

MEMORANDUM

November 10, 2016

TO: County Council

FROM: Jeffrey L. Zyontz,  Senior Legislative Analyst

SUBJECT: **Action:** Expedited Bill 35-16, Building Permits - Amendments

Planning, Housing and Economic Development Committee recommendation (3-0): enact Bill 35-16 with the following amendments

Line 10—Delete the reference to the closure of private roads as this topic is covered by Bill 34-15.

Editorial changes to correct punctuation, and capitalize the words Chapter, Director, and Land Record; and
Relocate misplaced provisions in the Bill as introduced.

The Committee recommends an effective date of February 13, 2017. This date will match the proposed effective date for SRA 16-01.

Expedited Bill 35-16, Building Permits - Amendments, sponsored by Lead Sponsor Planning, Housing and Economic Development Committee, was introduced on August 2. A Planning, Housing and Economic Development Committee worksession was held on September 12 and a public hearing was held on September 13 at which there were no speakers.

Bill 35-16 is tied to the approval of Subdivision Regulation Amendment (SRA) 16-01 and Zoning Text Amendment (ZTA) 16-12. SRA 16-01 includes provisions for ownership units (previously called ownership lots). These ownership units may result in fire code violations when there is a use certificate or a building on the parent lot. Bill 35-16 would require a permit when this situation occurs to avoid violations. SRA 16-01 will also remove building permit provisions in the Subdivision Code. Bill 35-16 will include the building permit provisions deleted from that code.

Bill 35-16 would also include the building permit provisions currently in Chapter 59 which will be deleted from Chapter 59 by ZTA 16-12. The intent of these amendments is to consolidate building permit provisions to one chapter of the County Code.

Issues

What is the relationship between Bill 35-16 and ZTA 16-12?

ZTA 16-12 deletes provisions currently in the Zoning Code (Chapter 59). The deleted provisions are included in Bill 35-16. Bill 35-16 would amend Chapter 8 so that all building permit provisions are in a single chapter of code. The following show the deleted provisions in ZTA 16-12 and where those provisions would be included in other sections of code.

Lines 46 to 57 in Bill 35-16 replace the exemption from building permits approval for agricultural facilities that would be deleted in the Zoning Code by ZTA 16-12 (lines 46 to 52).

Lines 54 to 63 in Bill 35-16 would replace the exemption from building permits approval for utility equipment that would be deleted in the Zoning Code by ZTA 16-12 (lines 53 to 62).

Lines 121 to 128 in Bill 35-16 would replace the requirement for more information for larger parking lots that would be deleted in the Zoning Code by ZTA 16-12 (lines 64 to 69).

Lines 83 to 95 in Bill 35-16 would replace the requirement for the Planning Director review of building permits that would be deleted in the Zoning Code by ZTA 16-12 (lines 71 to 78).

Lines 129 to 137 in Bill 35-16 would replace the requirement to allow variations from site plans that would be deleted in the Zoning Code by ZTA 16-12 (lines 82 to 90).

Lines 198 to 216 in Bill 35-16 would replace the requirement concerning use and occupancy permits that would be deleted in the Zoning Code by ZTA 16-12 (lines 91 to 101).

Lines 255 to 263 in Bill 35-16 would replace the requirement concerning the building permit approval process and necessary findings that would be deleted in the Zoning Code by ZTA 16-12 (lines 110 to 122).

How does Bill 35-16 relate to SRA 16-01?

As introduced, SRA 16-01 repeated the current building permit provisions in the subdivision code. For example, the current code prohibited the issuance of a building permit for any lot or parcel not shown on a record plat or in violation of a building restriction line. Those provisions are not included in the July 18 staff proposed redraft of SRA 16-01 and included in Chapter 8 through the approval of Bill 35-16 (lines 36 to 41).

SRA 16-01 allows for private roads and ownership units. Bill 35-16 would require a permit from DPS to close a private road or to create or alter any ownership unit when a use under an occupancy certificate or a structure exists on the parent lot. The Department is concerned about maintaining safe access to occupied buildings. *These provisions can be approved without regard to the approval of SRA 16-01.*

What happens if the Council decides not to approve Bill 35-16?

The Council should not approve ZTA 16-12 unless it also approves the provisions of Bill 35-16 that replace the deleted provisions in ZTA 16-12.

The attachments to this packet include the Bill as introduced and also the Bill as recommended by staff to the PHED Committee.

This Packet Contains:	Circle #
Expedited Bill 35-16	1
Legislative Request Report	13
Bill Draft with Staff Amendments	14
Fiscal and Economic Impact statement	26

Expedited Bill No. 35-16
Concerning: Building Permits –
Amendments
Revised: 7/27/2016 Draft No. 1
Introduced: August 2, 2016
Expires: February 2, 2018
Enacted: _____
Executive: _____
Effective: _____
Sunset Date: None
Ch. _____, Laws of Mont. Co. _____

COUNTY COUNCIL FOR MONTGOMERY COUNTY, MARYLAND

Lead Sponsor: Planning, Housing, and Economic Development Committee

AN ACT to:

- 1) include the building permit provisions currently in Chapter 50;
- 2) include the building permit provisions currently in Chapter 59; and
- 3) generally amend County law regarding building permits.

