Bill No. 39-12
Concerning: Technical Corrections
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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
Sections 1-18 and 1-203

Chapter 1A, Structure of County Government
Sections 1A-101, 1A-102, 1A-105, 1A-108, 1A-109, 1A-204

Chapter 2, Administration
Sections 2-42A, 2-76, 2-128, and 2-140

Chapter 19, Erosion, Sediment Control and Storm Water Management
Sections 19-21 and 19-22

Chapter 19A, Ethics
Sections 19A-17 and 19A-32

Chapter 20, Finance
Section 20-32

Chapter 22, Fire Safety Code
Sections 22-3 and 22-37

Chapter 22A, Forest Conservation – Trees
Section 22A-3

Chapter 24A, Historic Resources Preservation
Section 24A-9

Chapter 29, Landlord-Tenant Relations
Section 29-47

Chapter 33, Personnel and Human Resources
Sections 33-35, 33-37, 33-42, 33-42A, 33-59, 33-120, and 33-128

Chapter 42, Revenue Authority
Section 42-28

Chapter 44, Schools and Camps
Section 44-3

Chapter 49, Streets and Roads
Section 49-33

Chapter 51, Swimming Pools
Sections 51-1 and 51-16A

Chapter 52, Taxation
Section 52-11A, 52-18Q, 52-21, and 52-53

1992 Laws of Montgomery County, Chapter 4
Section 3

2011 Laws of Montgomery County, Chapter 1
Section 2

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

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

1

Sec. 1. Sections 1-18, 1-203, 1A-101, 1A-102, 1A-105, 1A-108, 1A-109, 1A-204, 2-42A, 2-76, 2-128, 2-140, 19-21, 19-22, 19A-17, 19A-32, 20-32, 22-3, 22-37, 22A-3, 24A-9, 29-47, 33-35, 33-37, 33-42, 33-42A, 33-59, 33-120, 33-128, 42-28, 44-3, 49-33, 51-1, 51-16A, 52-11A, 52-18Q, 52-21, and 52-53 are amended as follows:

1-18. Enforcement procedures.

(a) *Definitions*. In Sections 1-18, 1-19 and 1-20:

* * *

(2) County law means any provision of:

* * *

(C)]an] a law, ordinance, or subdivision [regulation] amendment enacted under [the Regional District Act] Division II of the Land Use Article of the Maryland Code;

* * *

1-203. Applicability of County legislation [within municipal corporations] in municipalities.

* * *

(e) *Categories of County legislation applicable [within municipal corporations] in municipalities.*

* * *

(2) Notwithstanding subsections (c)(2) and (c)(3) [of this section], the following categories of County legislation, if otherwise within the scope of legislative powers granted to the County by the General Assembly, shall nevertheless apply [within the boundaries of] in all [municipal corporations] municipalities in the County:

29 * * *

30 (B) County revenue or tax legislation, subject to [the
31 provisions of] the Tax-Property Article [or Article 81,
32 Annotated Code of Maryland 1957, as amended] of the
33 Maryland Code.

34 **1A-101. Scope of article.**

35 * * *

36 (c) List of appointed officials.

37 * * *

38 (4) [Staff Director of the County Council] Council administrator
39 (optional).

40 * * *

41 **1A-102. Process for appointing and confirming officials.**

42 * * *

43 (d) [*Staff Director of the*] *Council Administrator*.

44 (1) There is a position of [Staff Director] Council Administrator.
45 The Council may appoint someone to fill this position.

46 (2) The [Staff Director] Council Administrator must be a
47 professionally qualified administrator.

48 (3) The [Staff Director] Council Administrator is not a merit
49 system employee.

50 (4) An appointment must be by a majority vote of Councilmembers
51 in office.

52 **1A-105. Acting officials.**

53 (a) *Scope*. This Section applies to acting:

54 * * *

55 (5) [Staff directors of the council] Council Administrators.

56 * * *

57 (f) [*Acting Staff Director of the*] *Council Administrator*.

58 (1) If the position of [Staff Director] Council Administrator is
59 vacant, the Council may appoint an acting [Staff Director]
60 Council Administrator.

61 (2) [a.] (A) If the [Staff Director] Council Administrator becomes
62 temporarily absent or disabled, the Council may appoint
63 an acting [Staff Director] Council Administrator.

