitled to
140 a diminution of the period of [his] confinement as specified by [section 704A to
141 article 27 of the Annotated Code of Maryland 1957, as amended] Section 3-101 of
142 the Correctional Services Article of the Maryland Code.

143 * * *

144 **17-38. [Generally] Standards.**

145 (a) [It shall be unlawful for anyone to] A person must not sell or install
146 electrical equipment which does not [having] contain the certification of
147 an inspection authority approved by the [department] Department.

148 * * *

149 (d) [It shall be unlawful to] A person must not occupy or offer to sell for
150 occupancy any mobile home, prefabricated or modular dwelling,
151 industrialized building, or [other like] similar structure as defined in
152 the National Electrical Code, without having first obtained from the
153 manufacturer [of such units] a certification by the State of Maryland
154 [as having] that the structure has met standards contained in [state]
155 regulations adopted [pursuant to article 41, section 266EE-3,
156 Annotated Code of Maryland] under Sections 12-301 through 12-313
157 of the Public Safety Article of the Maryland Code.

158 * * *

159 **19-1. Definitions.**

160 * * *

161 (21) Professional engineer[: An] means an engineer duly registered
162 by the State of Maryland to practice professional engineering
163 under the requirements of [Article 75 1/2 of the Annotated
164 Code of Maryland] Title 14 of the Business Occupations and
165 Professions Article of the Maryland Code.

166 (22) Professional land surveyor[: A] means a person who is duly
167 registered and licensed under the requirements of [Article 56 of
168 the Annotated Code of Maryland] Title 14 of the Business
169 Occupations and Professions Article of the Maryland Code.

170 * * *

171 **19-36. Definitions.**

172 * * *

173 Wetland[: Any] means any land which is:

174 (1) considered private wetland or State wetland under [Title 9,
175 Wetland and Riparian Rights, Natural Resources Article,
176 Annotated Code of Maryland] Title 16 of the Environment
177 Article of the Maryland Code; or

178 * * *

179 **20-3. Disbursements from revolving fund of [department of liquor**
180 **control] Department of Liquor Control.**

181 The [county executive] County Executive, the [director of finance] Director
182 of Finance, and the [director] Director of the [department of liquor control shall
183 have authority] Department of Liquor Control may, by concurrent action, [to]
184 designate [persons] one or more employees in the [department of liquor control]
185 Department of Liquor Control who may disburse money from the revolving fund
186 [to be] established [pursuant to subsection (e) of section 165 of article 2B of the
187 Annotated Code of Maryland, 1957] under Section 15-207 of Article 2B of the

188 Maryland Code. [; provided, that the] The signature of at least [two (2)] 2 persons
 189 [shall] must be required for any disbursement.

190 * * *

191 **20-32. Legislative purpose.**

192 (a) Under the authority of [article] Article 44A of the [Annotated]
 193 Maryland Code [of Maryland, as amended], Montgomery County,
 194 may, at any time and from time to time, guarantee, upon its full faith
 195 and credit, revenue bonds of the housing opportunities commission in
 196 a total amount not exceeding [fifty million dollars (\$50,000,000[.00])]
 197 to finance the acquisition, provision, development, or rehabilitation of
 198 housing at rental rates and prices not being offered in adequate
 199 quantity by the private sector, or to finance in whole or in part
 200 mortgage loans secured by such housing, and to fund related reserves
 201 and costs approved under [the provisions of section 15, article 44A,
 202 Annotated Code of Maryland] Title 2 of Article 44A of the Maryland
 203 Code and this [chapter] Chapter.

204 (b) [Mortgage loans] Each mortgage loan so financed in part must be
 205 insured in part by the Federal Housing Administration, the Maryland
 206 Housing Fund, or a private mortgage insurer which is approved by
 207 either the Federal National Mortgage Association or the Federal
 208 Home Loan Mortgage Corporation[,] and [which private mortgage
 209 insurer] is authorized to do business in [the State of] Maryland, or by
 210 any combination of such insurers.

211 (c) The [housing opportunities commission shall adhere to adhere to the]
 212 Housing Opportunities Commission must comply with any terms and
 213 conditions imposed by the [county government] County in providing
 214 the guarantee of any bonds. [Where such] If guaranteed revenue

215 bonds will finance the total cost of such housing or the total amount of
 216 the mortgage loans for such housing, the [housing opportunities
 217 commission shall] Commission must also [adhere to] comply with any
 218 requirements imposed by the [county government] County after the
 219 [issuance of the bonds] bonds are issued to assure or protect the
 220 financial solvency of the project.

221 (d) The issuance of such bonds [shall] must be subject to [procedures for]
 222 review and approval by the [county government] County as
 223 hereinafter provided.

224 **21-1. Statement of policy; definitions.**

225 * * *

226 (c) *Definitions.* As used in this Chapter, the following terms have the
 227 following meanings:

228 * * *

229 *Fire Chief:* the Fire Chief who is appointed under Section 21-3[, who
 230 serves] to serve as the Director of the Montgomery County Fire and
 231 Rescue Service. Fire Chief includes the Fire Chief's designee.

232 * * *

233 **22-1. Short title.**

234 [The provisions of this chapter shall constitute and shall hereafter be known]
 235 This Chapter may be referred to as "The Montgomery County Fire Safety Code [of
 236 Montgomery County, Maryland.]".

237 **22-2. Purpose; intent.**

238 (a) The purpose and the intent of this [chapter] Chapter is to prescribe
 239 minimum requirements and controls to safeguard life, property, and
 240 the public welfare from the hazards of fire and explosion arising from
 241 the improper storage, handling, or use of substances, materials, or

242 devices and from conditions hazardous to life, property, and the public
 243 welfare in the use or occupancy of buildings, structures, [sheds, tents,
 244 lots] or premises.

245 (b) Where no specific [standards or requirements are] standard or
 246 requirement is specified in this [chapter] Chapter, or [contained
 247 within] any other applicable [laws, regulations] law or [ordinances]
 248 regulation, compliance with [the] applicable standards of the National
 249 Fire Protection Association (NFPA), [Building Officials and Code
 250 Administrators (BOCA) and] International Code Council (ICC),
 251 American Insurance Association (AIA), or any other nationally
 252 recognized fire safety [standards as are] standard approved by the
 253 [director] Fire Chief [shall be deemed as] is prima facie evidence of
 254 compliance with this [intent] Chapter.

255 **22-3. Construction and scope of Chapter.**

256 (a) [The provisions of this chapter shall apply] This Chapter applies to
 257 existing conditions [as well as] and to conditions arising after [the
 258 adoption thereof, except that] this Chapter was adopted. However, a
 259 [conditions] condition legally [in existence at the adoption of this
 260 chapter and not in strict compliance therewith shall be permitted to
 261 continue] existing when this Chapter was adopted, but not in strict
 262 compliance with this Chapter, may continue only if[, in the opinion
 263 of] the [director, they do] Fire Chief finds that the condition is not
 264 [constitute] a distinct hazard to life or property.

265 * * *

266 (e) [Nothing in this chapter shall be construed as rendering] This Chapter
 267 does not render any other applicable [laws] law or regulation invalid.
 268 [In any situation where] If a conflict [exists] arises between [a

provision of] this [chapter] Chapter and another [code] law or regulation, the fire marshal and [appropriate] the head of the agency responsible for enforcing the conflicting [code shall determine in concert] law or regulation must agree which [provisions shall apply] applies. [Conflicts which are unreconcilable shall] If they cannot agree, any remaining conflict must be referred to the [director of the department of fire and rescue services] Fire Chief. The decision of the [director of fire and rescue services] Fire Chief in any matter relating to fire safety [shall be] is final. [, except that] However, any person aggrieved by [such] the decision [shall have the right to] may appeal to the [county board of appeals in accordance with chapter] County Board of Appeals under Chapter 2 [of the County Code]. Within [thirty (30)] 30 days [following the discovery of] after any [serious] remaining conflict has been resolved, the [director] Fire Chief and the head of the agency responsible for enforcing the conflicting [code shall] law or regulation must forward to the [county executive] County Executive a joint [recommendations for the removal of] proposal to amend a law or regulation to eliminate the conflict [from the County Code or the regulations adopted pursuant thereto].

22-4A. Certification procedure.

* * *

(b) The [Director of Fire and Rescue Services] Fire Chief may waive all or part of the regular field inspection of construction if the architect or engineer certifies to the [Director] Fire Chief that:

* * *

(c) The [Director of Fire and Rescue Services] Fire Chief may waive any final inspection required under this Chapter which relates to the

296 issuance of a certificate of use and occupancy if the registered
 297 engineer or architect who supervised the construction or
 298 reconstruction of the building certifies to the [Director] Fire Chief
 299 under oath that:

300 * * *

301 (e) The [Director of Fire and Rescue Services] Fire Chief may grant a
 302 waiver related to construction inspection, and use and occupancy
 303 inspection under subsections (b) and (c), if the waiver is warranted in
 304 light of subsections (b) and (c) and:

305 * * *

306 (f) The [Director of Fire and Rescue Services] Fire Chief and the
 307 Director of Permitting Services must issue a decision on a request for
 308 a waiver under subsections (a), (b), and (c), within 10 days after
 309 receiving the request. [Each Director] Either the Fire Chief or the
 310 Director of Permitting Services has complete discretion to approve or
 311 reject a waiver. The decision of [each Director] the Fire Chief or the
 312 Director of Permitting Services is final, and no appeal may be taken.
 313 If either [Director] the Fire Chief or the Director of Permitting
 314 Services grants a waiver, the [Director] Chief or Director must find in
 315 writing that the waiver complies with subsection (d) or (e), as
 316 applicable.

