

MEMORANDUM

April 28, 2017

TO: County Council

FROM: Amanda Mihill, Legislative Attorney *AMihill*

SUBJECT: **Action:** Bill 6-17, Technical Corrections

Bill 6-17, Technical Corrections, sponsored by Lead Sponsor County Council, was introduced on April 4, 2017. A public hearing was held on April 25 at which there were no speakers.

Bill 6-17 would correct 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 Tammy Seymour of the County Attorney's Office, who is responsible for editing the County Code.

On ©16 is a staff amendment that would make additional technical corrections related to the recently-enacted Bill 1-17. Between the time that Bill 1-17 was drafted and enacted, another provision of County law became effective which requires the renumbering of the Code provisions added by Bill 1-17. Council staff recommends the Council incorporate the amendment and enact the amended Bill 6-17.

This packet contains:	<u>Circle #</u>
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Bill No. 6-17
Concerning: Technical Corrections
Revised: 3/21/2017 Draft No. 3
Introduced: April 4, 2017
Expires: October 4, 2018
Enacted: _____
Executive: _____
Effective: _____
Sunset Date: None
Ch. _____, Laws of Mont. Co. _____

COUNTY COUNCIL FOR MONTGOMERY COUNTY, MARYLAND

Lead Sponsor: 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 2, Administration
Section 2-137

Chapter 8, Buildings
Sections 8-1, 8-13, and 8-24

Chapter 11B, Contracts and Procurement
Article XVII, Local Business Subcontracting Program

Chapter 18A, Environmental Sustainability
Sections 18A-35 and 18A-38B

Chapter 21, Fire and Rescue Services
Section 21-2

Chapter 22, Fire Safety Code
Section 22-3

Chapter 24, Health and Sanitation
Section 24-8C

Chapter 25A, Housing, Moderately Priced
Section 25A-10

Chapter 29, Landlord-Tenant Relation
Sections 29-6, 29-22, 29-27

Chapter 33, Personnel and Human Resources
Section 33-39

Chapter 48, Solid Waste (Trash)
Sections 48-11A and 48-17B

Chapter 49, Streets and Roads
Sections 49-11A and 49-17

Chapter 51A, Tanning Facilities
Section 51A-8

Chapter 52, Taxation
Sections 52-11D, 52-47, 52-58, and 52-110

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

2 **Sec. 1. Sections 2-137, 8-1, 8-13, 8-24, 18A-35, 18A-38B, 21-2, 22-3,**
3 **24-8C, 25A-10, 29-6, 29-22, 29-27, 33-39, 48-11A, 48-17B, 49-11A, 49-17,**
4 **51A-8, 52-11D, 52-47, 52-58, and 52-110 are amended as follows:**

5 **2-137. Definitions.**

6 The following terms in this Article have the meanings indicated, unless a
7 different meaning is clearly indicated in the context:

8 * * *

9 [(d)] Public facility area plan means a site development plan, as it exists
10 from time to time, specifying generally or in exact detail, as may be
11 judged appropriate in specific instances by the county council and
12 county executive, the location and types of land uses, activities, and
13 improvements directed or permitted to take place both on the site
14 occupied by the public facility and on the adjacent land acquired
15 within the public facility area.

16 [(e)] Public facility area development project means all of the following
17 actions, taken in the following order:

18 * * *

19 **8-1. Scope and applicability.**

20 * * *

21 (b) *Intent.* The intent of this Chapter is to assure public safety, health and
22 welfare as it is affected by building construction, structural strength,
23 egress facilities, sanitary equipment, light, utilities and ventilation,
24 occupancies, and fire safety. In general, the intent of this chapter is to
25 secure safety to life and property from all hazards associated with the
26 design, erection, repair, removal, demolition or use and occupancy of
27 buildings, structures or premises.

28 * * *

29 (d) *Exemptions.* All buildings or structures must be constructed, extended,
30 repaired, removed or altered under a permit that satisfies this Chapter,
31 except for:

32 * * *

33 (3) the following public utility equipment:

34 * * *

35 [(D)] (C) poles or structures used for street lights, fire alarm
36 boxes, traffic signals, or similar municipal equipment
37 installed by the State or a local municipality

38 * * *

39 **8-13. Regulations.**

40 (a) The Director may recommend regulations for the administration of
41 this [chapter] Chapter including a schedule of fees and may, at the
42 Director's discretion, hold public hearings as part of this regulation-
43 making process. Regulations, as amended, must not conflict with or
44 waive any provisions of this [chapter] Chapter. Such regulations must
45 be at least as restrictive as the requirements of this Chapter. All
46 regulations must be adopted by the County Executive under [method]
47 Method (2) of Section 2A-15. The County Executive must promptly
48 forward to the County Council a copy of any new fee schedule for use
49 in budgetary planning activities. Such fees may be based on area,
50 estimated cost of construction, or a minimal set fee per category. The
51 budget estimate of all fees must be equal to the cost of administering
52 this Code.