By amending

Montgomery County Code
Chapter 8, Building Permits
Sections 8-1, 8-8, 8-13, 8-14, 8-24, and 8-28

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:

1 **Sec. 1. Chapter 8 is amended by amending Sections 8-1, 8-8, 8-13, 8-14, 8-**
2 **24 and 8-28 as follows:**

3 **8-1. Scope and applicability.**

4 (a) *Generally.* This [chapter shall be construed to include those] Chapter
5 includes the rules and regulations adopted [pursuant to] under [section]
6 Section 8-13[, herein,] which [shall have] have the force [and effect] of
7 law. It [shall be] is known as the building code of Montgomery County.
8 It [shall control] controls all matters concerning the construction,
9 alteration, addition, repair, removal, demolition, use, location, creation
10 or alteration of any ownership unit, closure of any private road,
11 occupancy and maintenance of all buildings and structures, on-site
12 access facilities to such buildings and structures [and], their service
13 equipment [as herein defined and shall apply]. This Chapter applies to
14 existing or proposed buildings and structures in the county.

15 (b) *Intent.* [This chapter shall be construed to secure its expressed intent
16 which] The intent of this Chapter is to [insure] assure public safety,
17 health and welfare [insofar] as [they were] it is affected by building
18 construction, [through] structural strength, [adequate] egress facilities,
19 sanitary equipment, light, utilities and ventilation, occupancies, and fire
20 safety [and in]. In general, the intent of this chapter is to secure safety to
21 life and property from all hazards [incident to] associated with the
22 design, erection, repair, removal, demolition or use and occupancy of
23 buildings, structures or premises.

24 (c) *Applicability generally.*

25 (1) [The provisions of this chapter shall apply] This Chapter
26 applies to the construction, raising, lowering, moving,
27 demolition or occupancy of all buildings and structures and

28 their appurtenant construction, including vaults, area and street
 29 projections, on-site access facilities, [and] accessory structures,
 30 and additions [, and shall apply with equal force]. It applies to
 31 public and private buildings, except where such buildings are
 32 otherwise specifically [provided for] excluded by statute. It also
 33 applies to the creation or alteration of any ownership unit, and the
 34 closure of any private road.

35 (2) A building permit may only be issued for a building located on:

36 (A) a lot or parcel shown on a plat recorded in the County
 37 Land Records or on a parcel exempt from recording
 38 requirements under Section 50-3.3; and

39 (B) an area outside of any building restriction line and
 40 outside the area restricted under Section 50-4.3.K.

41 (d) *Exemptions.* [No building] All buildings or structures [shall] must be
 42 constructed, extended, repaired, removed or altered [in violation of
 43 these provisions] under a permit that satisfies this Chapter, except for:

44 (1) ordinary repairs as defined in [section] Section 8-3;

45 (2) a building or structure used exclusively for agricultural
 46 purposes on land used exclusively for agriculture; however, a
 47 permit under this Chapter is required for:

48 (A) a building or structure used for a purpose that is not
 49 exclusively agricultural, including conditional uses, even
 50 though located on otherwise agricultural land;

51 (B) an equestrian facility, building, or structure intended for
 52 use by participants or spectators at an equestrian event;

53 (3) the following public utility equipment:

54 (A) any structure and its attached cross arms carrying overhead
 55 electric power and energy transmission and distribution
 56 lines that carry 69,000 volts or less;

57 (B) equipment installed and maintained by a public utility
 58 under regulation by the State Public Service Commission;
 59 or

60 (D) poles or structures used for street lights, fire alarm boxes,
 61 traffic signals, or similar municipal equipment installed by
 62 the State or a local municipality

63 [and except further, that the raising or lowering or moving of a building
 64 or structure as a unit necessitated by a change in legal grade or widening
 65 of a street shall be permitted; provided that the building is not otherwise
 66 altered or its use or occupancy changed].

67 (e) *Matters not provided for.* Any requirement essential for structural, fire
 68 or sanitary safety of an existing or proposed building or structure or
 69 essential for the safety of the building's occupants [thereof] and which
 70 is not specifically covered by this chapter, [shall] must be determined by
 71 the director [in accordance with procedures set forth in] under [section]
 72 Section 8-13.

73 (f) *Zoning restrictions and referrals.*

74 (1) When the provisions specified in this [chapter] Chapter for
 75 structural, fire, and sanitary safety are more restrictive than
 76 those [set forth] in [chapter] Chapter 59 [of this Code], this
 77 [chapter shall control] Chapter controls the erection or
 78 alteration of buildings in respect to location, use, permissible
 79 area and height; but [in any case,] the more rigid requirements

80 of either the building code or the zoning ordinance [shall apply]
 81 applies whenever they [may be] are in conflict.

82 (2) The Director must submit the application to the Planning
 83 Director for review for any building permit that requests:

84 (A) construction of a new principal structure; and

85 (B) construction that increases the gross floor area of an
 86 existing commercial structure.

87 (3) The Planning Director must confirm in writing that the submitted
 88 application satisfies Chapter 59 and that the property has all
 89 necessary approvals and satisfied all necessary conditions
 90 required by the Planning Department and Planning Board and
 91 identify for each permit the amount of any school facility
 92 payment, transportation mobility area review payment or other
 93 development payment other than impact taxes that is required to
 94 be paid as a condition of building permit.