317 (g) The Director of Permitting Services may grant a waiver under this
 318 [section] Section only to the extent:

319 (1) permitted under State and local law; and
 320 (2) delegated by the [Director of Fire and Rescue Services] Fire
 321 Chief.

322 **22-5. Definitions.**

323 In this Chapter, the following words have the following meanings:

324 [(a) Tenses. The present tense includes the past and future tenses, and the
325 future, the past.

326 (b) Gender. The masculine gender includes the feminine and neuter.

327 (c) Number. The singular number includes the plural and the plural the
328 singular.]

329 * * *

330 *Alternative:* [The term “alternative” means] a system, condition,
331 arrangement, material, or equipment submitted to the [director] Fire Chief as a
332 substitute for a code requirement.

333 *Approved:* [The term “approved” means] acceptable to the [director] Fire
334 Chief. In determining the acceptability of installations or procedures, equipment,
335 or materials, the [director] Fire Chief may base acceptance on compliance with the
336 NFPA or other appropriate standards. In the absence of such standards, [such
337 authority] the Fire Chief may require evidence of proper installation, procedure, or
338 use. The [director] Fire Chief may also refer to the listings or labeling practices of
339 any nationally recognized testing [laboratories] laboratory, inspection [agencies]
340 agency, or other [organizations concerned with product evaluations which are in a
341 position to] organization which evaluates products and can determine compliance
342 with appropriate standards for [the current production of listed items,] and the
343 satisfactory performance of such equipment or materials in actual usage.

344 * * *

345 *Authority having jurisdiction:* [The phrase “authority having jurisdiction”
346 means] the [director of fire and rescue services] Fire Chief.

347 * * *

348 *Central fire communications center:* [The phrase “central fire
349 communications center” means] the public fire service communication facilities

350 operated by the [department of fire and rescue services] Montgomery County Fire
 351 and Rescue Service as part of the [Montgomery] County emergency operations
 352 center. [The functions of this facility include receiving fire alarms or other
 353 emergency calls from the public, retransmitting these alarms and emergency calls
 354 to fire companies and other interested agencies, and the operation of the fire and
 355 rescue services radio base stations and land line communications equipment.]

356 * * *

357 [*Director*: The term “director” means the director of the department of fire
 358 and rescue services and shall include his authorized representatives.]

359 * * *

360 *Fire Chief*: the Fire Chief appointed under Section 21-3. *Fire Chief* includes
 361 the Fire Chief’s designee.

362 *Fire department*: [The phrase “fire department” means] the [fire and rescue
 363 services of] Montgomery County *Fire and Rescue Service*.

364 * * *

365 *Fire Marshal* [The phrase “Fire Marshal”] or [“County Fire Marshal”]
 366 *County Fire Marshal*: [means] a qualified employee of the Montgomery County
 367 Fire and Rescue Service designated by the Fire [Administrator] *Chief* as the
 368 County Fire Marshal. [The phrase] *Fire Marshal* includes the Fire Marshal’s
 369 designee, unless the context clearly indicates otherwise.

370 *Fire official*: [The phrase “fire official” means] any person serving as a
 371 designated employee, representative, or agent of the [fire and rescue services of]
 372 Montgomery County *Fire and Rescue Service*.

373 * * *

374 *Representative*: [The term “representative” means] a person duly appointed
 375 in the name of the [director for the purpose of administering or enforcing] *Fire*
 376 *Chief to administer or enforce* this [code] *Chapter*.

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22-6. Administration [generally].

- (a) *Authority of [director] Fire Chief generally.* The [director of the department of fire and rescue services] Fire Chief [is hereby authorized and directed to] must administer [the provisions of] this [chapter] Chapter. The [director] Fire Chief [shall have such other powers and] must perform [such] any other [duties as are set forth in other sections of] duty assigned under this [Code and as may be conferred and imposed from time to time by] Chapter or any other applicable law. The [director] Fire Chief may delegate any [of his powers or duties] power or duty under this [chapter] Chapter to [the division of fire prevention or to] any other County fire [officials of this jurisdiction] official.
- (b) *Authority of [director] Fire Chief in emergencies.* In [a case of] an emergency[,] where [in the opinion of] the [director] Fire Chief finds that [,] life or property is in immediate danger of fire, the [director] Fire Chief [is hereby authorized to] may take any action [that he deems] necessary to protect [such] life or property.
- (c) *Enforcement assistance.* Police and any other [agencies having authority in this jurisdiction shall render] authorized agency must provide necessary assistance [in the enforcement of this code] to enforce this Chapter when [requested to do so by] the [director] Fire Chief so requests.
- (d) *Fire [prevention division] Code Compliance Section.* To assist [in the performance of the responsibilities and the duties placed upon] the [director] Fire Chief, the Chief may organize and supervise a [division of fire prevention] Fire Code Compliance Section [is established

404 within] in the [department] Fire and Rescue Service. [This division
 405 shall operate under the supervision of the director.] Members of [the
 406 division of fire prevention are hereby authorized to] this Section may
 407 enforce all County laws and [ordinances of Montgomery County
 408 covering the following] regulations on:

- 409 (1) [The prevention of fires.] fire prevention;
- 410 (2) [The] storage, use, and handling of explosive, flammable, toxic,
 411 corrosive, and other hazardous gaseous, solid, and liquid
 412 materials[.];
- 413 (3) [The] installation and maintenance of automatic, manual, and
 414 other private fire alarm systems and fire extinguishing
 415 equipment[.];
- 416 (4) [The] maintenance and regulation of fire escapes[.];
- 417 (5) [The] maintenance of fire protection and [the] elimination of
 418 fire hazards on land and in buildings, structures, and other
 419 property, including those under construction[.];
- 420 (6) [The means and] adequacy of each fire exit [in the event of
 421 fire,] from [factories, schools, hotels, lodging houses, asylums,
 422 hospitals, churches, halls, theatres, amphitheatres, and all other
 423 places in which people work, live, or congregate from time to
 424 time for any purpose.] any building; and
- 425 (7) [The] investigation of the cause[, origin and circumstances] of
 426 any fire.

- 427 (e) *Authorization for requirement changes.* A fire safety requirement
 428 proposed for imposition during the course of building construction
 429 that would change or substitute a material, feature, construction
 430 method, or any other [aspects] aspect of construction different from

431 [those which were identifiably included in] the original or amended
 432 [submission of] subdivision, site, or construction plans and
 433 specifications, as approved by the [department of fire and rescue
 434 services shall] Fire and Rescue Service must only be imposed
 435 [following a written finding by the director] if the Fire Chief finds that
 436 the change or substitution is necessary to avoid a specific and
 437 demonstrable threat to public safety. [A] The Chief must provide a
 438 copy of the finding [shall be provided] to the affected person and
 439 [shall be available] to the public [upon] on request.

- 440 (f) *Administrative appeals.* [The director upon petition] When petitioned
 441 by [a] an aggrieved person [claiming to be aggrieved is authorized and
 442 directed to], the Fire Chief must promptly review [rulings] any ruling
 443 or [interpretations] interpretation of law or regulations made by Fire
 444 and Rescue Service staff [during the enforcement of the provisions of]
 445 while enforcing this [chapter] Chapter. [Such] A petition must be
 446 filed with the [director] Fire Chief in writing within [ten (10)] 10 days
 447 [of] after the [official administrative] ruling or interpretation. The
 448 [director] Fire Chief may review, modify, or affirm the initial
 449 [administrative] ruling or interpretation with or without a hearing, and
 450 must send a copy of the [director's] Chief's decision [shall be
 451 provided] to the aggrieved party.

452 **22-7. Right of entry.**

- 453 (a) *Generally.*

454 (1) The [county executive, director and the superintendent of
 455 police] County Executive, Fire Chief, and Police Chief, or their
 456 authorized representatives, [upon] after exhibiting the proper
 457 credentials or proof of identity on request, [shall have the right

458 to] may enter any building, structure, or premises (except [those
 459 areas] any area actually occupied as a dwelling unit) without
 460 consent of the occupants [at any time] during business or
 461 operating hours and at [such] other times [as may be necessary]
 462 in an emergency that immediately endangers life, property or
 463 public safety, [for the purpose of performing] to perform duties
 464 under this [chapter] Chapter or [enforcing the provisions
 465 thereof] enforce this Chapter.

466 (2) [In the case of] For a multi-family [dwellings, they shall have
 467 such right to] dwelling, the Executive, Fire Chief, and Police
 468 Chief may only enter without consent [only] any space that is
 469 not part of an individual dwelling unit, such [areas] as a storage
 470 [rooms, laundries,] room, laundry room, boiler [rooms] room,
 471 utility [rooms] room, [hallways, basements and similar spaces
 472 not part of individual dwelling units; provided, that such
 473 authorities] hallway, or basement. However, the Executive,
 474 Fire Chief, and Police Chief may enter any individual dwelling
 475 unit;

476 (A) [for the purpose of enforcing] to enforce this [chapter]
 477 Chapter with the consent of the occupant [thereof,]; or

478 (B) without [such] the consent of the occupant if [they shall
 479 first obtain] the Executive, Fire Chief, or Police Chief
 480 obtains a search warrant [in accordance with] under
 481 prescribed legal procedure, or [if there is a present]
 482 during or immediately after an emergency such as a
 483 fire[,] or explosion [or the like, or immediately following
 484 such emergency].