53 * * *

54 **8-24. Application for permit.**

55 * * *

56 (e) Projects not requiring site plan or conditional use approval. For
57 projects that do not require site plan approval or conditional use
58 approval and include more than 10 parking spaces, an application for
59 building permit must include a plan showing:

- 60 (1) the location and design of entrances and exits to public roads;
- 61 (2) the location and size of all buildings and structures;
- 62 (3) the location of parking spaces, directional markings, traffic-
63 control devices and signs; and
- 64 (4) that it satisfies Division 59-6.2 of Chapter 59.

65 [(e)] (f) * * *

66 [(f)] (g) * * *

67 [(g)] (h) * * *

68 [(h)] (i) * * *

69 [(i)] (j) * * *

70 **18A-35. Eligibility.**

71 * * *

72 (b) Property assessed clean energy surcharge.

73 * * *

74 (3) As a condition for entering into an agreement under the
75 Program, the County designated lender or private lender must
76 provide the County designated program manager and the
77 Department a copy of the loan documents and documents that
78 verify:

79 * * *

80 [(F)] (G) appraised value of the qualified property as certified in
81 the appraisal report submitted by a Certified General
82 Real Estate Appraiser if the eligibility requirement in

83 18A-35(a)(4) is based on the appraised value of the
84 qualified property;

85 ~~[(G)]~~ (H) loan to value documentation; and

86 (H) (I) any other financial or program document that the
87 Director deems necessary.

88 * * *

89 **18A-38B. Definitions.**

90 * * *

91 *Total building square footage* means the sum of the gross horizontal area of
92 the several floors of a building or structure measured from the exterior faces
93 of the exterior walls or from the center line of party walls. In a covered but
94 unenclosed area, such as a set of gasoline pumps or a drive-through area,
95 [gross floor area] *total building square footage* means the covered area.

96 *Total building square footage* does not include any:

- 97 (1) basement or attic area with a headroom less than 7 feet 6 inches;
- 98 (2) area devoted to unenclosed mechanical, heating, air conditioning, or
99 ventilating equipment;
- 100 (3) parking structure; or
- 101 (4) accessory structure to a residential building.

102 **21-2. Fire and Emergency Services Commission.**

103 * * *

104 ~~[(g)]~~ (h) *Advocacy*. The Commission must not engage in any advocacy
105 activity at the State or federal levels unless that activity is approved by
106 the Office of Intergovernmental Relations.

107 **22-3. Construction and scope of chapter.**

108 * * *

109 (d) Nothing in this chapter limits the authority of any individual who has
110 been appointed an assistant State fire marshal or special assistant state
111 fire marshal in accordance with the Public Safety Article of the
112 [Annotated Code of] Maryland Code, or the authority granted by other
113 laws or codes.

114 * * *

115 **24-8C. Strategic Plan to Achieve Food Security in Montgomery County.**

116 * * *

117 (c) By December 1 each year, the Executive must submit a report to the
118 County Council. The annual report must:

119 (1) update the information required in Section [24-8B(a)] 24-8C(a);

120 * * *

121 **25A-10. Executive regulations; enforcement.**

122 * * *

123 (b) This Chapter applies to all agents, successors and assigns of an
124 applicant. A building permit must not be issued, and a preliminary
125 plan of subdivision, development plan, floating zone plan, or site plan
126 must not be approved unless it meets the requirements of this Chapter.
127 The Director of Permitting Services may deny, suspend or revoke any
128 building or occupancy permit upon finding a violation of this Chapter.
129 Any prior approval of a preliminary plan of subdivision, development
130 plan, floating zone plan, or site plan may be suspended or revoked
131 upon the failure to meet any requirement of this Chapter. An
132 occupancy permit must not be issued for any building to any
133 applicant, or a successor or assign of any applicant, for any
134 construction which does not comply with this Chapter.