64 (b.) (B) If the Council does not appoint an acting [Staff Director]
65 Council Administrator under this paragraph, the [Staff
66 Director] Council Administrator may appoint an acting
67 [Staff Director] Council Administrator.

68 (3) An acting [Staff Director] Council Administrator, who is not a
69 merit system employee, must be a professionally qualified
70 administrator.

71 * * *

72 (h) *Removal.*

73 * * *

74 (2) The [council] Council may remove an acting [staff director]
75 Council Administrator at any time.

76 **1A-108. Salaries of Planning Board members.**

77 The annual salary of each member of the Planning Board, other than the
78 member designated as the full-time member under Division II of the Land Use
79 Article of the Maryland Code [Art. 28,] Section [2-104] 15-107, is $24,400, in
80 addition to any salary the member receives under Section [2-104] 15-108 as a
81 member of the Maryland-National Capital Park and Planning Commission.

82 **1A-109. Delegation of Authority; Sub-delegation.**

83 * * *

84 (j) Section 1A-105 exclusively governs the appointment of an acting:

85 * * *

86 (5) Council [Staff Director] Administrator.

87 **1A-204. Supervision of offices and appointment of heads.**

88 * * *

89 (b) *Legislative Branch.*

90 (1) Office of the County Council.

91 [a.] (A) The Council appoints the [Staff Director] Council
92 Administrator as provided for in Section 1A- 102(d), and
93 may give direction to members of the Council's staff. In
94 the absence of direction from the Council, officers of the
95 Council may give directions to the Council's staff.

96 [b.] (B) Except for the Clerk of the Council, the [Staff Director
97 of the County] Council Administrator or another person
98 designated by the Council appoints and supervises all
99 merit system employees of the Office.

100 [c.] (C) Under the merit system laws, the County Council
101 appoints and removes the Clerk of the Council by a
102 resolution approved by a majority of all councilmembers
103 in office. The [Staff Director] Council Administrator
104 supervises the Clerk on all matters.

105 (2) Office of Legislative Oversight.

106 [a.] (A) * * *

107 [b.] (B) * * *

108 [c.] (C) * * *

109 [d.] (D) * * *

110 [e.] (E) * * *

111 (4) Office of Zoning and Administrative Hearings.

112 [A.] (A) The County Council, by a majority vote of
113 Councilmembers in office, may appoint one or more
114 hearing examiners of the Office of Zoning and
115 Administrative Hearings, and designate a hearing
116 examiner or the Council [Staff Director] Administrator as
117 Director of the Office.

118 [B.] (B) * * *

119 [C.] (C) * * *

120 [D.] (D) * * *

121 **2-42A. Functions, powers, and duties.**

122 * * *

123 (d) Duties of the Department.

124 * * *

125 (3) The Department provides staff support to:

126 * * *

127 (C) the Community Action [Committee] Board;

128 * * *

129 **2-76. Exercise of zoning, planning and subdivision powers.**

130 The procedures for the Council to exercise its powers of zoning, planning or
131 subdividing shall be as prescribed by [the Regional District Act, article 28 of the
132 Annotated Code of Maryland] Division II of the Land Use Article of the Maryland
133 Code; by other applicable law enacted by the General Assembly of Maryland; by
134 the zoning or subdivision [ordinances] laws; or otherwise as prescribed by the
135 Council by law.

136 **2-128. Appointment of County Attorney as Assistant State's Attorney; powers,**
137 **duties.**

138 * * *

139 (b) Assistant State's Attorneys so appointed have the same powers as an
140 Assistant State's Attorney appointed under other applicable law and
141 must assist the State's Attorney in prosecuting violations of:

142 (10) any other[,] law, rule, regulation, or ordinance adopted by the
143 Council.

144 * * *

145 **2-140. Powers, duties and functions.**

146 * * *

147 (b) The Office may act as an administrative office or agency designated
148 by the District Council, as prescribed in [the Regional District Act
149 (Article 28 of the Maryland Code)] Division II of the Land Use
150 Article of the Maryland Code.

151 * * *

152 **19-21. Definitions.**

153 In this Article, the following words and phrases have the following
154 meanings unless the context indicates otherwise:

155 * * *

156 *Administrative waiver*: A decision by the Department to allow the
157 construction of a development to be governed by the County stormwater
158 management law in effect as of May 4, 2009. An administrative waiver is
159 distinct from a waiver granted under Section [19-25] 19-24.

