

*Clerk's Note: Corrections were made to the list of affected Code sections to reflect that Bill 48-10 repealed Section 52-16C.*

**CORRECTED COPY**

Bill No. 48-10  
Concerning: Technical Corrections  
Revised: 11/23/2010 Draft No. 3  
Introduced: October 5, 2010  
Enacted: November 23, 2010  
Executive: December 6, 2010  
Effective: March 7, 2011  
Sunset Date: None  
Ch. 49, Laws of Mont. Co. 2010

**COUNTY COUNCIL  
FOR MONTGOMERY COUNTY, MARYLAND**

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By: County Council

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

By amending

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

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

Chapter 2B, Agricultural Land Preservation  
Article 6

Chapter 8, Buildings  
Section 8-26

Chapter 8A, Cable Communications  
Section 8A-23

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

Chapter 11B, Contracts and Procurement  
Section 11B-49, 11B-67

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

Chapter 17, Electricity  
Section 17-38

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

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

Chapter 21, Fire and Rescue Services  
Section 21-1

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

Chapter 29A, Legislative Oversight  
Section 29A-9

Chapter 30, Licensing and Regulations Generally  
Section 30-12

Chapter 31, Motor Vehicles and Traffic  
Section 31-22

Chapter 33, Personnel and Human Resources  
Sections 33-15, 33-35, 33-38, 33-41, 33-42, 33-46, 33-52, 33-84, 33-103, 33-111, 33-118, 33-128 and 33-159

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

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

Chapter 52, Taxation  
Section 52-11, ~~[[52-16C,]]~~ 52-18A, 52-18B, 52-18I, 52-18Q, 52-18R, 52-32, 52-35, 52-68, 52-96, 52-99

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

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

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

2010 Laws of Montgomery County Chapter 20

By repealing:

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

Article VI  
Sections 33-86 through 33-100

Chapter 52, Taxation  
Section 52-16C

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

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



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

28 \* \* \*

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

38 \* \* \*

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

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

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

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

52 (1) Chapter 5 (Animal Control);

53 (2) Chapter 8 (Buildings);

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

\* \* \*

80 **Article [III] 6. Agricultural Advisory Committee**

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

82 \* \* \*

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

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

97 \* \* \*

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

99 \* \* \*

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

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

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

117 \* \* \*

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

119 \* \* \*

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

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

125 \* \* \*

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

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

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

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

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

137 \* \* \*

138 **11B-67. Procedures.**

139 \* \* \*

140 (d) A business must affirm and provide supporting documentation to the  
 141 Director to show that it is a local small business as defined in Section  
 142 [[11B-65(c)]] 11B-65(a). The Director may investigate and verify the  
 143 information provided on the application.

144 \* \* \*

145 **13-8. [Same-Same-]Diminution of sentence.**

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

150 \* \* \*

151 **17-38. [Generally] Standards.**

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

155 \* \* \*

156 (d) [It shall be unlawful to] A person must not occupy or offer to sell for  
 157 occupancy any mobile home, prefabricated or modular dwelling,  
 158 industrialized building, or [other like] similar structure as defined in  
 159 the National Electrical Code, without having first obtained from the  
 160 manufacturer [of such units] a certification by the State of Maryland  
 161 [as having] that the structure has met standards contained in [state]

162 regulations adopted [pursuant to article 41, section 266EE-3,  
163 Annotated Code of Maryland] under Sections 12-301 through 12-313  
164 of the Public Safety Article of the Maryland Code.

165 \* \* \*

166 **19-1. Definitions.**

167 \* \* \*

168 (21) Professional engineer[: An] means an engineer duly registered  
169 by the State of Maryland to practice professional engineering  
170 under the requirements of [Article 75 1/2 of the Annotated  
171 Code of Maryland] Title 14 of the Business Occupations and  
172 Professions Article of the Maryland Code.