485

* * *

486 **22-8. Report of fire and rescue [incidents] incident.**

487

* * *

488 (b) The Fire [Administrator] Chief, or the [Administrator's] Fire Chief's
 489 designee, is the custodian of each report submitted under this Section.

490

* * *

491 **22-10. [General provisions applicable to permits] Permits and certificates.**

492

* * *

493 (b) *Application for permit.* [All applications] Each application for a
 494 permit required by this Chapter must be made to the [Division of Fire
 495 Prevention] Fire and Rescue Service or [the] Department of
 496 Permitting Services, as applicable, in the form prescribed.
 497 [Applications for permits] Each application must be accompanied by
 498 [the] any plans, specifications, or details required by the [Director of
 499 Fire and Rescue Services] Fire Chief or the Director of Permitting
 500 Services, as applicable.

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(c) *Inspection [prerequisite to] before issuance of permit.* Before a
 permit may be issued, the [Director of Fire and Rescue Services] Fire
Chief or the Director of Permitting Services, as applicable, [or their
 respective authorized representatives,] may inspect and approve [the
 receptacles, vehicles, buildings, devices, premises, storage spaces or
 areas to be used] any receptacle, vehicle, building, device, premises,
storage space, or area to be used.

(d) *Display of permits.* A copy of the permit must be posted at each place
 of operation or carried by the permit holder as specified by the
 [Director of Fire and Rescue Services] Fire Chief or the Director of
 Permitting Services, as applicable.

* * *

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(g) *Revocation.* Any permit or certificate issued under this Chapter may be suspended or revoked if the [Director of Fire and Rescue Services] Fire Chief or the Director of Permitting Services, as applicable, finds that:

* * *

(h) *Authority to require exposure or stop work.*

(1) If any installation requiring a permit or inspection is covered or concealed without having first been inspected, the [Director of Fire and Rescue Services] Fire Chief must require by written notice that the work be exposed for inspection. The permittee must pay any cost of exposing and recovering the work.

(2) If any construction or installation work is performed in violation of the plans and specifications as approved by the [Director of Fire and Rescue Services] Fire Chief or the Director of Permitting Services, as applicable, the Chief or Director must issue a written notice [must be issued] to the responsible party to stop work on that portion of the work which is in violation. The notice must state the nature of the violation, and any responsible party must not continue work [must not be continued] on that portion until the violation has been corrected.

(i) *Permits issued prior to effective date.* A license or permit validly issued prior to the effective date of this chapter shall remain valid until its expiration date unless sooner revoked for cause.]

22-23. Inspections.

538 (a) The Fire [Administrator] Chief must designate in writing a qualified
 539 individual to serve as the County Fire Marshal. Under State law, the
 540 County Fire Marshal serves as an assistant State fire marshal [for the
 541 purpose of implementing and enforcing] to enforce State fire
 542 prevention laws. The County Fire Marshal may ask the State Fire
 543 Marshal to appoint one or more qualified employees of the
 544 Montgomery County Fire and Rescue Service to serve as a special
 545 assistant State fire marshal.

546 * * *

547 **22-37. Regulating fire extinguisher service.**

548 The [director of the department of fire and rescue services shall exercise the
 549 following functions, powers, and duties]] Fire Chief must:

550 [(1)] (a) [To] administer [such] regulations [as may be determined]
 551 necessary [for the protection and preservation of] to protect life and
 552 property [in controlling] regarding:

553 [i] (1). [The] registration of firms [engaging in the business of
 554 servicing] that service portable fire extinguishers;

555 [ii.] (2) [The] registration of firms [engaging in the business of
 556 hydrostatically testing] that hydrostatically test U.S.
 557 Department of Transportation specification gas cylinders used
 558 for portable fire extinguishers;

559 [iii.] (3) [The] examination of persons applying for a license to service
 560 portable fire extinguishers;

561 [iv.] (4) [The] licensing of persons to service portable fire
 562 extinguishers; and

563 [v.] (5) [The] requirements for servicing of portable fire
 564 extinguishers[.];

565 [(2)] (b) [To] evaluate the qualifications of firms or individuals for a
 566 certificate of registration to engage in the business of servicing
 567 portable fire extinguishers[.]; and

568 [(3)] (c) [To] conduct examinations to ascertain the qualifications and fitness
 569 of applicants for a license to service portable fire extinguishers.

570 **29A-9. Reports.**

571 * * *

572 (b) Within [fifteen (15)] 15 days [following receipt of] after receiving a
 573 written report from the [office] Office, the [council shall] Council
 574 must determine whether the report, or any part of the report, [shall]
 575 must not be made public. The only basis on which a report, or any
 576 part of a report, [may] must not be made public is if the report or part
 577 contains information that would not be available for public inspection
 578 [pursuant to article 76A (public information) of the Annotated Code
 579 of Maryland] under Subtitle 6, Title 10 of the State Government
 580 Article of the Maryland Code.

581 * * *

582 **30-12. Alcoholic beverages-Consumption on public property.**

583 The [county executive is hereby authorized to] County Executive may, under
 584 Method 3, adopt [and from time to time amend] regulations[, under method (3) of
 585 section 2A-15 of this Code,] governing the consumption of alcoholic beverages on
 586 "public property" as that phrase is defined in [article 2B, section 210 of the
 587 Annotated Code of Maryland] Title 19, Subtitle 2 of Article 2B of the Maryland
 588 Code.

589 * * *

590 **31-22. Applicability of Article.**

591 * * *

592 [Nothing in this article, however, shall] This Article does not apply to any
593 public [streets] street or parking [lots] lot acquired or operated [pursuant to chapter
594 86 of this Code] under Article 29 of the Maryland Code.

595 **33-35. Definitions.**

596 * * *

597 *Employee organization:* [An:]

598 (a) an employee organization defined in Section 33-76 that is certified
599 under Section 33-79; [or]

600 (b) an employee organization defined in Section 33-102(5) that is certified
601 under Section 33-106; or

602 (c) an employee organization defined in Section 33-148 that is certified
603 under Section 33-151.

604 * * *

605 Membership: the period of time that a member is enrolled and has contributed
606 to the Employees' Retirement System.

607 * * *

608 **33-38. Normal retirement date, mandatory retirement date, early**
609 **retirement date, and trial retirement.**

610 * * *

611 (c) *Early retirement date.*

612 (1) A member, other than a group G member, who has not met the
613 age and service requirements for a normal retirement may elect
614 to [retire on the first day of a month and may elect to] receive
615 pension payments beginning on an early retirement date the
616 first day of a month after [if] the following requirements are
617 met:

618 * * *

619 **33-41. Credited service.**

620 (a) *Member's credited service.*

621 * * *

622 [(3) Credited service includes:

623 (A) The time during which a member receives service-
624 connected disability benefits under Article VI of this
625 chapter; and

626 (B) Half the time during which a member receives non-
627 service-connected disability benefits under article VI of
628 this chapter.

629 (4) An employee who is receiving disability benefits under article VI
630 of this chapter will not be entitled to receive credited service for
631 any period of time during which the employee participates in either
632 the Montgomery County employees' retirement system or in
633 another retirement system.]

634 [(5)] (3) * * *

635 [(6)] (4) * * *

636 [(7)] (5) * * *

637 * * *

638 (f) *Use of sick leave for credited service.* An employee [whose retirement
639 is effective on or after May 1, 1970, or who becomes vested on or after
640 October 1, 1971,] must receive credit toward retirement for any
641 accumulated sick leave, up to a maximum of 4,224 hours. Each 176
642 hours of accumulated sick leave is equal to 1 month of credited service.
643 Accumulated sick leave totaling less than 11 days must not be credited
644 for retirement purposes. Accumulated sick leave totaling 11 to 22 days
645 must be credited as 1 month of service for retirement purposes. An

646 employee who transfers to the Retirement Savings Plan must receive
 647 credit toward retirement under the optional plan or integrated plan under
 648 Section 33-37(i) for the employee's accumulated sick leave.

* * *

650 **33-42. Amount of pension at normal retirement date or early retirement**
 651 **date.**

* * *

653 [(g) *Calculation for members receiving benefits under the disability benefits*
 654 *program.*

655 (1) When a member who receives disability benefits under Article VI
 656 reaches the normal retirement date, the formula to calculate
 657 retirement benefits must be the same as in subsection (b)(1) and
 658 (b)(2)(A) and (B), except that the member's salary at the time of
 659 the disability, plus cost-of-living adjustments and annual
 660 increments, must be used to calculate the retirement benefits
 661 instead of average final earnings.

662 (2) If a member who receives disability benefits under article VI of
 663 this chapter returns to employment covered by the retirement
 664 system under this chapter, at the time of actual retirement, the
 665 member must choose to receive retirement benefits:

- 666 (A) Under this subsection;
- 667 (B) Under subsection (b) of this section.]

668 [(h)] (g) * * *

669 (2) For purposes of this subsection [(h)] (g), the annual addition must
 670 be comprised of:

* * *

672 (3) In this subsection [(h)] (g), only:

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* * *

(4) County elected officials' contributions that would be allocated to county elected officials' contributions accounts of elected officials' participants but for the limitations of this subsection [(h)] (g), must be carried over to subsequent years and allocated in order of time to the county elected officials' contributions accounts which would have received such contributions but for the limitations set forth in this subsection [(h)] (g). Amounts carried over must be allocated by the chief administrative officer to a suspense account that must be invested in a fixed income fund. Any earnings of the suspense account must be allocated ratably among the county elected officials' contributions accounts of all the elected officials' participants except as otherwise provided in this subsection [(h)] (g).