95 (4) A building permit application for a child lot in the Agricultural
 96 Reserve Zone may only be approved if the child for whom the lot
 97 is created is owner of the lot in the County land records. A
 98 building permit for a detached house on a child lot must be issued
 99 only to:

100 (A) a child of the property owner;

101 (B) the spouse of a child of the property owner;

102 (C) a contractor for a child of the property owner; or

103 (D) a contractor for the spouse of a child of the property
 104 owner.

105 **8-2. Definitions.**

106 * * *

107 Ownership unit: An area of land shown on a record plat created only for the
 108 convenience of the owner under Section 7.1.D of Chapter 50 that reflects a deed,
 109 mortgage, or lease line but does not subdivide the underlying lot.

110 * * *

111 Parent lot: a subdivided lot that is further divided by one or more ownership units.

112 * * *

114 Private Road: Any street, highway, avenue, lane, alley, or viaduct, or any segment of
 115 any of them, including any adjacent sidewalk that has not been deeded, dedicated or
 116 otherwise permanently appropriated to the public for public use.

117 * * *

118 **8-8. [Reserved] Site plan or conditional use approval.**

119 (a) For projects that do not require site plan approval or conditional use
 120 approval and include more than 10 parking spaces, an application for
 121 building permit must include a plan showing:

122 (1) the location and design of entrances and exits to public roads;

123 (2) the location and size of all buildings and structures;

124 (3) the location of parking spaces, directional markings, traffic-
 125 control devices and signs; and

126 (4) that it satisfies Division 59-6.2 of Chapter 59.

127 (b) For a site with a conditional use:

128 (1) The Department may allow minor adjustments during
 129 construction that the Planning Director has confirmed do not
 130 substantially alter the size, location, or external appearance of
 131 any approved building, structure, or use.

132 (2) Any change proposed during construction that would
 133 substantially alter the location or external appearance of any

134 approved building, structure, or use requires an amendment
 135 under Article 59-7 of this Code.

136 * * *

137 **8-13. Regulations.**

138 (a) The [director] Director may recommend [written] regulations for the
 139 administration [of the provisions] of this chapter including a schedule of
 140 fees and may, at [his] the Director's discretion, hold public hearings as
 141 part of this regulation-making process. [Such regulations and]
 142 Regulations [amendments thereto shall], as amended, must not conflict
 143 with [nor] or waive any provisions of this chapter [nor be less restrictive
 144 than its provisions]. Such regulations must be at least as restrictive as
 145 the requirements of this Chapter [and shall] All regulations must be
 146 adopted by the [county executive] County Executive under method (2)
 147 of [section] Section 2A-15 [of this Code]. [In the case of fees, the] The
 148 [county executive shall] County Executive must promptly forward to
 149 the [county council] County Council a copy of [the] any new fee
 150 schedule for use in budgetary planning activities. Such fees [shall be in
 151 accordance with formulas based upon criteria to include or] may be
 152 based on area, estimated cost of construction, or a minimal set fee per
 153 category[, not to exceed] The budget estimate of all fees must be equal
 154 to the cost of administering [and enforcing] this Code.

155 (b) The Director must hold at least one public hearing, after adequate public
 156 notice, before recommending to the Executive any regulations adopted
 157 under this Chapter [adopting standards and requirements for the
 158 construction, alteration, addition, repair, removal, demolition, use,
 159 location, occupancy, and maintenance of all buildings and structures or
 160 parts of either, on-site access facilities to buildings and structures, and

161 their service equipment]. [Those] All regulations [, adopted under
 162 method (2)], related to the construction or demolition must be based on
 163 the latest edition of the ICC International Building Code and any local
 164 amendments to that Code.

165 **8-14. Standards applicable.**

166 (a) The edition of the ICC International Building Code designated under
 167 Section 8-13 is the basic County building code. The construction,
 168 alteration, addition, repair, removal, demolition, use, location,
 169 occupancy, and maintenance of all buildings and structures or parts
 170 thereof, on-site access facilities to buildings and structures, and their
 171 service equipment must meet the standards and requirements [set
 172 forth] in that Code, or as amended under Section 8-13.

173 (b) The closure of any private road must meet the standards and
 174 requirements of Chapter 22 and Chapter 49.

175 * * *

176 **8-24. Application for permit.**

177 (a) *When required.* It [shall be] is unlawful to construct, enlarge, alter,
 178 remove or demolish a building or change the occupancy of a building
 179 from one use group to another requiring greater strength, exitway or
 180 sanitary provisions; or to change to a prohibited use; or create or alter
 181 any ownership unit when a use under an occupancy certificate or a
 182 structure exists on the parent lot; or to install or alter any equipment
 183 for which provision is made or the installation of which is regulated
 184 by this chapter, without first filing an application with the department
 185 in writing and obtaining the required permit therefor; except, that
 186 ordinary repairs as defined in [section] Section 8-3 which do not

187 involve any violation of this [chapter shall be] Chapter are exempt
 188 from this provision.