160 * * *

161 **19-22. Watershed management plans.**

162 * * *

163 (b) The Board should prepare functional master plans under [Article 28]
164 Division II of the Land Use Article of the Maryland Code to preserve,
165 conserve, and manage natural resources in each of the County's

166 watersheds for the County Council's review and approval. Each
167 functional master plan should address land use, impervious impact on
168 streams and waterways, stream buffers, wildlife and stream habitat,
169 forest preservation, and other issues related to the permitting of
170 stormwater management facilities and the development of watershed
171 management plans

172 **19A-17. Who must file a financial disclosure statement.**

173 (a) The following persons must file a public financial disclosure
174 statement under oath:

175 * * *

176 (2) the following public employees:

177 (A) Chief Administrative Officer and any Deputy Chief
178 Administrative Officer;

179 (B) special assistants to the County Executive;

180 (C) director and deputy director of each department, principal
181 office, and office in the County government;

182 (D) any employee in a non-merit position;

183 [(D)] (E) members of the County Board of Appeals;

184 [(E)] (F) members of the Commission; and

185 [(F)] (G) members of the Merit System Protection Board;

186 * * *

187 **19A-32. Removal for failure to file financial disclosure statement.**

188 (a) If a public employee does not file a complete financial disclosure
189 statement when required to under Section 19A-18, the Chief
190 Administrative Officer (for employees in the Executive [branch]
191 Branch) or the [County] Council [staff director] Administrator (for
192 employees in the [legislative branch] Legislative Branch) may remove

193 the employee from employment with a County agency or from
194 membership on a board, commission or similar body, paid or unpaid.
195 Before an employee is removed for failing to file a financial
196 disclosure statement, the County Attorney must give the employee 30
197 days notice of the proposed removal. The Chief Administrative
198 Officer and the Council [staff director] Administrator must not
199 remove an employee if the employee files the required financial
200 disclosure statement within the time specified in the notice. This
201 Section does not apply to an elected public employee.
202 * * *
203 **20-32. Legislative purpose.**
204 (a) Under the authority of [[Article 44A]] Title 16 of the Housing and
205 Community Development Article of the Maryland Code, Montgomery
206 County, may, at any time and from time to time, guarantee, upon its
207 full faith and credit, revenue bonds of the Housing Opportunities
208 Commission in a total amount not exceeding $50,000,000 to finance
209 the acquisition, provision, development, or rehabilitation of housing at
210 rental rates and prices not being offered in adequate quantity by the
211 private sector, or to finance in whole or in part mortgage loans
212 secured by such housing, and to fund related reserves and costs
213 approved under Title 16 of the Housing and Community Development
214 Article [44A] of the Maryland Code and this Chapter.
215 * * *
216 **22-3. Construction and scope of chapter.**
217 * * *
218 (e) This Chapter does not render any other applicable law or regulation
219 invalid. If a conflict arises between this Chapter and another law or

220 regulation, the fire marshal and the head of the agency responsible for
221 enforcing the conflicting law or regulation must agree which applies.
222 If they cannot agree, any remaining conflict must be referred to the
223 Fire Chief. The decision of the Fire Chief in any matter relating to
224 fire safety is final. [However, any person aggrieved by the decision
225 may appeal to the County Board of Appeals under Chapter 2.] Within
226 30 days after any remaining conflict has been resolved, the Fire Chief
227 and the head of the agency responsible for enforcing the conflicting
228 law or regulation must forward to the County Executive a joint
229 proposal to amend a law or regulation to eliminate the conflict.

230 **22-37. Regulating fire extinguisher service.**

231 The Fire Chief must:

232 * * *

233 [(4)] (d) [To] issue certificates of registration for those firms that qualify
234 under these regulations to engage in the business of servicing portable
235 fire extinguishers, and issue licenses, apprentice permits, and
236 authority to perform hydrostatic testing to the qualified persons.

237 **22A-3. Definitions.**

238 In this Chapter, the following terms have the meanings indicated:

239 * * *

240 *District Council* means the County Council in its capacity, under [Article
241 28] Division II of the Land Use Article of the Maryland Code, to act on planning
242 [the] and zoning [matters] for the Maryland-Washington Regional District.