[(i)] (h) * * *

[(j)] (i) (1) * * *

(D) Any member employed by a participating agency is not eligible to participate.

* * *

33-46. Death benefits and designation of beneficiaries.

* * *

(b) *Spouse's, or domestic partner's, and children's benefits of a member whose death is service connected.*

(1) (A) If a member other than a Group F or G member dies while employed by the County or a participating agency [on or after August 15, 1965,] and the employing department or agency, a beneficiary, or another person submits

700 satisfactory proof to the Chief Administrative Officer that
 701 the employee's death resulted from injuries sustained in
 702 the line of duty or was directly attributable to the inherent
 703 hazards of the duties the employee performed and the
 704 death was not due to willful negligence, the County must
 705 pay benefits as follows:

706 * * *

707 **33-48. [Disability retirement hearing board.] Reserved.**

708 [(a) *Establishment.* There is a disability retirement hearing board until the
 709 board makes a final decision on all disability retirement applications
 710 submitted to the board before the date on which the disability benefits
 711 program under article VI of chapter 33 takes effect.

712 (b) *Composition, duties, and responsibilities.* The disability retirement
 713 hearing board has the composition, duties, and responsibilities as were
 714 provided by law to the board before August 11, 1985.]

715 **33-49. [Medical review committees.] Reserved.**

716 [(a) *Establishment.* For each disability retirement application received by
 717 the disability retirement hearing board, the board must designate a
 718 medical review committee. Any committee established by the board
 719 exists until that committee makes a final report to the board on all
 720 medical examination referred to that committee based on applications
 721 submitted to the board before the date on which the disability benefits
 722 program under article VI of chapter 33 takes effect.

723 (b) *Composition, duties, and responsibilities.* A medical review committee
 724 has the composition, duties, and responsibilities as were provided by
 725 law to those committees before August 11, 1985.]

726 * * *

727 **33-52. Payment of benefits.**

728 * * *

729 (b) *Discontinuance of pension payments.* A member must not receive
 730 pension payments while serving in an appointed or elected County
 731 office that receives any compensation paid by the County. A member
 732 appointed to a full-time County position must become a member of
 733 the retirement system or the Retirement Savings Plan under Sections
 734 33-37 and 33-115 and make member contributions until later
 735 separation under Article III or Article VIII. The retirement benefit of
 736 an employee who resumes membership in the optional or integrated
 737 plan must be recalculated when the employee later separates from
 738 service. The retirement benefit under the integrated or optional plans
 739 of Article III of an employee who becomes a member of the
 740 Retirement Savings Plan must resume when the employee later
 741 separates from service.

742 * * *

743 **33-84. Strikes and lockouts.**

744 * * *

745 (c) If an employee or employee organization [shall violate the provisions
 746 of] violates this Section, the employer, after adequate notice and a fair
 747 hearing before the permanent umpire who finds that the [aforesaid]
 748 alleged violations have occurred and [finds] that any or all of the
 749 following actions are necessary in the public interest, may, subject to
 750 the law enforcement officer's bill of rights, [article 27, section 727 et
 751 seq., Annotated Code of Maryland.] Title 3, Subtitle 1 of the Public
 752 Safety Article of the Maryland Code:

753 * * *

754 **ARTICLE VI. [DISABILITY BENEFITS.] RESERVED.**755 **[33-86. Applicability.]**

756 [The provisions of this article only apply to individuals who:

- 757 (1) Are members of the retirement system under this chapter on or after
758 May 15, 1986, and submitted an application for disability benefits on
759 or after May 15, 1986, but before July 1, 1989, or is an elected official
760 on July 1, 1989, and submitted an application for disability benefits on
761 or after May 16, 1986, but before December 3, 1990;
- 762 (2) Are members of the retirement system under this chapter before May
763 15, 1986, but who opted into the disability benefits program under this
764 article and submitted an application for disability benefits on or after
765 May 15, 1986, but before July 1, 1989; or
- 766 (3) At any time chose to participate in the elected officials' plan and
767 submitted an application for disability benefits on or after May 15,
768 1986, but before December 3, 1990.]

769 **[33-87. Definitions.]**770 [(a) *In general.* In this article, the following words have the meanings indicated.771 (b) *Administrator.* "Administrator" means:

- 772 (1) The disability retirement hearing board, when the application
773 for benefits under this chapter is filed by a member with the
774 disability retirement hearing board before May 15, 1986, and
775 there is no final decision from the disability retirement hearing
776 board on the application before May 15, 1986.
- 777 (2) For all other applications for benefits under this chapter,
778 administrator means the entity that contracts with the county to
779 administer as a third part administrator:

- 780 a. The disability retirement program under section 33-43 of
781 this chapter; and
- 782 b. The disability benefits program under this article.
- 783 (c) *Employee.* “Employee” means an individual who participates in the
784 county retirement system under article III of this chapter.
- 785 (d) *Final earnings.* “Final earnings” means:
- 786 (1) The annual average of the regular salary of an employee less
787 any shift pay differential for the eighteen-month period
788 immediately preceding the disability or any consecutive
789 eighteen-month period, whichever is greater; or
- 790 (2) For an employee whose salary has been reduced as a result of a
791 disciplinary action, the annual average of the regular salary of
792 the employee for the eighteen-month period preceding the
793 disability.
- 794 (e) *Non-service-connected disability.* “Non-service-connected disability”
795 has the same meaning as “service-connected disability” except that it
796 is the result of an illness or injury that was incurred while away from
797 the performance of duty as an employee.
- 798 (f) *Service-connected disability.* “Service-connected disability” means a
799 condition of an employee that:
- 800 (1) Is the natural and proximate result of an accident occurring, an
801 occupational disease incurred, or a condition aggravated while
802 in the performance of duty as an employee;
- 803 (2) Is not due to the willful misconduct or willful negligence of the
804 employee;
- 805 (3) Makes the employee:

- 806 a. Incapable of performing the job that the employee
807 performed before the illness or injury; and
- 808 b. Unable to engage in available employment
809 commensurate with the training, education, and
810 experience of the employee; and
- 811 (4) Is likely to be permanent.]

812 **[33-88. Non-service-connected disability benefits.]**

813 [An employee may receive non-service-connected disability benefits if the
814 employee:

- 815 (1) Has a non-service-connected disability;
- 816 (2) Has five (5) years of credited service under the county retirement
817 system of this chapter;
- 818 (3) Is not eligible for normal retirement under the county retirement
819 system of this chapter; and
- 820 (4) Is not eligible for service-connected disability benefits; and
- 821 (5) Has an injury or illness which occurred subsequent to enrollment in
822 the Montgomery County employees' retirement system.]

823 **[33-89. Service-connected disability benefits.]**

824 [An employee may receive service-connected disability benefits if the
825 employee has a service-connected disability and if the employee is not eligible for
826 normal retirement under the Montgomery County employees' retirement system of
827 this chapter.]

828 **[33-90. Temporary disability.]**

- 829 [(a) *Waiver.* In extenuating circumstances, the administrator may waive
830 the requirement that an employees' disability is likely to be
831 permanent.

832 (b) *Approval.* The administrator may approve temporary disability
 833 benefits for one (1) or more one-year periods until the administrator
 834 determines that the disability:

- 835 (1) Has ended; or
 836 (2) Is permanent.]

837 **[33-91. Administrative application for benefits.]**

838 [(a) The chief administrative officer must notify an employee that an
 839 application for disability benefits should be made if the employee:

- 840 (1) Becomes ill or injured; and
 841 (2) Is unable to perform at an acceptable level of competence the
 842 duties and responsibilities of the position to which the
 843 employee is assigned.

844 (b) If the employee fails to apply for disability benefits, the chief
 845 administrative officer may apply on behalf of the employee.]

846 **[33-92. Accrual of benefits.]**

847 [Disability benefits begin to accrue on the earliest of:

- 848 (1) The date that the employee exhausts all accrued sick and
 849 compensatory leave in excess of eighty (80) hours; or
 850 (2) The date that the application for disability benefits is approved.]

851 **[33-93. Amount of benefits.]**

852 [The annual amount of disability benefits payable equals two (2) percent of
 853 the final earnings multiplied by the number of years of creditable service, up to
 854 thirty-six (36) years, plus sick leave credits, but may no be less than:

- 855 (1) Thirty-three and one-third (33 1/3) percent of the final earnings for a
 856 non-service-connected disability; and
 857 (2) Sixty-six and two-thirds (66 2/3) percent of the final earnings for a
 858 service-connected disability.]