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

177 \* \* \*

178 **19-36. Definitions.**

179 \* \* \*

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

181 (1) considered private wetland or State wetland under [Title 9,  
182 Wetland and Riparian Rights, Natural Resources Article,  
183 Annotated Code of Maryland] Title 16 of the Environment  
184 Article of the Maryland Code; or

185 \* \* \*

186 **20-3. Disbursements from revolving fund of [department of liquor**  
187 **control] Department of Liquor Control.**



215 either the Federal National Mortgage Association or the Federal  
 216 Home Loan Mortgage Corporation[,] and [which private mortgage  
 217 insurer] is authorized to do business in [the State of] Maryland, or by  
 218 any combination of such insurers.

219 (c) The [housing opportunities commission shall adhere to adhere to the]  
 220 Housing Opportunities Commission must comply with any terms and  
 221 conditions imposed by the [county government] County in providing  
 222 the guarantee of any bonds. [Where such] If guaranteed revenue  
 223 bonds will finance the total cost of such housing or the total amount of  
 224 the mortgage loans for such housing, the [housing opportunities  
 225 commission shall] Commission must also [adhere to] comply with any  
 226 requirements imposed by the [county government] County after the  
 227 [issuance of the bonds] bonds are issued to assure or protect the  
 228 financial solvency of the project.

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

232 **21-1. Statement of policy; definitions.**

233 \* \* \*

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

236 \* \* \*

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

240 \* \* \*

241 **22-1. Short title.**

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

245 **22-2. Purpose; intent.**

246 (a) The purpose and the intent of this [chapter] Chapter is to prescribe  
 247 minimum requirements and controls to safeguard life, property, and  
 248 the public welfare from the hazards of fire and explosion arising from  
 249 the improper storage, handling, or use of substances, materials, or  
 250 devices and from conditions hazardous to life, property, and the public  
 251 welfare in the use or occupancy of buildings, structures, [sheds, tents,  
 252 lots] or premises.

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

263 **22-3. Construction and scope of Chapter.**

264 (a) [The provisions of this chapter shall apply] This Chapter applies to  
 265 existing conditions [as well as] and to conditions arising after [the  
 266 adoption thereof, except that] this Chapter was adopted. However, a  
 267 [conditions] condition legally [in existence at the adoption of this  
 268 chapter and not in strict compliance therewith shall be permitted to

269 continue] existing when this Chapter was adopted, but not in strict  
 270 compliance with this Chapter, may continue only if], in the opinion  
 271 of] the [director, they do] Fire Chief finds that the condition is not  
 272 [constitute] a distinct hazard to life or property.

273 \* \* \*

- 274 (e) [Nothing in this chapter shall be construed as rendering] This Chapter  
 275 does not render any other applicable [laws] law or regulation invalid.  
 276 [In any situation where] If a conflict [exists] arises between [a  
 277 provision of] this [chapter] Chapter and another [code] law or  
 278 regulation, the fire marshal and [appropriate] the head of the agency  
 279 responsible for enforcing the conflicting [code shall determine in  
 280 concert] law or regulation must agree which [provisions shall apply]  
 281 applies. [Conflicts which are unreconcilable shall] If they cannot agree,  
 282 any remaining conflict must be referred to the [director of the  
 283 department of fire and rescue services] Fire Chief. The decision of the  
 284 [director of fire and rescue services] Fire Chief in any matter relating to  
 285 fire safety [shall be] is final, [, except that] However, any person  
 286 aggrieved by [such] the decision [shall have the right to] may appeal  
 287 to the [county board of appeals in accordance with chapter] County  
 288 Board of Appeals under Chapter 2 [of the County Code]. Within  
 289 [thirty (30)] 30 days [following the discovery of] after any [serious]  
 290 remaining conflict has been resolved, the [director] Fire Chief and the  
 291 head of the agency responsible for enforcing the conflicting [code shall]  
 292 law or regulation must forward to the [county executive] County  
 293 Executive a joint [recommendations for the removal of] proposal to  
 294 amend a law or regulation to eliminate the conflict [from the County  
 295 Code or the regulations adopted pursuant thereto].