189 * * *

190 (d) *Description of work.* The application [shall] must contain a general
 191 description of the proposed work, its location, the use and occupancy of
 192 all parts of the building or structure and of all portions of the site or lot
 193 not covered by the building, the location of any ownership units on the
 194 lot, and such additional information as may be and such additional
 195 information as may be required by the director.

196 **8-28. Certificate of use and occupancy.**

197 (a) *Applicability.*

198 (1) A use-and-occupancy permit is required before any building,
 199 structure, or land can be used or can be converted, wholly or in
 200 part, from one use to another.

201 (2) Exemptions from use-and-occupancy permit requirement:

202 (A) land or buildings used exclusively for agricultural
 203 purposes;

204 (B) a use for which a valid occupancy permit was issued and
 205 not revoked before June 1, 1958; and

206 (C) a Transitory Use.

207 (b) *Application Requirements.* Each application for a use-and-occupancy
 208 permit must be accompanied by 2 copies of a plan drawn to scale
 209 showing:

210 (1) the lot on which a use is proposed, lot dimensions, lot and block
 211 numbers and subdivision name, if any;

212 (2) the location, extent, and layout for the proposed use and any other
 213 pertinent information; and

214 (3) north point, date and scale of plan.

215 [(a)] (c) *New buildings.* It [shall be] is unlawful for any person to use or
 216 occupy a building hereafter erected in whole or in part until the
 217 certificate of use and occupancy [as provided in chapter 59 of this Code
 218 shall have been] is issued by the [director] Director in [accordance with
 219 the requirements] satisfaction of this [chapter] Chapter.

220 [(b)] (d) *Buildings hereafter altered.* It [shall be] is unlawful for any person to
 221 use or occupy a building hereafter enlarged, extended or altered to
 222 change from one use group to another, in whole or in part until a
 223 certificate of use and occupancy [shall have been] is issued by the
 224 director certifying that the work [has been] was completed in
 225 [accordance with the provisions of] satisfaction of the approved permit[;
 226 except, that any]. Any use or occupancy[, which] that was [not
 227 discontinued] continued during the work of alteration, [shall] must be
 228 discontinued within [thirty (30)] 30 days after the completion of the
 229 alteration unless the required certificate is secured from the director.

230 [(c)] (e) *Existing buildings.* Upon written request from the owner of an existing
 231 building, the [director shall] Director must issue a certificate of use and
 232 occupancy[; provided, that] if there are no violations of law or orders of
 233 the director pending [and it is established after inspection and
 234 investigation]. In addition, the director must establish that the alleged
 235 use of the building has heretofore existed. Nothing in this chapter [shall
 236 require] requires the removal, alteration, or abandonment of [or prevent
 237 the continuance of] the use and occupancy of a lawfully existing
 238 building, unless such use is deemed to endanger public safety and
 239 welfare.

240 [(d)] (f) *Changes in use and occupancy.* After a change of use [has been] is
 241 made in a building, [it shall be unlawful for] a person [to reestablish] is
 242 prohibited from reestablishing a prior use that is not lawful for a new
 243 building of the same type of construction unless the owner complies
 244 with all the applicable provisions of this [chapter are complied with]
 245 Chapter.

246 [(e)] (g) *Temporary occupancy.* Upon the request of the holder of a permit, the
 247 [director] Director may issue a temporary certificate of occupancy for a
 248 building or structure or part thereof before the entire work covered by
 249 the permit shall have been completed [; provided,] if that such portion or
 250 portions may be occupied safely [prior to] before full completion of the
 251 building without endangering life or public welfare.

252 (h) *Necessary Findings.*

253 (1) The Department must find the building complies with Chapter
 254 59.

255 (2) Any building, structure, or land on a site with any previous
 256 development approval must satisfy the requirements,
 257 representations, plans, and conditions contained in the decision or
 258 resolution of the deciding body.

259 (3) The Department must inspect construction or alteration for
 260 completion under the applicable decision or resolution.

261 [(f)] (i) *Contents of certificate.* When a building or structure is entitled
 262 [thereto] to a certificate of use and occupancy, the [director shall]
 263 Director must issue a certificate [of use and occupancy within ten (10)]
 264 10 days after written applications. The certificate [shall certify] certifies
 265 compliance with [the provisions of] this [chapter] Chapter and the
 266 purpose for which the building or structure may be used [in its several

267 parts]. The certificate of use and occupancy [shall] must specify the use
268 group, the [maximum] allowable live load on all floors, the occupancy
269 load in the building and all parts [thereof] of the building and any
270 special stipulations and conditions of the building permit.

271 *Approved:*

272

Nancy Floreen, President, County Council

Date

273 *Approved:*

274

Isiah Leggett, County Executive

Date

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

276

Linda M. Lauer, Clerk of the Council

Date

LEGISLATIVE REQUEST REPORT

Expedited Bill 35-16
Building Permits - Amendments

- DESCRIPTION:** This Bill would consolidate building permit provisions currently in Chapters 50 and 59. It would add provisions for ownership units consistent with changes proposed to Chapter 50.
- PROBLEM:** The rewrite of Chapter 50 requires amendments to Chapter 8 and Chapter 59.
- GOALS AND OBJECTIVES:** The amendment will allow code users to more easily find all building permit provisions and allow for improved coordination of ownership units that may cause fire code violations.
- COORDINATION:** Planning Department and Department of Permitting Services
- FISCAL IMPACT:** To be requested.
- ECONOMIC IMPACT:** To be requested.
- EVALUATION:** To be requested.
- EXPERIENCE ELSEWHERE:** To be researched.
- SOURCE OF INFORMATION:** Planning Department and Department of Permitting Services
- APPLICATION WITHIN MUNICIPALITIES:** To be researched.
- PENALTIES:** Violates are treated as a class A violation.