- 885 would have received if the original employment had not been
886 interrupted.
- 887 (3) Income from employment between three hundred one dollars
888 (\$301.00) and six hundred dollars (\$600.00) a month has a one
889 dollar (\$1.00) offset for each four dollars (\$4.00) of income.
- 890 (4) Income from employment above six hundred dollars (\$600.00)
891 a month has a one dollar (\$1.00) offset for each two dollars
892 (\$2.00) of income.
- 893 (5) Income received under subsection (a)(2) through (5) of this
894 section has a one dollar (\$1.00) offset for each one dollar
895 (\$1.00) of income.
- 896 (c) *Refusal of employment.* If an employee refuses to accept two (2)
897 offers of employment offered under section 33-98, which were
898 commensurate with the training, education, experience, and physical
899 and mental capabilities of the employee, the amount that employment
900 would have paid if accepted will be offset from the disability benefits
901 of the employee in the same manner as income from employment
902 under subsection (b) of this section.
- 903 (d) *Refusal of training.* If an employee refuses to participate in retraining
904 offered under section 33-98, the disability benefits received by the
905 employee will be reduced by half.
- 906 (e) *Termination of employment.*
- 907 (1) If the employment offered by the county under section 33-98
908 terminates, the employee will continue to receive the amount of
909 disability benefits, which were offset by the income received
910 from the employment, that the employee received while in the
911 employment.

- 912 (2) The administrator may restore the disability benefits in whole
 913 or in part:
- 914 a. To facilitate reemployment; or
- 915 b. If the administrator determines that the employee is
 916 unable to be employed.
- 917 (f) *Review of offset formula.* Every two (2) years, the county executive
 918 must review the offset formula and recommend changes to the dollar
 919 amounts to the county council in order to accommodate changes or no
 920 changes in general income levels.]

921 **[33-96. Discontinuation or termination of disability benefits.]**

922 [The administrator must terminate disability benefits granted under this
 923 article if the employee:

- 924 (1) Recovers from the disability as determined by the administrator;
- 925 (2) Fails or refuses to provide the administrator with the information that
 926 the administrator requires; or
- 927 (3) Reaches the normal retirement date under the county retirement
 928 system of this chapter.]

929 **[33-97. Medical examination.]**

930 [Unless the administrator determines that fewer medical examinations are
 931 needed, the administrator may require the employee to undergo annual medical
 932 examinations.]

933 **[33-98. Retraining and employment of employees.]**

- 934 [(a) *Program established.* By regulation adopted under method (1) of
 935 section 2A-15 of this Code, the county executive must develop a
 936 program for retraining, if retraining is necessary, and employment of
 937 employees who are receiving disability benefits under this article.

- 938 (b) *Implementation of program.* The administrator will implement the
 939 retraining and employment program.
- 940 (c) *Employment level.* Any employment offered to an employee under
 941 this section must be commensurate with the training, education,
 942 experience, and physical and mental capabilities of the employee.
- 943 (d) *Participation required.* Unless the chief administrative officer
 944 exempts an employee based on medical evidence that would preclude
 945 successful completion of the retraining program, the employee is
 946 required to participate in the program.]

947 **[33-99. Appeals of decisions.]**

- 948 [(a) If the county or an employee disagrees with a preliminary decision of
 949 the administrator, the county or the employee has a right to a hearing
 950 before the administrator. The contract between the county and the
 951 administrator must provide procedures to:
- 952 (1) Assure the impartiality of the hearing;
 953 (2) Notify the employee of the right to counsel at the hearing; and
 954 (3) Establish a record of the hearing that will be the basis for
 955 subsequent reviews.
- 956 (b) The county or the employee may appeal on the record the final
 957 decision of the administrator to the merit system protection board
 958 within thirty (30) days from the date that the employee receives
 959 written notice of the decision.
- 960 (c) The county or the employee may appeal the final decision of the merit
 961 system protection board to a court of competent jurisdiction as
 962 provided in the Maryland Rules of Procedure, chapter 1100, subtitle
 963 B.]

964 **[33-100. Regulations.]**

965 [Before May 15, 1986, the county executive must adopt regulations under
966 method (1) of section 2A-15 of this Code to implement this article.]

967 **33-86 — 33-100. Reserved.**

968 * * *

969 **33-103. Labor relations administrator.**

970 (a) A Labor Relations Administrator must be appointed to effectively
971 administer this Article as it governs selection, certification, and
972 decertification procedures, prohibited practices, and the choice of a
973 mediator/fact-finder. The Administrator must:

974 * * *

975 (5) Investigate and attempt to resolve or settle, as provided in this
976 article, charges of engaging in prohibited practices. However,
977 if the employer and a certified representative have negotiated a
978 valid grievance procedure, the labor relations administrator
979 [shall] must defer to that procedure [for the resolution of
980 disputes] to resolve any dispute that properly [submissible] may
981 be submitted to the procedure, absent a showing that the
982 deferral results in the application of principles repugnant to this
983 [article] Article. [Furthermore, the labor relations] The
984 administrator [shall] must defer to state procedures in [those
985 matters which are] any matter governed by the Law-
986 Enforcement Officers' Bill of Rights, [article 27, sections 727--
987 734D, Annotated Code of Maryland] Title 3, Subtitle 1 of the
988 Public Safety Article of the Maryland Code.

989 * * *

990 **33-111. Strikes and lockouts.**

991 * * *

992 (c) If an employee or employee organization violates [the provisions of]
 993 this Section, the employer, after adequate notice and a fair hearing
 994 before the labor relations administrator who finds that the violations
 995 have occurred and [finds] that any or all of the following actions are
 996 necessary in the public interest, may impose any of the following
 997 sanctions, subject to the Law-Enforcement Officers' Bill of Rights,
 998 [article 27, sections 727--734D, Annotated Code of Maryland.] Title
 999 3, Subtitle 1 of the Public Safety Article of the Maryland Code:

1000 * * *

1001 **33-118. Maximum annual contribution.**

1002 (a) Contribution limitations.

1003 (1) * * *

1004 (A) \$30,000, effective January 1, 1995, or \$40,000, effective
 1005 January 1, 2002 (the "dollar limitation"); [or] as adjusted
 1006 by the Internal Revenue Service from time to time to
 1007 reflect cost of living increases; or

1008 * * *

1009 **33-128. Definitions.**

1010 * * *

1011 (h) *Disability Arbitration Board* or *Board* means the 3 persons designated
 1012 under Section [33-43A(m)] 33-43(m) to review an appeal of the final
 1013 decision of the Administrator regarding an application for disability
 1014 benefits.

1015 (i) *Disability Review Panel* or *Panel* means the 4 medical doctors
 1016 appointed as Panel members by the Chief Administrative Officer
 1017 under Section [33-43A(c)] 33-43(c).

1018 * * *

1019 **33-159. Establishment of Trust.**

1020 * * *

1021 (b) *Establishment of Trust.* An Other Post Employment Benefits Trust
1022 known as the Retiree Health Benefits Trust, effective July 1, 2007, is
1023 established to fund all or a portion of benefits provide under the County
1024 retiree benefit plans.

1025 * * *

1026 **35-13A. Anti-Hate/Violence Fund.**

1027 * * *

1028 (b) The Department of Police may:

1029 (1) offer rewards for information that leads to the arrest of a person
1030 who commits any act in the County described in Section [27-
1031 26A] 27-22 or [Article 27, Section 10A or 470A, of the
1032 Annotated Code of Maryland] Sections 10-302 to 10-305 of the
1033 Criminal Law Article of the Maryland Code;

1034 * * *

1035 (e) The County must deposit any money it receives under Section [27-
1036 26B] 27-8 into the Fund.

1037 * * *

1038 **35-13B. Drug Enforcement Forfeitures Fund**

1039 * * *

1040 (e) The Chief of Police must provide [two] 2 reports on the Fund to the
1041 Executive and Council as follows:

1042 * * *

1043 (2) On December 15, a report including:

1044 * * *

1045 (B) [DEFF] Fund approved budget by category;

1046 * * *

1047 **35-18. County's right of subrogation against third parties causing**
 1048 **disability.**

1049 [Where] If the accident, disease, disability, or death for which benefits are
 1050 payable under this [article] Article was caused under circumstances creating a legal
 1051 liability in a third party, the [county shall have] County has the right of subrogation
 1052 and [shall have the right to] may enforce, for the [county's] County's benefit, the
 1053 legal liability of [such] a third party, under the conditions and subject to the [same]
 1054 provisions, when applicable, [which now exist] in [article 101, section 58 of the
 1055 Annotated Code of Maryland, 1957,] Title 9 of the Labor and Employment Article
 1056 of the Maryland Code [and the provisions of such article and section are hereby
 1057 incorporated by reference as if set forth textually in this section]. Nothing [herein
 1058 shall affect] in this Section affects the [county's] County's obligation to comply
 1059 with [the provisions of section 19, article 101 of the Annotated Code of Maryland,
 1060 1957] Title 9 of the Labor and Employment Article of the Maryland Code.

1061 * * *

1062 **36A-2. Definitions.**

1063 In this [chapter] Chapter, unless the context indicates otherwise:

1064 * * *

1065 (g) Public service company means:

- 1066 (1) any company as defined in [article 78 § 2 of the Annotated
 1067 Code of Maryland] Section 1-101 of the Public Utility
 1068 Companies Article of the Maryland Code and any successor
 1069 provision[, or];
- 1070 (2) the Washington Suburban Sanitary Commission[,]; or
- 1071 (3) any organization which is a member of the one-telephone-
 1072 number utility notification system.

1073 * * *

1074 **52-11. Real property tax [credits] credit for permanently and totally**
 1075 **disabled homeowners.**

1076 * * *

1077 (e) *Applicability of [state] State law.* The minimum tax credit provided
 1078 [in the tax credit program provided herein] for disabled homeowners
 1079 under this Section [shall in no case] must not be less than the
 1080 minimum tax credit [provided] in [section 12F-3, article 81,
 1081 Annotated Code of Maryland] Section 9-102 of the Tax-Property
 1082 Article of the Maryland Code.