243 * * *

244 *Mandatory referral* means the required review by the Planning Board of
245 projects or activities to be undertaken by [governmental] government agencies and
246 private and public utilities under Section [7-112 of Article 28] 20-301 of the Land

247 Use Article of the Maryland Code.

248 * * *

249 **24A-9. Demolition by neglect.**

250 In [the event of] a case of demolition by neglect of an historic resource on
251 public or private property, the following provisions shall apply:

252 * * *

253 (b) If the historic resource is listed in the "Locational Atlas and Index of
254 Historic Sites in Montgomery County, Maryland," or the microfilmed
255 addenda to [such] that atlas, published by the Maryland-National
256 Capital Park and Planning Commission, the Director shall advise the
257 Planning Board which, after receiving the recommendation of the
258 Commission, shall conduct a public hearing to determine whether the
259 historic resource will be designated as an historic site or historic
260 district in the master plan for historic preservation.

261 * * *

262 (2) Where the Planning Board determines that the historic resource
263 in all likelihood will be included in the master plan for historic
264 preservation, the Planning Board shall initiate an amendment to
265 the master plan for historic preservation [pursuant to the
266 provisions of article 28] under Division II of the Land Use
267 Article of the [Annotated Code of] Maryland Code.

268 * * *

269 **29-47. Commission action when violation found.**

270 * * *

271 (b) If the Commission or panel finds that a landlord has caused a
272 defective tenancy, it may award each party to the complaint one or
273 more of the following remedies:

274 * * *

275 (3) An award under Section [29-10(c)] 29-10(b) of up to three
276 times the amount of any security deposit that the landlord has
277 wrongfully withheld. When making this award, the
278 Commission must consider the egregiousness of the landlord's
279 conduct in wrongfully withholding all or part of the deposit,
280 whether the landlord acted in good faith, and any prior history
281 by the landlord of wrongful withholding of security deposits;

282 * * *

283 **33-35. Definitions.**

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

285 * * *

286 *Regular earnings*: Except as otherwise provided, gross pay for actual hours
287 worked, including paid leave, but not including overtime. To calculate
288 regular earnings, for FY10 only, a Group A, E, or H member who is
289 employed on July 1, 2009 and participates in the integrated or optional plan
290 must include amounts as if the member had received an increase of 4.5% in
291 the member's gross pay as of July 1, 2009, except for the purpose of
292 calculating a member's contribution under Section 33-39. To calculate
293 regular earnings, for FY10 only, for a Group F member who is employed on
294 July 1, 2009 and participates in the integrated or optional plan must include
295 amounts as if the member had received an increase of 4.25% in the
296 member's gross pay as of July 1, 2009, except for the purpose of calculating
297 a member's contribution under Section 33-39. To calculate regular earnings,
298 for FY10 only, for a Group G member who is employed on July 1, 2009 and
299 participates in the integrated or optional plan must include amounts as if the
300 member had received an increase of 4% in the member's gross pay as of

301 July 1, 2009, except for the purpose of calculating a member's contribution
302 under Section 33-39. If a member is required to take any furlough, as
303 defined in personnel regulations adopted under Section 33-7(b), or a
304 collective bargaining agreement, regular earnings must include any amount
305 the member would have received if the member had not been required to
306 take any furlough. Regular earnings for an elected official is gross pay for
307 services rendered to the County. Regular earnings must not exceed the limit
308 under Internal Revenue Code Section 401(a)(17), as adjusted by the Internal
309 Revenue Service. For a member who first became a member in this
310 retirement system before July 1, 1996, the limits in effect before July 1,
311 1993, and as adjusted by the Internal Revenue Service, shall continue to
312 apply. Gross pay must be used to determine benefits even if the County
313 implements a pick-up plan under Section 414 of the Internal Revenue Code.
314 Gross pay must be used to determine benefits even if a member has agreed
315 to a reduction in earnings under:
316 (a) The County's deferred compensation plan under Section 457 of the
317 Internal Revenue Code; or
318 (b) Any statutory fringe benefit program sponsored by the County and
319 permitted by the Internal Revenue Code.
320 * * *
321 **33-37. Membership requirements and membership groups.**
322 * * *
323 (f) *Membership groups and eligibility.* Any full-time or part-time
324 employee is eligible for membership in the appropriate membership
325 group if the employee meets all of the requirements for the group:
326 * * *