135 * * *

136 **29-6. Duties of Director.**

137 In addition to any other power, duty, or responsibility assigned in this
 138 Chapter, the Director has the following duties:

139 * * *

140 (h) The Director must report on rental housing inspections to the
 141 Executive and the Council, by September 1 of each year. The report
 142 must include:

143 (1) the address of each property inspected during the prior fiscal
 144 year;

145 (2) the address of each property that has been inspected or is
 146 scheduled to be inspected on an annual or triennial basis during
 147 the current fiscal year;

148 (3) for each property inspected:

149 (A) a summary of violations by:

- 150 (i) number found;
- 151 (ii) number corrected; and
- 152 (iii) type of violation; and

153 (B) the status of any incomplete inspections[.];

154 * * *

155 **29-22. Inspection of rental housing.**

156 * * *

157 (b) The Director must inspect, at least once each year, any rental housing
 158 which, after inspection, the Director:

159 (1) finds in violation of any applicable law that adversely affects
 160 the immediate health and safety of the tenants, including:

161 * * *

162 (D) pervasive and recurring water leaks [the] that result in
163 chronic dampness, mold growth, or personal property
164 damage in more than one unit; or

165 * * *

166 (2) determines to be a troubled property, under a procedure
167 established by method (2) regulation that:

168 [(1)] (A) classifies violation types by severity; and

169 [(2)] (B) rates properties by:

170 (i) severity of violations; and

171 (ii) quantity of violations.

172 * * *

173 (g) A landlord of licensed rental housing notified after initial inspection
174 of a violation of applicable laws must pay the cost of the third, and
175 subsequent inspections, as established [in] by regulation, if the
176 violation is not corrected by the second inspection.

177 * * *

178 **29-27. Contents of lease.**

179 * * *

180 (s) Allow the tenant to terminate the lease upon 30 days' written notice to
181 the landlord due to:

182 * * *

183 (6) the tenant or tenant's spouse [being]:

184 (A) being 62 years of age or older;

185 (B) [no longer] being unable to live independently; and

186 (C) needing to move to a nursing home or other senior citizen
187 housing;

188 * * *

189 (u) Notify the tenant that:

190 (1) general information and assistance is available from the
191 Department regarding:

192 * * *

193 **33-39. Member contributions and credited interest.**

194 (a) *Member contributions.* Each member of the retirement system must
195 contribute a portion of the member's regular earnings through regular
196 payroll deductions.

197 * * *

198 (2) Member Contributions to the Integrated Retirement Plan. A
199 member of the Integrated Retirement Plan must contribute the
200 following percentage of regular earnings:

201 * * *

202 (C) Group E and Group J, 5 ¾ percent for service beginning
203 on the first pay period after June 30, 2011 and 6 ¾
204 percent for service beginning on the first pay period after
205 June 30, 2012 up to the maximum Social Security wage
206 base, and 9 ½ percent for service beginning on the first
207 pay period after June 30, 2011 and 10 ½ percent for
208 service beginning on the first pay period after June 30,
209 2012 of regular earnings that exceed the wage base;

210 * * *

211 (b) *Credited interest.*

212 * * *

213 (3) Effective July 1, 1989, interest must be credited annually on
214 each member's accumulated contributions as of June 30, 1989,
215 and thereafter, as follows:

216 * * *

217 (D) For group E and J members, interest will be credited at a
218 rate of 4 percent per annum.

219 * * *

220 **48-11A. Disposal of garbage or solid waste in [a] another's container.**

221 * * *

222 **48-17B. Strategic Plan to Advance Composting, Compost Use and Food Waste**
223 **Diversion in Montgomery County.**

224 * * *

225 (a) *Legislative findings.* The County Council finds that:

226 * * *

227 (6) the use of compost has been demonstrated to benefit soil health
228 by:

229 (A) suppressing plant diseases and pests;

230 (B) reducing or eliminating the need for chemical fertilizers;

231 (C) [Promoting] promoting higher yields of agricultural
232 crops; and

233 (D) [Improving] improving soil structure;

234 * * *

235 (b) *Strategic Plan required.* The Director must develop a Strategic Plan to
236 Advance Composting, Compost Use and Food Waste Diversion in
237 Montgomery County by January 1, 2018. The Strategic Plan must
238 identify:

239 * * *

240 (3) models and best practices used by other jurisdictions;

241 * * *

242 (9) cost estimates and potential economic and environmental
243 benefits of implementing the Strategic Plan.

244 * * *

245 (c) *Considerations.* The Strategic Plan must consider the following areas
246 in its legislative, policy, metrics, and cost recommendations:

247 * * *

248 (8) use of incentives to encourage private food waste diversion and
249 composting; [and]

250 * * *

251 **49-11A. Permit to temporarily obstruct private roads.**

252 * * *

253 (e) Before the Director of Permitting Services issues a permit to close a
254 private road in whole or in part under this Section, the Director of
255 Transportation must review or waive review of each application to
256 ensure that closure will not adversely impact the use of connecting
257 public roads. The Director of Transportation may recommend permit
258 conditions to the Director of Permitting Services. The owner of a
259 private road must submit a temporary traffic control plan that requires
260 signage during closure to inform pedestrians about the duration of the
261 closure, the permit number, and the owner’s contact telephone number
262 to call that address conditions of closure as may be required by the
263 Director of Permitting Services.