1083 **52-16C. Real property tax recapture.**

1084 * * *

1085 (c) *Taxable value of real property on the date of recognition.*

1086 (1) Taxable value of real property on the date of recognition [shall]
 1087 must be determined by multiplying by 0.45 the consideration
 1088 received for the transfer of such property and subtracting [eight
 1089 thousand dollars (\$8,000.00)] \$8,000 from the resulting
 1090 product. [Notwithstanding any of the foregoing provisions]
 1091 However, the taxable value of real property classified [pursuant
 1092 to state law] as "homestead property[,]" under [article 81,
 1093 Maryland Code Annotated, section 14A(a)] Section 9-105 of
 1094 the Tax-Property Article of the Maryland Code on the date of
 1095 recognition [shall] must be determined by multiplying by 0.40
 1096 the consideration received for the transfer of such property and
 1097 subtracting [eight thousand dollars (\$8,000.00)] \$8,000 from
 1098 the resulting product.

1099 * * *

1100 (e) *Exemptions from tax.*

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* * *
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 * * *

- (2) The tax imposed [hereunder shall] under this Section does not apply to any transfer of land:
 - (A) [transfers of land] assessed as agricultural land, under [section] Section 52-21(d) [of the Montgomery County Code, as amended; nor to];
 - (B) [transfers of land] classified as rezoned if [such transfers are] the transfer is taxed under [section] Section 52-21(e) [of the Montgomery County Code, as amended; nor to];
or
 - (C) [transfers of land] assessed as planned development [lands] land under [section 19(f) of article 81 of the Annotated Code of Maryland] Title 8, Subtitle 2 of the Tax-Property Article of the Maryland Code.

52-18A. Tax credit for certain nonprofit organizations.

- (a) [There is hereby granted] The Director of Finance must grant a single tax credit against the amount of the ordinary [county] County taxes or any other special charges or assessments levied against:
 - (1) the personal property owned by any nonprofit, nonstock cooperative housing corporation;
 - (2) leased real property and improvements in the [county] County used exclusively as a theater by nonprofit community theatrical organizations [in accordance with the conditions and provisions of paragraphs (a) and (k-1), section 9C, article 81, Annotated Code of Maryland] under Titles 6 and 9 of the Tax-Property Article of the Maryland Code; and

1128 (3) tangible personal property used to improve, replace, or maintain
 1129 the roads, common areas, or other common facilities owned by
 1130 a nonprofit organization, association, or foundation which was
 1131 formed [for the sole purpose of improving, replacing, and
 1132 maintaining] solely to improve, replace, and maintain the roads,
 1133 common areas, or other common facilities established under the
 1134 town sector or planned retirement community zones of [the
 1135 county zoning ordinance] Chapter 59 where the common
 1136 facilities are dedicated for the use of all residents of the
 1137 development without payment of fees or admissions for their
 1138 use.

1139 (b) The [director] Director of [finance for the county is hereby designated
 1140 to] Finance must administer the tax credits granted under [paragraphs
 1141 (a) and (k-1), section 9C, article 81, Annotated Code of Maryland]
 1142 Titles 6 and 9 of the Tax-Property Article of the Maryland Code.

1143 (c) The [county executive is delegated authority to prepare such
 1144 regulations, adopted] County Executive may adopt regulations under
 1145 method (2) [of section 2A-15 of this Code, as the county executive
 1146 determines may be needed for the administration of] to administer the
 1147 tax credits [to the extent such regulations are not inconsistent]
 1148 consistent with [section 9C, article 81, Annotated Code of Maryland]
 1149 Titles 6 and 9 of the Tax-Property Article of the Maryland Code.

* * *

1151 **52-18B. Moderate-income multifamily rental housing facility real property**
 1152 **tax deferral.**

* * *

1154 (d) Interest [shall] must accrue on the deferred taxes at the rate specified
1155 in [article 81, section 48(a) of the Annotated Code of Maryland]
1156 Sections 8-421, 10-102, 14-602, and 14-603 of the Tax-Property
1157 Article of the Maryland Code.

1158 **52-18I. Property tax credit – Leased property – Religious organizations.**

1159 * * *

1160 (g) A denial of a tax credit may be appealed [in accordance with law] to the
1161 Maryland Tax Court.

1162 * * *

1163 **52-18Q. Property tax credit – energy and environmental design.**

1164 (a) *Definitions.* In this [section] Section the following words have the
1165 meanings indicated:

1166 * * *

1167 (2) *“High performance building”* means:

1168 (A) A covered building that achieves:

1169 [1.] (1) * * *

1170 [2.] (2) * * *

1171 (B) Any other building that achieves:

1172 [1.] (1) * * *

1173 [2.] (2) An energy and environmental design standard that
1174 the Director of the Department of Permitting
1175 Services finds is equivalent to the silver, gold or
1176 platinum rating from the USGBC for LEED-NC,
1177 LEED-CS, or LEED-EB.

1178 * * *

1179 (d) *Amount of credit.*

1180 (1) For a covered building, the amount of the credit is:

1181 (A) 25% of the property tax owed on the building for 5 years,
1182 if the building achieves a gold rating for LEED-NC or
1183 LEED-CS or an equivalent standards; [or]

1184 * * *

1185 (C) 10% of the property tax owed on the building for 3 years,
1186 if the building achieves the gold rating for LEED-EB or
1187 an equivalent standard; or

1188 * * *

1189 **52-18R. Property tax credit — renewable energy.**

1190 (a) *Definitions.* In this Section, the following words have the meanings
1191 indicated:

1192 [“*Director*”] means the Director of the Department of Finance or
1193 the Director’s designee.

1194 [“*Eligible cost*”] means the cost of buying or installing a solar or
1195 geothermal energy device or energy conservation device, including
1196 any part, component, or accessory necessary to operate the device,
1197 that is installed within 12 months before a property owner submits an
1198 application to the Department of Finance under subsection (f).

1199 [“*Energy conservation device*”] means a device that:

1200 * * *

1201 [“*Tax-Property Article*”] means the Tax-Property Article of the
1202 Maryland Code.

1203 * * *

1204 **52-32. Determination and duration of tax credit.**

1205 The tax credit [shall] must be allowed as of the taxable year "date of
1206 finality" or "semi-annual date of finality," as defined in [section 2, article 81 of the
1207 Annotated Code of Maryland, 1957.] Section 1-101 of the Tax-Property Article of

1208 the Maryland Code [Such allowance shall be made upon notice being given by the
 1209 county council to the director of finance that] if the Council notifies the Director of
 1210 Finance that the property, by reason of a conveyance, assignment, deed, or other
 1211 instrument recorded among the land records of the [county] County, [such real
 1212 property] is affected and servient to a scenic easement which:

- 1213 (a) [Is] is irrevocable by its own terms;
- 1214 (b) [Creates] creates a perpetual servitude [upon] on the land [therein]
 1215 described; and
- 1216 (c) [Meets] meets the basic requirements, together with the standards of
 1217 one [(1) of two (2)] of the categories [provided for in the preceding
 1218 section] in Section 52-31.

1219 The tax credit [herein allowed, after having once been determined pursuant
 1220 to this section, shall remain] authorized under this Article remains in [full force
 1221 and] effect for all [subsequent] later tax levies made by the [county council]
 1222 Council.

1223 **52-35. [Effective date and construction] Interpretation.**

1224 [This article and the regulations hereunder shall take effect as of the date of
 1225 its passage. However, the tax credit herein provided for shall in no event affect
 1226 any tax amount due until the levy made for the fiscal year beginning July 1, 1970.]
 1227 This [article] Article is [deemed to be enacted and passed] intended to comply with
 1228 the intent and purpose of [section 12E, article 81, of the Annotated Code of
 1229 Maryland, 1957] Section 9-208 of the Tax-Property Article of the Maryland Code,
 1230 and any inconsistency [therewith] with that Section should be resolved in favor of
 1231 that [law] Section. If a Court of competent jurisdiction declares any part [hereof
 1232 shall be declared] of this Article legally ineffectual [by a court of competent
 1233 jurisdiction], then [it is the intent of the county council] the Council intends that
 1234 the [whole article shall become void and of no effect] entire Article becomes

1235 ineffective. In any event, any tax [credits] credit granted [hereunder shall not be
 1236 recoverable, except where the same were] under this Article must not be recovered
 1237 unless that credit was procured by fraud, misrepresentation, or intentional mistake.

1238 **52-68. Administration of tax credit.**

1239 * * *
 1240 (c) A denial of a tax credit may be appealed [in accordance with State law]
 1241 to the Maryland Tax Court.

1242 * * *

1243 **52-96. Tax levied; rates.**

1244 * * *
 1245 (e) As used in this Article:
 1246 (1) *Ton*, when [applies] applied to carbon dioxide in gaseous form,
 1247 means the amount of gas in cubic feet which is the equivalent
 1248 of 2000 pounds on a molecular weight basis.