Expedited Bill No. 35-16
Concerning: Building Permits –
Amendments
Revised: 11/7/2016 Draft No. 3
Introduced: August 2, 2016
Expires: February 2, 2018
Enacted: _____
Executive: _____
Effective: _____
Sunset Date: None
Ch. _____, Laws of Mont. Co. _____

COUNTY COUNCIL FOR MONTGOMERY COUNTY, MARYLAND

Lead Sponsor: Planning, Housing, and Economic Development Committee

AN ACT to:

- 1) include the building permit provisions currently in Chapter 50;
- 2) include the building permit provisions currently in Chapter 59; and
- 3) generally amend County law regarding building permits.

By amending

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

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 2 **24 and 8-28 as follows:**

3 **8-1. Scope and applicability.**

4 (a) *Generally.* This [chapter shall be construed to include those] Chapter
 5 includes the rules and regulations adopted [pursuant to] under [section]
 6 Section 8-13[, herein,] which [shall have] have the force [and effect] of
 7 law. It [shall be] is known as the building code of Montgomery County.
 8 It [shall control] controls all matters concerning the construction,
 9 alteration, addition, repair, removal, demolition, use, location[[,closure
 10 of any private road,]]. This Chapter also concerns the creation or
 11 alteration of [[any]] certain ownership [[unit]] units, the occupancy and
 12 maintenance of all buildings and structures, on-site access facilities to
 13 such buildings and structures [and][[,] and their service equipment [as
 14 herein defined and shall apply]. This Chapter applies to existing or
 15 proposed buildings and structures in the [[county]] County.

16 (b) *Intent.* [This chapter shall be construed to secure its expressed intent
 17 which] The intent of this Chapter is to [insure] assure public safety,
 18 health and welfare [insofar] as [they were] it is affected by building
 19 construction, [through] structural strength, [adequate] egress facilities,
 20 sanitary equipment, light, utilities and ventilation, occupancies, and fire
 21 safety [and in]. In general, the intent of this chapter is to secure safety to
 22 life and property from all hazards [incident to] associated with the
 23 design, erection, repair, removal, demolition or use and occupancy of
 24 buildings, structures or premises.

25 (c) *Applicability generally.*

26 (1) [The provisions of this chapter shall apply] This Chapter
 27 applies to the construction, raising, lowering, moving,

28 demolition or occupancy of all buildings and structures and
 29 their appurtenant construction, including vaults, area and street
 30 projections, on-site access facilities, [and] accessory structures,
 31 and additions [, and shall apply with equal force]. It applies to
 32 public and private buildings, except where such buildings are
 33 otherwise specifically [provided for] excluded by statute. It also
 34 applies to the creation or alteration of any ownership unit, and the
 35 closure of any private road.

36 (2) A building permit may only be issued for a building located on:

37 (A) a lot or parcel shown on a plat recorded in the County
 38 Land Records or on a parcel exempt from recording
 39 requirements under Section 50-3.3; and

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 41 outside the area restricted under Section 50-4.3.K.

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 44 these provisions] under a permit that satisfies this Chapter, except for:

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 47 purposes on land used exclusively for agriculture; however, a
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 53 use by participants or spectators at an equestrian event;

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 62 traffic signals, or similar municipal equipment installed by
 63 the State or a local municipality

64 [and except further, that the raising or lowering or moving of a building
 65 or structure as a unit necessitated by a change in legal grade or widening
 66 of a street shall be permitted; provided that the building is not otherwise
 67 altered or its use or occupancy changed].

68 (e) *Matters not provided for.* Any requirement essential for structural, fire
 69 or sanitary safety of an existing or proposed building or structure or
 70 essential for the safety of the building's occupants [thereof] and which
 71 is not specifically covered by this [[chapter]] Chapter, [shall] must be
 72 determined by the director [in accordance with procedures set forth in]
 73 under [section] Section 8-13.

74 (f) *Zoning restrictions and referrals.*

75 (1) When the provisions specified in this [chapter] Chapter for
 76 structural, fire, and sanitary safety are more restrictive than
 77 those [set forth] in [chapter] Chapter 59 [of this Code], this
 78 [chapter shall control] Chapter controls the erection or
 79 alteration of buildings in respect to location, use, permissible
 80 area and height; but [in any case,] the more rigid requirements

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84 Director for review for any building permit that requests:

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87 existing commercial structure.

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89 application [[satisfies]] satisfied Chapter 59 and that the property
90 has all necessary approvals and satisfied all necessary conditions
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94 development payment other than impact taxes that is required to
95 be paid as a condition of building permit.