264 * * *

265 **49-17. Accumulation of snow and ice on property prohibited.**

266 (a) (1) In this Section:

267 * * *

268 (B) *Residential property* means real property containing
269 either:

270 (i) a single family dwelling; or

271 (ii) a [multifamily] multi-family dwelling of three or
272 fewer units.

273 * * *

274 **51A-8. Warnings.**

275 (a) *Warning Statement.* A tanning facility must give each customer a
276 written statement warning that:

277 * * *

278 (5) [Any] any person taking a prescription or over-the-counter drug
279 should consult a physician before using a tanning device; and

280 (6) it is a violation of County Code [§51A-8] §51A-7 for a person
281 under the age of 18 to use a tanning device.

282 * * *

283 **52-47. Credits.**

284 * * *

285 (j) * * *

286 (3) Application for the credit and administration of the credit must
287 be in accordance with Subsections 52-107(e) and (f).

288 (4) A person must not receive a [property] tax credit under this
289 Section if the person receives any public benefit points for
290 constructing units with accessibility features under Chapter 59.

291 * * *

292 **52-58. Credits.**

293 * * *

294 (e) (1) A property owner must receive a credit for constructing or
295 contributing to the cost of building a new single family
296 residence that meets Level I Accessibility Standards, as defined
297 in Section 52-107(a).

298 * * *

299 (3) Application for the credit and administration of the credit must
300 be in accordance with Subsections 52-107(e) and (f).

301 (4) A person must not receive a [property] tax credit under this
302 Section if the person receives any public benefit points for
303 constructing units with accessibility features under Chapter 59.

304 * * *

305 **52-110. Property tax credit – elderly individuals and veterans.**

306 * * *

307 (b) *Credit.* As authorized by [§9-257] §9-258 of the Tax-Property Article
308 of the Maryland Code, an eligible individual may receive a credit
309 against the County property tax imposed on the dwelling of an eligible
310 individual.

311 * * *

312 **[52-11D] 52-111. Urban Agricultural Tax Credit.**

313 * * *

314 **Sec. 2. Article XVII of Chapter 11B, as added by Chapter 16 of the 2016**
315 **Laws of Montgomery County, is renumbered as follows:**

316 **Article [XVII] XVIII. Local Business Subcontracting Program.**

317

LEGISLATIVE REQUEST REPORT

Bill 6-17
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
Tammy Seymour, Office of the County Attorney (240) 777-6789

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

PENALTIES: Not applicable.

AMENDMENT

To Bill 6-17

BY COUNCIL STAFF

PURPOSE: To make additional technical corrections

Beginning on page 5, after line 69, add additional corrections as follows:

Article ~~[[XVIII]]~~ XIX. Vending Machine Service Contracts.

~~[[11B-78]]~~ 11B-84. Definitions.

* * *

~~[[11B-79]]~~ 11B-85. Applicability.

* * *

~~[[11B-80]]~~ 11B-86. Healthy vending standards.

* * *

~~[[11B-81]]~~ 11B-87. Vending machine service contract requirements.

(a) Any new vending machine service contract or vending machine service contract renewal the County enters into on or after ~~[[{date of enactment}]]~~ April 18, 2017 must require the following:

* * *

(4) Food and beverage items that meet the nutrition requirements in Section ~~[[11B-80]]~~ 11B-86 must be:

* * *

(5) Food and beverage items that meet the nutrition requirements in Section ~~[[11B-80]]~~ 11B-86 must be comparatively priced or less expensive than products that do not meet those standards.

* * *

(b) In addition to the requirements of paragraph (a), any new vending machine service contract or vending machine service contract renewal the

22 County enters into on or after July 1, 2017 must require that at least 50%
23 of the food and beverage items offered for sale in vending machines meet
24 the requirements in Section ~~[[11B-80]]~~ 11B-86.

25 (c) In addition to the requirements of paragraph (a), any new vending
26 machine service contract or vending machine service contract renewal
27 that the County enters into on or after July 1, 2018 must require that at
28 least 65% of the food and beverage items offered for sale in vending
29 machines meet the requirements in Section ~~[[11B-80]]~~ 11B-86.

30 ~~[[11B-82]]~~ 11B-88. Annual report.