327 (4) Group E: The Chief Administrative Officer, the Council [Staff
328 Director] Administrator, the hearing examiners, the County
329 Attorney and each head of a principal department or office of
330 the County government, if appointed to that position before
331 July 30, 1978, or a member having held that position on or
332 before October 1, 1972. Any sworn deputy sheriff and any
333 County correctional staff or officer as designated by the chief
334 administrative officer. Any group E member who has reached
335 elective early retirement date may retain membership in group
336 E if the member transfers from the position which qualified the
337 member for group E. Any group E member who is temporarily
338 transferred from the position which qualified the member for
339 group E may retain membership in group E as long as the
340 temporary transfer from the group E position does not exceed 3
341 years. Notwithstanding the foregoing provisions in group E,
342 any employee who is eligible for membership in group E must
343 participate in the guaranteed retirement income plan or the
344 retirement savings plan under Article VIII if the employee:
345 * * *
346 (k) *Election to join the guaranteed retirement income plan.*
347 [(5)] (6) An individual who is an elected official after December 6,
348 2010 who participates in the elected officials' plan may make a
349 one-time irrevocable decision to terminate participation in the
350 elected officials' plan and participate in the guaranteed
351 retirement income plan. An elected official must make this
352 decision during the first 150 days after becoming an elected
353 official. If an eligible elected official decides to participate,

354 participation must begin on the first pay period after the elected
355 official has been in office for 180 days. An elected official who
356 decides to participate must have his or her elected officials'
357 plan account balance transferred to the guaranteed retirement
358 income plan. The amount transferred into the guaranteed
359 retirement income plan must become the participant's initial
360 guaranteed retirement income plan account balance. An elected
361 official who does not participate in the guaranteed retirement
362 income plan must continue to participate in the elected
363 officials' plan.

364 **33-42. Amount of pension at normal retirement date or early retirement date.**

365 * * *

366 (i) *Retirement incentive Program.*

367 * * *

368 (5) *Approval.* The Chief Administrative Officer must approve a
369 request to participate in the program from a member employed
370 in the Executive Branch. The Council [Staff Director]
371 Administrator must approve a request to participate in the
372 program from a member employed in the Legislative Branch.
373 If more than 20% of members eligible to participate in the
374 Executive Branch, either Countywide or by department, apply
375 to participate in the program, the Chief Administrative Officer
376 may limit the number of participants, either on a Countywide or
377 department basis. If more than 20% of members eligible to
378 participate in the Legislative Branch apply to participate in the
379 program, the Council [Staff Director] Administrator may limit
380 the number of participants. The Chief Administrative Officer

381 and the Council [Staff Director] Administrator must base any
382 limits on the number of participants on years of service with the
383 County. Years of service with the County must not include
384 service with a participating agency, purchased service, or sick
385 leave.

386 **33-42A. 2010 Retirement Incentive Program.**

387 * * *

388 (g) *Approval.* The Chief Administrative Officer must approve a request
389 to participate in the program from a member employed in the
390 Executive Branch. The Council [Staff Director] Administrator must
391 approve a request to participate from a member employed in the
392 Legislative Branch. The Chief Administrative Officer and the
393 Council [Staff Director] Administrator must not approve more
394 applications from an affected class than the number of positions that
395 are abolished in the affected class. The Chief Administrative Officer
396 and the Council [Staff Director] Administrator may disapprove an
397 application if a vacancy created by a member participating in the
398 program cannot be filled by a member of an affected class. If more
399 members apply to participate in the program than the number of
400 positions abolished, the participants must be approved in order of
401 County seniority calculated under the RIF personnel regulation in the
402 following order:

403 * * *

404 **33-59. Board of investment trustees.**

405 * * *

406 (b) *Membership.*

407 * * *

408 (2) The County Executive must appoint 4 voting, ex officio
409 members of the Board, subject to County Council confirmation
410 as members, who serve indefinitely while each holds the
411 respective office. These ex officio trustees should be:
412 * * *
413 (D) the [Staff Director of the County] Council Administrator.
414 **33-120. Distribution of Benefit.**
415 * * *
416 (g) Direct rollover distributions. Notwithstanding any provision of this
417 Division that would otherwise limit a participant's election under this
418 Section, a participant or beneficiary may elect in any manner
419 prescribed by the Chief Administrative Officer at any time to have
420 any portion of an eligible rollover distribution paid directly to an
421 eligible retirement plan specified by the participant in a direct
422 rollover. As used in this subsection:
423 (1) [a] direct rollover means a payment from the retirement savings
424 plan to the eligible retirement plan specified by the participant.
425 * * *
426 **33-128. Definitions.**
427 * * *
428 *Residual functional capacity* means what the individual can still do, despite
429 the individual's impairment. The County must give the term residual
430 functional capacity the same meaning as the term is given by the Social
431 Security Administration.
432 *Substantial gainful activity* means a level of productive work that requires
433 significant physical or mental duties, or a combination of both, performed
434 for pay or profit on a full- time or part-time basis. An individual is able to