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97 Reserve Zone may only be approved if the child for whom the lot
98 is created is the owner of the lot in the County [[land records]]
99 Land Records. A building permit for a detached house on a child
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102 (B) the spouse of a child of the property owner;

103 (C) a contractor for a child of the property owner; or

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105 owner.

106 **8-2. Definitions.**

107 * * *

18

108 Ownership unit [[:]], An area of land shown on a record plat created only for the
109 convenience of the owner under Section 7.1.D of Chapter 50 that reflects a deed,
110 mortgage, or lease line but does not subdivide the underlying lot.

111 * * *

112 Parent lot [[: a]], A [[subdivided]] lot that is further divided by one or more
113 ownership units.

114 * * *

115 Private Road [[:]], Any street, highway, avenue, lane, alley, or viaduct, or any
116 segment of any of them, including any [[adjacent]] abutting sidewalk that has not
117 been deeded, dedicated or otherwise permanently appropriated to the public for
118 public use.

119 * * *

120 **8-8. [Reserved] [[Site plan or conditional]] Conditional use approval.**

121 [[a)] For projects that do not require site plan approval or conditional use
122 approval and include more than 10 parking spaces, an application for
123 building permit must include a plan showing:

- 124 (1) the location and design of entrances and exits to public roads;
- 125 (2) the location and size of all buildings and structures;
- 126 (3) the location of parking spaces, directional markings, traffic-
127 control devices and signs; and
- 128 (4) that it satisfies Division 59-6.2 of Chapter 59.]

129 [[b)] For a site with a conditional use:

130 [[1)](a) The Department may allow minor adjustments during
131 construction that the Planning Director has confirmed do not
132 substantially alter the size, location, or external appearance of any
133 approved building, structure, or use.

134 ~~[(2)]~~(b) Any change proposed during construction that would
 135 substantially alter the location or external appearance of any approved
 136 building, structure, or use requires an amendment under Article 59-7
 137 of this Code.

138 * * *

139 **8-13. Regulations.**

- 140 (a) The [director] Director may recommend [written] regulations for the
 141 administration [of the provisions] of this chapter including a schedule of
 142 fees and may, at [his] the Director's discretion, hold public hearings as
 143 part of this regulation-making process. [Such regulations and]
 144 Regulations [amendments thereto shall], as amended, must not conflict
 145 with [nor] or waive any provisions of this chapter [nor be less restrictive
 146 than its provisions]. Such regulations must be at least as restrictive as
 147 the requirements of this Chapter. [and shall] All regulations must be
 148 adopted by the [county executive] County Executive under method (2)
 149 of [section] Section 2A-15 [of this Code]. [In the case of fees, the] The
 150 [county executive shall] County Executive must promptly forward to
 151 the [county council] County Council a copy of [the] any new fee
 152 schedule for use in budgetary planning activities. Such fees [shall be in
 153 accordance with formulas based upon criteria to include area or] may be
 154 based on area, estimated cost of construction, or a minimal set fee per
 155 category[, not to exceed]. The budget estimate of all fees must be equal
 156 to the cost of administering [and enforcing] this Code.
- 157 (b) The Director must hold at least one public hearing, after adequate public
 158 notice, before recommending to the Executive any regulations adopted
 159 under this Chapter [adopting standards and requirements for the
 160 construction, alteration, addition, repair, removal, demolition, use,

161 location, occupancy, and maintenance of all buildings and structures or
 162 parts of either, on-site access facilities to buildings and structures, and
 163 their service equipment]. [Those] All regulations [, adopted under
 164 method (2)], related to the construction or demolition must be based on
 165 the latest edition of the ICC International Building Code and any local
 166 amendments to that Code.

167 **8-14. Standards applicable.**

168 (a) The edition of the ICC International Building Code designated under
 169 Section 8-13 is the basic County building code. The construction,
 170 alteration, addition, repair, removal, demolition, use, location,
 171 occupancy, and maintenance of all buildings and structures or parts
 172 thereof, on-site access facilities to buildings and structures, and their
 173 service equipment must meet the standards and requirements [set
 174 forth] in that Code, or as amended under Section 8-13.

175 (b) The closure of any private road must meet the standards and
 176 requirements of Chapter 22 and Chapter 49.

177 * * *

178 **8-24. Application for permit.**

179 (a) *When required.* It [shall be] is unlawful to construct, enlarge, alter,
 180 remove or demolish a building or change the occupancy of a building
 181 from one use group to another requiring greater strength, exitway or
 182 sanitary provisions; or to change to a prohibited use; or create or alter
 183 any ownership unit when a use under an occupancy certificate or a
 184 structure exists on the parent lot; or to install or alter any equipment
 185 for which provision is made or the installation of which is regulated
 186 by this chapter, without first filing an application with the department
 187 in writing and obtaining the required permit therefor; except, that

188 ordinary repairs as defined in [section] Section 8-3 which do not
 189 involve any violation of this [chapter shall be] Chapter are exempt
 190 from this provision.

191 * * *

192 (d) *Description of work.* The application [shall] must contain a general
 193 description of the proposed work, its location, the use and occupancy of
 194 all parts of the building or structure and of all portions of the site or lot
 195 not covered by the building, the location of any ownership units on the
 196 lot, and such additional information as may be and such additional
 197 information as may be required by the director.