1249 * * *

1250 **54-20. Denial where operator has been convicted of certain state law**
 1251 **violations.**

1252 [An] The Director may deny an initial or annual license [for the operation
 1253 of] to operate an establishment under this [division] Division [may be denied by
 1254 the director] if [he] the Director finds the owner or operator of the proposed
 1255 establishment has been convicted of violating the following provisions of [article
 1256 27 of the Annotated Code of Maryland, 1957, as amended: Sections 15 to 17
 1257 inclusive (bawdy houses and houses of ill fame; prostitution, etc.), section 125
 1258 (disorderly houses), sections 237 to 264C inclusive (gaming), section 277 (illegal
 1259 keeping of, or sale of narcotics), section 291 (opium joints), sections 121 and 122C
 1260 disturbance of the peace)] the Criminal Law Article of the Maryland Code:

1261 (a) Section 10-202 (keeping disorderly house);

- 1262 (b) Title 12 (gaming);
 1263 (c) Title 5 (controlled dangerous substances, prescriptions, and other
 1264 substances); or
 1265 (d) Section 10-201 (disturbing the public peace and disorderly conduct).

1266 [Nor shall such a license be issued by the director, in his discretion,] The Director
 1267 may deny an initial or annual license if the owner or operator has been convicted of
 1268 any similar [offenses] offense outside [the territorial jurisdiction of the state]
 1269 Maryland.

1270 **54-26. Revocation or suspension generally.**

- 1271 * * *
- 1272 (b) The [director] Director may revoke or suspend any license issued
 1273 under this [division upon a finding] Division if the Director finds that
 1274 the establishment [is being so operated as to constitute] is a nuisance
 1275 [by reason] because of noise or indecent or immoral activity [on the
 1276 part of the guests] by any guest, owner, operator, or [their employees]
 1277 employee. The [director] Director may also revoke or suspend any
 1278 license issued [hereunder] under this Chapter if the owner or operator
 1279 of the establishment has, while operating the establishment, been
 1280 convicted of violating:
- 1281 (1) the provisions of [article 27 of the Annotated Code of
 1282 Maryland, 1957] the Criminal Law Article of the Maryland
 1283 Code[, set forth] listed in [section] Section 54-20; or
- 1284 (2) [of violating section 123 or 124 (] the drunkenness and
 1285 disorderly conduct[)] of article 27] provisions of Section 10-201
 1286 of the Criminal Law Article of the Maryland Code while on the
 1287 licensed premises.

1288 Revocation or suspension of a license under this subsection [shall be
 1289 in accordance with the provisions of subsection (b) of section] must
 1290 follow the procedures in Section 54-21(b).

1291 **56-10. Powers and authority of council generally.**

1292 * * *

1293 (q) *Condemnation.* To condemn land or property, including
 1294 improvements, and [all] any other rights, title, and interest therein, in
 1295 the name of [Montgomery] the County for [such] an urban renewal
 1296 project, [pursuant to Article Real Property, title 12, subtitle 1,
 1297 Annotated Code of Maryland, 1957, as amended] under Title 12,
 1298 Subtitle 1 of the Real Property Article of the Maryland Code.

1299 * * *

1300 **60-2. Acquisition of land for parking lots; improvement, operation,**
 1301 **maintenance and sale or lease thereof.**

1302 (a) [For the purpose of providing] To provide off-street parking facilities
 1303 for the use of the public [within] in and for each district, the [county is
 1304 hereby authorized to] County may acquire by purchase, lease,
 1305 condemnation, or otherwise any land [within] in a district, or any land
 1306 outside [of] any district, [provided that such] if the land is located in
 1307 whole or in part within [six hundred (600)] 600 feet of the boundary of
 1308 any [such] district as [now or hereafter defined] created or modified,
 1309 after public hearing [pursuant to section 11B-33] under Section 11B-46.
 1310 After acquiring [such] any land, the [county] County may improve the
 1311 [same] land for use as off-street parking lots and operate and maintain
 1312 [such] a parking [facilities in accordance with the provisions of] facility
 1313 under this [chapter] Chapter.

1314 * * *

LEGISLATIVE REQUEST REPORT

Bill 48-10, *Technical Corrections*

DESCRIPTION: Makes technical, typographical, grammatical, and other non-substantive corrections to County law.

PROBLEM: Codifying several new laws revealed several technical and other non-substantive errors that could confuse a person trying to follow or enforce County law.

GOALS AND OBJECTIVES: To correct technical and other non-substantive errors in the County Code.

COORDINATION: Council legal staff and County Attorney's Office.

FISCAL IMPACT: To be requested.

ECONOMIC IMPACT: To be requested.

EVALUATION: Not applicable.

EXPERIENCE ELSEWHERE: Not applicable.

SOURCE OF INFORMATION: Amanda Mihill, Council Staff (240) 777-7815
Sharon Gemperle, Office of the County Attorney (240) 777-6753

APPLICATION WITHIN MUNICIPALITIES: The applicability of other provisions in municipalities follows the applicability of the underlying provision of the County Code.

PENALTIES: Not applicable.

B 48-10



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OFFICE OF MANAGEMENT AND BUDGET

Isiah Leggett
County Executive

Joseph F. Beach
Director

MEMORANDUM

October 25, 2010

TO: Nancy Floreen, President, County Council
FROM: Joseph F. Beach, Director
SUBJECT: Expedited Bill 48-10, Technical Corrections

10/26/10 11:26 AM
10/26/10 11:26 AM

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

LEGISLATION SUMMARY

This bill corrects technical, typographical, grammatical, and codification errors, and makes stylistic, conforming amendments and several provisions in County law. The bill represents an accumulation of technical and stylistic errors that individually were not significant enough to warrant separate corrective legislation, but which now cumulatively justify a technical corrections bill.

FISCAL SUMMARY

This bill, or the amendments to it, will not have a fiscal impact on the County because the changes are technical and stylistic in nature.

ECONOMIC SUMMARY

This legislation will not have an economic impact on the County.

The following contributed to and concurred with this fiscal and economic analysis: Sharon Gemperle, County Attorney's Office, Phil Weeda, Office of Management and Budget, and Michael Coveyou and David Platt, Department of Finance.

JFB:pw

- c: Kathleen Boucher, Assistant Chief Administrative Officer
- Marc Hansen, Acting County Attorney, Office of County Attorney
- Sharon Gemperle, Office of the County Attorney
- Michael Coveyou, Department of Finance
- David Platt, Department of Finance
- Phil Weeda, Office of Management and Budget
- John Cuff, Office of Management and Budget

Office of the Director

55

AMENDMENT

To Bill 48-10, Technical Corrections

Beginning on page 9, after line 137, change Section 11B-67 to read:

1 **11B-67. Procedures.**

2 * * *

3 (d) A business must affirm and provide supporting documentation to the
4 Director to show that it is a local small business as defined in Section
5 ~~[[11B-65(c)]]~~ 11B-65(a). The Director may investigate and verify the
6 information provided on the application.

7 * * *

Beginning on page 11, lines 192-203, change Section 20-32 to read:

8 (a) Under the authority of [article] Article 44A of the [Annotated]
9 Maryland Code [of Maryland, as amended], Montgomery County,
10 may, at any time and from time to time, guarantee, upon its full faith
11 and credit, revenue bonds of the housing opportunities commission in
12 a total amount not exceeding [fifty million dollars (~~(\$50,000,000[.00])~~)
13 to finance the acquisition, provision, development, or rehabilitation of
14 housing at rental rates and prices not being offered in adequate
15 quantity by the private sector, or to finance in whole or in part
16 mortgage loans secured by such housing, and to fund related reserves
17 and costs approved under [the provisions of section 15, article 44A,
18 Annotated Code of Maryland] Title ~~[[2]]~~ 16 of the Housing and
19 Community Development Article ~~[[44A of the Maryland Code and~~
20 this [chapter] Chapter.

Beginning on page 15, lines 306-316, change Section 22-4A to read:

21 (f) The [Director of Fire and Rescue Services] Fire Chief and the
22 Director of Permitting Services must issue a decision on a request for
23 a waiver under subsections (a), (b), and (c), within 10 days after
24 receiving the request. [Each Director] Either the Fire Chief or the
25 Director of Permitting Services has complete discretion to approve or
26 reject a waiver. The decision of [each Director] the Fire Chief or the
27 Director of Permitting Services is final, and no appeal may be taken.
28 If either [Director] the Fire Chief or the Director of Permitting
29 Services grants a waiver, the [Director] Fire Chief or Director must
30 find in writing that the waiver complies with subsection (d) or (e), as
31 applicable.

Beginning on page 20, lines 440-451, change Section 22-6 to read:

32 (f) *Administrative appeals.* [The director upon petition] When petitioned
33 by [a] an aggrieved person [claiming to be aggrieved is authorized and
34 directed to], the Fire Chief must promptly review [rulings] any ruling
35 or [interpretations] interpretation of law or regulations made by Fire
36 and Rescue Service staff [during the enforcement of the provisions of]
37 while enforcing this [chapter] Chapter. [Such] A petition must be
38 filed with the [director] Fire Chief in writing within [ten (10)] 10 days
39 [of] after the [official administrative] ruling or interpretation. The
40 [director] Fire Chief may review, modify, or affirm the initial
41 [administrative] ruling or interpretation with or without a hearing, and
42 must send a copy of the [director's] Fire Chief's decision [shall be
43 provided] to the aggrieved party.

Beginning on page 26, after 594, change Section 33-15 to read:

44 **33-15. Judicial review and enforcement.**

45 (a) Any aggrieved merit system employee, or applicant, or the chief
46 administrative officer may obtain judicial review of a merit system
47 protection board order or decision from the circuit court for the county
48 in the manner prescribed under [[chapter 1100, subtitle B]] Chapter
49 200 of Title 7 of the Maryland Rules of Procedure. In addition, with
50 respect to orders or opinions relating to personnel of Montgomery
51 County fire and rescue corporations, the independent fire and rescue
52 corporation affected by the merit system protection board order, as
53 well as any aggrieved fire and rescue corporation employee, may
54 obtain judicial review of the board's order or decision as provided in
55 this section.