435 perform a substantial level of work if the individual is able to earn more than
436 the Social Security Administration's current monthly earnings limit for a
437 disabled person. The County must give the term substantial gainful activity
438 the same meaning as the term is given by the Social Security Administration.
439 * * *
440 **42-28. Projects subject to planning, subdivision, and zoning laws.**
441 Construction of any project by the Authority is subject to County planning,
442 subdivision, and zoning laws and regulations and those of any planning
443 commission with jurisdiction over the facility or project to the same extent as those
444 laws and regulations apply to a project owned and built by a government agency.
445 The Authority must refer each project that it intends to build to the County
446 Planning Board for its review and comment, as required by Section [7-112] 20-
447 301, et. seq., of [Article 28] the Land Use Article of the Maryland Code, before the
448 Authority includes the project in its capital budget under Section 42-13.
449 **44-3. Interagency Coordinating Board.**
450 * * *
451 (b) *Membership.* The Board consists of voting members and nonvoting,
452 ex officio members.
453 (1) The voting members are:
454 * * *
455 (E) a Councilmember or the [staff director] Council
456 Administrator or a senior staff member of the County
457 Council, who represents the Council;
458 * * *
459 **49-33. Road construction requirements.**
460 * * *
461 (k) *Ground cover.*

462 (1) A property owner may plant and maintain ground cover in a
463 public right-of-way adjacent to the owner's property if the
464 owner:
465 (A) complies with [regulations] guidelines issued under
466 paragraph (3);
467 * * *
468 **51-1. Definitions.**
469 * * *
470 *Lifeguard* means a person who:
471 [(1)] (a) is at least 15 years old; and
472 [(2)] (b) has a valid lifeguard certificate from the American Red Cross, the
473 Young Men's Christian Association, or a comparable program
474 approved by the Director of the Department of Health and Human
475 Services.
476 * * *
477 *Pool management company* means any person, cooperative, association,
478 partnership, firm, or corporation, excluding a pool operator, who is
479 responsible by contract or other agreement with the owner of a public
480 swimming pool for the operation of the public swimming pool, including:
481 [(1)] (a) assuring compliance with all operating standards [set forth] in this
482 Chapter and all [rules and] applicable regulations [promulgated
483 hereunder];
484 [(2)] (b) providing for the physical maintenance, supplies, and personnel as
485 required by this Chapter and all [rules and] applicable regulations
486 [promulgated hereunder]; and
487 [(3)] (c) obtaining all necessary permits and licenses.
488 * * *

489 *Private spa* means any outdoor bathing structure that is:

490 [(1)] (a) a self-contained unit in which all control, water heating, and water
491 circulating equipment is an integral part of the unit;

492 [(2)] (b) built on the grounds of a single-family private residence;

493 [(3)] (c) used solely by the owner, immediate family, tenants, and guests;
494 and

495 [(4)] (d) not used for swimming, diving, or wading.

496 *Private swimming pool* means any swimming pool that is:

497 [(1)] (a) built on the grounds of a single-family private residence; and

498 [(2)] (b) used solely by the owner, immediate family, tenants, and guests.

499 *Public spa* means any public swimming pool that is:

500 [(1)] (a) intended for public recreational and therapeutic uses other than
501 swimming, diving, or wading; and

502 [(2)] (b) is not drained, cleaned, or refilled for each user.

503 * * *

504 **51-16A. Defibrillators**

505 [(d)] (c) * * *

506 [(e)] (d) * * *

507 **52-11A. Homeowners property tax credit.**

508 (a) *Definitions*. In this section, the following words have the meanings
509 indicated.