198 (e) For projects that do not require site plan approval or conditional use
 199 approval and include more than 10 parking spaces, an application for
 200 building permit must include a plan showing:

201 (1) the location and design of entrances and exits to public roads;

202 (2) the location and size of all buildings and structures;

203 (3) the location of parking spaces, directional markings, traffic-
 204 control devices and signs; and

205 (4) that it satisfies Division 59-6.2 of Chapter 59.

206 * * *

207 **8-28. Certificate of use and occupancy.**

208 (a) *Applicability.*

209 (1) A use-and-occupancy permit is required before any building,
 210 structure, or land can be used or can be converted, wholly or in
 211 part, from one use to another.

212 (2) Exemptions from use-and-occupancy permit requirement:

213 (A) land or buildings used exclusively for agricultural
 214 purposes;

215 (B) a use for which a valid occupancy permit was issued and
 216 not revoked before June 1, 1958; and

217 (C) a Transitory Use.

218 (b) Application Requirements. Each application for a use-and-occupancy
 219 permit must be accompanied by 2 copies of a plan drawn to scale
 220 showing:

221 (1) the lot on which a use is proposed, lot dimensions, lot and block
 222 numbers and subdivision name, if any;

223 (2) the location, extent, and layout for the proposed use and any other
 224 pertinent information; and

225 (3) north point, date and scale of plan.

226 [(a)] (c) New buildings. It [shall be] is unlawful for any person to use or
 227 occupy a building hereafter erected in whole or in part until the
 228 certificate of use and occupancy [as provided in chapter 59 of this Code
 229 shall have been] is issued by the [director] Director in [accordance with
 230 the requirements] satisfaction of this [chapter] Chapter.

231 [(b)] (d) Buildings hereafter altered. It [shall be] is unlawful for any person to
 232 use or occupy a building hereafter enlarged, extended or altered to
 233 change from one use group to another, in whole or in part until a
 234 certificate of use and occupancy [shall have been] is issued by the
 235 director certifying that the work [has been] was completed in
 236 [accordance with the provisions of] satisfaction of the approved permit;
 237 except, that any]. Any use or occupancy[, which] that was [not
 238 discontinued] continued during the work of alteration, [shall] must be
 239 discontinued within [thirty (30)] 30 days after the completion of the
 240 alteration unless the required certificate is secured from the [[director]]
 241 Director.

242 [(c)] (e) *Existing buildings*. Upon written request from the owner of an existing
 243 building, the [director shall] Director must issue a certificate of use and
 244 occupancy[; provided, that] if there are no violations of law or orders of
 245 the [[director]] Director pending [and it is established after inspection
 246 and investigation]. In addition, the [[director]] Director must establish
 247 that the alleged use of the building has heretofore existed. Nothing in
 248 this [[chapter]] [shall require] Chapter requires the removal, alteration,
 249 or abandonment of [or prevent the continuance of] the use and
 250 occupancy of a lawfully existing building, unless such use is deemed to
 251 endanger public safety and welfare.

252 [(d)] (f) *Changes in use and occupancy*. After a change of use [has been] is
 253 made in a building, [it shall be unlawful for] a person [to reestablish] is
 254 prohibited from reestablishing a prior use that is not lawful for a new
 255 building of the same type of construction unless the owner complies
 256 with all the applicable provisions of this [chapter are complied with]
 257 Chapter.

258 [(e)] (g) *Temporary occupancy*. Upon the request of the holder of a permit, the
 259 [director] Director may issue a temporary certificate of occupancy for a
 260 building or structure or part thereof before the entire work covered by
 261 the permit shall have been completed [; provided,] if that such portion or
 262 portions may be occupied safely [prior to] before full completion of the
 263 building without endangering life or public welfare.

264 (h) *Necessary Findings*.

265 (1) The Department must find the building complies with Chapter
 266 59.

267 (2) Any building, structure, or land on a site with any previous
 268 development approval must satisfy the requirements,

269 representations, plans, and conditions contained in the decision or
270 resolution of the deciding body.

271 (3) The Department must inspect construction or alteration for
272 completion under the applicable decision or resolution.

273 [(f)] (i) *Contents of certificate.* When a building or structure is entitled
274 [thereto] to a certificate of use and occupancy, the [director shall]
275 Director must issue a certificate [of use and occupancy within ten (10)]
276 10 days after written applications. The certificate [shall certify] certifies
277 compliance with [the provisions of] this [chapter] Chapter and the
278 purpose for which the building or structure may be used [in its several
279 parts]. The certificate of use and occupancy [shall] must specify the use
280 group, the fire grading, the [maximum] allowable live load on all floors,
281 the occupancy load in the building and all parts [thereof] of the building
282 and any special stipulations and conditions of the building permit.

283 **Sec. 2. Expedited Effective Date.**

284 The Council declares that this legislation is necessary for the immediate
285 protection of the public interest. This Act takes effect on February 13, 2017.