56 (b) The court, in hearing the case, shall apply the judicial review
57 standards as set forth in the Maryland [[administrative procedures
58 act]] Administrative Procedures Act, [[article 41, Maryland Code
59 Annotated, section 255]] Subtitle 2 of Title 10 of the State
60 Government Article of the Maryland Code. The court review shall be
61 on the basis of the record before the board. Judicial review of board
62 decisions issued hereunder also includes appellate review by the
63 [[special courts of appeals of Maryland]] Court of Special Appeals.

Beginning on page 44, lines 1083-1115, change Section 52-16C to read:

64 **[[52-16C. Real property tax recapture.]]**

65 [[a)] Tax levied; basis; rate. There is hereby imposed upon the occasion of
66 the transfer of real property located in the county a tax on the amount
67 by which the taxable value of such property on the date of recognition

68 exceeds the assessed valuation of that property. The tax shall be
69 calculated by multiplying the amount so determined by three dollars
70 and seventy cents (\$3.70) per one hundred dollars (\$100.00).

71 (b) *Assessed valuation.*

72 (1) Subject to the provisions in paragraph (2) of this subsection,
73 "assessed valuation" shall mean the actual assessed valuation of
74 such property on which annual property taxes are payable as
75 determined on the date of finality immediately preceding the
76 date of recognition.

77 (2) If the boundary lines of a parcel of real property on which the
78 tax imposed hereunder differ on the date of recognition from
79 the boundary lines of the real property of which that parcel was
80 a part on the date of finality immediately preceding the date of
81 recognition, the assessed valuation of such parcel shall be
82 determined by allocating to that parcel a pro rata share of the
83 assessed valuation of that real property which, on the preceding
84 date of finality, encompassed the parcel being transferred.

85 (c) *Taxable value of real property on the date of recognition.*

86 (1) Taxable value of real property on the date of recognition shall
87 be determined by multiplying by 0.45 the consideration
88 received for the transfer of such property and subtracting eight
89 thousand dollars (\$8,000.00) from the resulting product.
90 Notwithstanding any of the foregoing provisions, the taxable
91 value of real property classified pursuant to state law as
92 "homestead property," article 81, Maryland Code Annotated,
93 section 14A(a)* on the date of recognition shall be determined
94 by multiplying by 0.40 the consideration received for the

95 transfer of such property and subtracting eight thousand dollars
96 (\$8,000.00) from the resulting product.

97 (2) If, subsequent to the date of finality immediately preceding the
98 date of recognition, betterments have been made to real
99 property subject to the tax imposed by this section, the cost of
100 such betterments incurred by the person transferring the
101 property may be deducted from the consideration received for
102 the transfer of that property prior to calculating the taxable
103 value of such real property on the date of recognition.

104 (d) *Definitions.* For the purpose of this section, the following words and
105 phrases shall have the meanings respectively ascribed to them:

106 Assessed Valuation. That valuation determined in accordance with
107 subsection (b) of this section.

108 Betterments. All physical changes to the property which tend to
109 increase the value thereof.

110 Consideration shall be determined as follows:

111 (1) In the case of a transfer of real property in fee simple,
112 consideration shall be determined in accordance with
113 section 52-19 of this chapter.

114 (2) In the case of a transfer of a partial interest in real
115 property, the value of the interest transferred shall be
116 used to construe the value of the entire property.

117 Date of Finality. January 1, the date as of which assessments of real
118 property become final for the taxable year next following.

119 Date of Recognition. The date on which the transfer of real property
120 takes place.

121 Major Betterments. Improvements which cause an increase in the
122 value of improvements on the property by more than two hundred
123 (200) percent.

124 New Construction. The improving of property on which no previous
125 improvements existed.

126 Real Property. Land and improvements thereon.

127 Taxable Value of Real Property on the Date of Recognition. That
128 value determined in accordance with subsection (c) of this section.

129 Transfer shall include:

130 (1) The transfer of real property in fee simple.

131 (2) The transfer of a partial interest in real property.

132 (e) *Exemptions from tax.*

133 (1) The tax imposed hereunder shall not apply to the initial transfer
134 of property on which there is new construction or on which
135 major betterments have been constructed subsequent to the date
136 of finality immediately preceding the date of recognition.

137 (2) The tax imposed hereunder shall not apply to transfers of land
138 assessed as agricultural land, under section 52-21(d) of the
139 Montgomery County Code, as amended; nor to transfers of land
140 classified as rezoned if such transfers are taxed under section
141 52-21(e) of the Montgomery County Code, as amended; nor to
142 transfers of land assessed as planned development lands under
143 section 19(f) of article 81 of the Annotated Code of Maryland.*

144 (3) The tax imposed hereunder shall not apply to the transfer of real
145 property by any nonprofit hospital or nonprofit religious or
146 charitable organization, association or corporation, nor by any
147 municipality, county or state government or any

148 instrumentalities, agencies or political subdivisions thereof, nor
149 to the transfer of real property by will or descent.

150 (4) The tax imposed hereunder shall not apply to the transfer of real
151 property made pursuant to a bona fide written contract or
152 agreement entered into prior to the date on which this section
153 becomes law; provided, that the director of finance may require
154 satisfactory proof that the contract or agreement was entered
155 into prior to such date.

156 (5) In the event a parcel of real property is transferred more than
157 once between dates of finality, the tax imposed hereunder shall
158 be collected only once; provided, that no boundary lines have
159 been changed or no improvements have been made subsequent
160 to the initial date of recognition. In the event boundary lines
161 changed, the assessed valuation shall be determined in
162 accordance with paragraph (b)(2) of this section.

163 (f) *Payment of tax.*

164 (1) The transferor of property subject to the tax imposed hereunder
165 shall be solely liable for the payment of the tax. The tax shall be
166 paid at the time of or prior to the presentation of any instrument
167 to the county supervisor of assessments for transfer of any
168 interest in real property on the assessment records of the
169 county. In the case of a transfer of an interest in real property
170 which is not required by law or ordinance to be transferred on
171 the assessment records of the county, the tax shall be paid
172 before any instrument conveying such interest shall be
173 presented to the clerk of the circuit court for recordation.

174 (2) The tax shall be paid to the director and payment shall be
175 evidenced by fixing an official stamp upon the deed or
176 instrument by the director or his authorized representative
177 showing the amount of the tax paid. Where the director, after
178 payment, determines that a greater tax is due, the difference in
179 tax shall then be immediately due and payable. Interest shall
180 run at a rate of eight (8) percent per annum from the date of
181 initial payment on the amount of the additional tax due.

182 (3) Prior to the time of payment, the taxpayer shall submit to the
183 director a report upon such forms and setting forth such
184 information as the director may prescribe. The director may, at
185 his discretion, require satisfactory proof of any information
186 contained in such forms.

187 (g) *Appraisal of property; additional tax due.* Where the director has
188 reason to believe the consideration for an interest in real property has
189 been incorrectly stated by the taxpayer, the director may cause to be
190 made an appraisal of the property in question. If such appraisal shows
191 a different value from that reported by the taxpayer, and if the director
192 then determines that a greater tax is due, the greater tax shall
193 immediately be due and payable. If, prior to such determination by the
194 director, the property has been transferred and the tax imposed
195 hereunder has been paid at the lesser amount, interest on the
196 difference in tax due shall run at the rate of eight (8) percent per
197 annum from the date of initial payment. The transferor and transferee
198 shall be jointly and severally liable for payment of the difference in
199 tax due.

200 (h) *Appeals.* In accordance with the jurisdictional approval of the state
201 department of assessments and taxation, any decision made by the
202 director under the provisions of this section may be appealed by any
203 aggrieved party to the property tax assessment appeal board of the
204 county not later than thirty (30) days following the mailing of the
205 notice of such decision by the director. In the event the aforesaid
206 appeal procedure is not approved by the state department of
207 assessments and taxation, appeals from any decision of the director
208 under the provisions of this section may be made by any interested or
209 aggrieved party to the circuit court for the county, which shall have
210 the power to affirm the decision, or if such decision is not in
211 accordance with law, to modify or reverse such decision, with or
212 without remanding the case for rehearing. Whenever any such appeal
213 is taken, a copy thereof shall be served on the director by the appellant
214 in accordance with the Maryland Rules of Procedure. The director
215 shall, in accordance with the Maryland rules, file with the circuit court
216 originals of all papers and evidence presented, together with a copy of
217 his opinion. Any party to the proceeding may introduce additional
218 evidence in the circuit court. Any party to the proceeding in the circuit
219 court may appeal the decision of the circuit court to the court of
220 special appeals within thirty (30) days of the decision. The review
221 proceedings provided by this section shall be exclusive.]]

Beginning on page 50, after line 1249, change Section 52-99 to read:

222 **52-99. Collection; interest and penalties; violation; lien.**

223 * * *

224 (d) Any failure to pay the tax when due under Section [[52-97]] 52-98,
225 and any violation of Section [[52-97]] 52-98 of this Section, is a Class

226 A violation. Each violation is a separate offense. A conviction under
227 this subsection does not relieve any person from paying the tax.

228 * * *

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