510 (1) The following words have the meanings defined in Section
511 9-104 of the Tax-Property Article of the Maryland Code:

512 * * *

513 **52-18Q. Property tax credit -energy and environmental design.**

514 * * *

515 (d) Amount of credit

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

517 * * *

518 (C) 10% of the property tax owed on the building for 3 years,
519 if the building achieves a gold rating for LEED-EB or an
520 equivalent standard; [and] or

521 * * *

522 **52-21. Levied; amount.**

523 There is hereby levied a tax on (1) all transfers in the county of a fee simple
524 interest in real property, except by way of mortgage, deed of trust or deed of trust
525 for the benefit of creditors, (2) the initial transfer of stock or other evidence of
526 ownership in a cooperative housing corporation or similar entity, and (3) all
527 transfers of a leasehold interest in real property where the lease or instrument by
528 which a leasehold interest is demised contains a covenant for perpetual renewal,
529 known as ground rent. The tax shall be computed on the value of the full
530 consideration for such transfer at the following rates:

531 * * *

532 (f) On condominium property, four (4) percent of the value of the
533 consideration for the initial transfer of a residential unit subject to a
534 condominium regime, which unit was offered for rent for residential
535 purposes prior to the establishment of the condominium regime.

536 * * *

537 (2) No transfer of any interest in real property shall be taxed under
538 this subsection where:

539 [a.] <u>(A)</u> * * *

540 [b.] <u>(B)</u> The transfer is of a unit in a condominium regime
541 established by recording a declaration, bylaws and
542 condominium plat, [prior to] <u>before</u> July 28, 1980,

543 [pursuant to the provisions and requirements of the
544 Horizontal Property] under the Maryland Condominium
545 Act, [title] Title 11[,] of the Real Property Article[,] of
546 the Maryland Code [Annotated]. For purposes of this
547 subsection, residential units contained in an expanding
548 condominium regime established by recording a
549 declaration, bylaws and condominium plat [prior to]
550 before July 28, 1980, but not added to the established
551 condominium regime by [said] that date, shall continue to
552 be exempt from taxation under this subsection [provided]
553 if the unit becomes a condominium unit in an established
554 condominium regime by the last date for establishment of
555 units in the expanded condominium as contained in the
556 declaration filed [prior to] before July 28, 1980, either as
557 a part of the original expanding condominium or as a part
558 of a separate condominium.

559 (g) * * *

560 (2) * * *

561 [a.] (A) * * *

562 [b.] (B) * * *

563 [c.] (C) * * *

564 **52-53. Restrictions on use and accounting of development impact tax funds.**

565 (a) The funds collected by the development impact tax must be used
566 solely to fund County or municipal transportation improvements of
567 the types listed in Section 52-58 located anywhere in the County,
568 except as provided in subsections (c)[,] and (h)[, and (i)]. In
569 appropriating funds collected by the development impact tax, the

570 Council should, to the extent feasible, designate funds to be used for
571 transportation improvements in the policy area from which the funds
572 were collected or an adjacent policy area.
573 * * *
574 **Sec. 2. Section 3 of Chapter 4 of the 1992 Laws of Montgomery County**
575 **is amended as follows:**
576 **Sec. 3. Contingency on Commission resolution.**
577 Until express authority for Planning Board administration and enforcement
578 of Article II, as enacted in Section 1 of this Act, is provided under State law, this
579 Act is contingent on and does not become effective until the Maryland-National
580 Capital Park and Planning Commission adopts a resolution under Section [7-111(f)
581 of Article 28] 20-207 of the Land Use Article of the Maryland Code allocating the
582 functions provided under this Act to the Montgomery County Planning Board.
583 **Sec. 3. Section 2 of Chapter 1 of the 2011 Laws of Montgomery County**
584 **is amended as follows:**
585 **Sec. 2.** The Council declares that this Act is necessary for the immediate
586 protection of the public interest. This Act takes effect on [the date when it
587 becomes law] December 1, 2010, and applies to any development located in the
588 White Flint impact tax district for which a building permit is issued on or after
589 December 1, 2010. If any development impact tax was collected under Article VII
590 of County Code Chapter 52 before this Act took effect for any development to
591 which this Act applies, the Director of Finance must promptly refund that tax as if
592 a refund were due and claimed under County Code Section 52-54.

593 *Approved:*

594

595 2/6/13

596 Nancy Navarro, President, County Council Date

597 *Approved:*

598

599

600 Isiah Leggett, County Executive Date

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

602

603

604 Linda M. Lauer, Clerk of the Council Date