286

287 *Approved:*

288

Nancy Floreen, President, County Council

Date

289 *Approved:*

290

Isiah Leggett, County Executive

Date



ROCKVILLE, MARYLAND

MEMORANDUM

September 16, 2016

TO: Nancy Floreen, President, County Council

FROM: *JAH* Jennifer A. Hughes, Director, Office of Management and Budget
Alexandre A. Espinosa, Director, Department of Finance

Jennifer A. Hughes

SUBJECT: FEIS for Bill 35-16E, Building Permits – Amendments

Please find attached the fiscal and economic impact statements for the above-referenced legislation.

JAH:fz

cc: Bonnie Kirkland, Assistant Chief Administrative Officer
Lisa Austin, Offices of the County Executive
Joy Nurmi, Special Assistant to the County Executive
Patrick Lacefield, Director, Public Information Office
Diane Jones, Director, Department of Permitting Services
David Platt, Department of Finance
Dennis Hetman, Department of Finance
Jennifer Nordin, Office of Management and Budget
Naeem Mia, Office of Management and Budget

Fiscal Impact Statement
Emergency Bill No. 35-16 Building Permits

1. Emergency Bill Summary.

The proposal consolidates building code provisions in Chapter 50 and 59 into Chapter 8. This bill establishes permits for ownership units to avoid fire code violations to existing property or newly created ownership units.

2. An estimate of changes in County revenues and expenditures regardless of whether the revenues or expenditures are assumed in the recommended or approved budget. Includes source of information, assumptions, and methodologies used.

The Department of Permitting Services (DPS) expects 160 work-hours will be needed to reconfigure Hansen and Apply Online IT systems. DPS also expects additional staff work-hours for processing, plan reviews and inspections. These costs will be absorbed within current appropriations.

*The permit fee will be set to \$670 (the base commercial permit fee). DPS expects this fee to cover the cost of services. DPS projects a minimum of 15 permits in FY18. This will produce an estimated revenue of \$10,050 (15*670) in FY18 with a 2% increase each year (FY18-FY23).*

FY18	FY19	FY20	FY21	FY22	FY23
\$10,050	\$10,251	\$10,456	\$10,665	\$10,878	\$11,095

3. Revenue and expenditure estimates covering at least the next 6 fiscal years.

Same as above.

4. An actuarial analysis through the entire amortization period for each bill that would affect retiree pension or group insurance costs.

Not Applicable.

5. Later actions that may affect future revenue and expenditures if the bill authorizes future spending.

The bill does not authorize future spending.

6. An estimate of the staff time needed to implement the bill.

DPS expects 160 work-hours will be needed to reconfigure Hansen and Apply Online IT systems. DPS also expects additional staff work-hours for processing, plan reviews and inspections.

7. An explanation of how the addition of new staff responsibilities would affect other duties.

Managerial oversight, training and implementation will require DPS to reprioritize existing work.

8. An estimate of costs when an additional appropriation is needed.

No additional appropriation needed.

9. A description of any variable that could affect revenue and cost estimates.

Revenues will be dependent on the volume of applications.

10. Ranges of revenue or expenditures that are uncertain or difficult to project.

Revenues and expenditures will depend on the volume of applications.

11. If a bill is likely to have no fiscal impact, why that is the case.

Not Applicable

12. Other fiscal impacts or comments.

Not Applicable

13. The following contributed to and concurred with this analysis:

Hemal Mustafa, Tom Laycock, and Gail Lucas; Department of Permitting Services

Jennifer A. Nordin; OMB

for [Signature] for JAH
Jennifer A. Hughes, Director
Office of Management and Budget

9/16/16
Date

Economic Impact Statement
Bill 35-16, Building Permits – Amendments

Background:

Bill 35-16 is tied to the approval of Subdivision Regulation Amendment (SRA)16-01 and Zoning Text Amendment (ZTA)16-12. SRA 16-01 includes provisions for ownership units (previously called ownership lots). These ownership units may result in fire code violations when there is a use certificate or a building on the parent lot. Bill 35-16 would require a permit when this situation occurs to avoid violations.

SRA 16-01 will also remove building permit provisions in the Subdivision Code. Bill 35-16 will include the building permit provisions deleted from that code. Bill 35-16 would also include the building permit provisions currently in Chapter 59 which will be deleted from Chapter 59 by ZTA 16-12.

The intent of these amendments is to consolidate building permit provisions to one chapter of the County Code and allow code users to more easily find all building permit provisions and allow for improved coordination of ownership units that may cause fire code violations.

1. The sources of information, assumptions, and methodologies used.

Not Applicable.

2. A description of any variable that could affect the economic impact estimates.

There are no variables under this legislation that could have a substantive economic impact on the County.

3. The Bill's positive or negative effect, if any on employment, spending, savings, investment, incomes, and property values in the County.

The legislation does not have an economic impact on the County because it consolidates building permit provisions currently being implemented into one chapter of the County Code. The Department of Permitting Services anticipates approximately 15 new permits in FY18 given the new classification of ownership units producing additional revenue of \$10,050 that will cover the associated costs.

4. If a Bill is likely to have no economic impact, why is that the case?

Please see the answer to question 3.

5. The following contributed to or concurred with this analysis: David Platt, Dennis Hetman, and Robert Hagedoorn, Finance.



Alexandre A. Espinosa, Director
Department of Finance

9/16/16
Date