296 **22-4A. Certification procedure.**

297 \* \* \*

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

301 \* \* \*

302 (c) The [Director of Fire and Rescue Services] Fire Chief may waive any  
 303 final inspection required under this Chapter which relates to the  
 304 issuance of a certificate of use and occupancy if the registered  
 305 engineer or architect who supervised the construction or  
 306 reconstruction of the building certifies to the [Director] Fire Chief  
 307 under oath that:

308 \* \* \*

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

313 \* \* \*

314 (f) The [Director of Fire and Rescue Services] Fire Chief and the  
 315 Director of Permitting Services must issue a decision on a request for  
 316 a waiver under subsections (a), (b), and (c), within 10 days after  
 317 receiving the request. [Each Director] Either the Fire Chief or the  
 318 Director of Permitting Services has complete discretion to approve or  
 319 reject a waiver. The decision of [each Director] the Fire Chief or the  
 320 Director of Permitting Services is final, and no appeal may be taken.  
 321 If either [Director] the Fire Chief or the Director of Permitting  
 322 Services grants a waiver, the [Director] Fire Chief or Director must

323 find in writing that the waiver complies with subsection (d) or (e), as  
 324 applicable.

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

- 327 (1) permitted under State and local law; and
- 328 (2) delegated by the [Director of Fire and Rescue Services] Fire  
 329 Chief.

330 **22-5. Definitions.**

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

- 332 [(a) Tenses. The present tense includes the past and future tenses, and the  
 333 future, the past.
- 334 (b) Gender. The masculine gender includes the feminine and neuter.
- 335 (c) Number. The singular number includes the plural and the plural the  
 336 singular.]

337 \* \* \*

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

341 *Approved:* [The term “approved” means] acceptable to the [director] Fire  
 342 Chief. In determining the acceptability of installations or procedures, equipment,  
 343 or materials, the [director] Fire Chief may base acceptance on compliance with the  
 344 NFPA or other appropriate standards. In the absence of such standards, [such  
 345 authority] the Fire Chief may require evidence of proper installation, procedure, or  
 346 use. The [director] Fire Chief may also refer to the listings or labeling practices of  
 347 any nationally recognized testing [laboratories] laboratory, inspection [agencies]  
 348 agency, or other [organizations concerned with product evaluations which are in a  
 349 position to] organization which evaluates products and can determine compliance

350 with appropriate standards for [the current production of listed items,] and the  
 351 satisfactory performance of such equipment or materials in actual usage.

352 \* \* \*

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

355 \* \* \*

356 *Central fire communications center:* [The phrase “central fire  
 357 communications center” means] the public fire service communication facilities  
 358 operated by the [department of fire and rescue services] Montgomery County Fire  
 359 and Rescue Service as part of the [Montgomery] County emergency operations  
 360 center. [The functions of this facility include receiving fire alarms or other  
 361 emergency calls from the public, retransmitting these alarms and emergency calls  
 362 to fire companies and other interested agencies, and the operation of the fire and  
 363 rescue services radio base stations and land line communications equipment.]

364 \* \* \*

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

367 \* \* \*

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

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

372 \* \* \*

373 *Fire Marshal* [The phrase “Fire Marshal”] or [“County Fire Marshal”]  
 374 County Fire Marshal: [means] a qualified employee of the Montgomery County  
 375 Fire and Rescue Service designated by the Fire [Administrator] Chief as the

376 County Fire Marshal. [The phrase] *Fire Marshal* includes the Fire Marshal’s  
 377 designee, unless the context clearly indicates otherwise.

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

381 \* \* \*

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

385 \* \* \*

386 **22-6. Administration [generally].**

387 (a) *Authority of [director] Fire Chief generally.* The [director of the  
 388 department of fire and rescue services] Fire Chief [is hereby  
 389 authorized and directed to] must administer [the provisions of] this  
 390 [chapter] Chapter. The [director] Fire Chief [shall have such other  
 391 powers and] must perform [such] any other [duties as are set forth in  
 392 other sections of] duty assigned under this [Code and as may be  
 393 conferred and imposed from time to time by] Chapter or any other  
 394 applicable law. The [director] Fire Chief may delegate any [of his  
 395 powers or duties] power or duty under this [chapter] Chapter to [the  
 396 division of fire prevention or to] any other County fire [officials of  
 397 this jurisdiction] official.

398 (b) *Authority of [director] Fire Chief in emergencies.* In [a case of] an  
 399 emergency[,] where [in the opinion of] the [director] Fire Chief finds  
 400 that [,] life or property is in immediate danger of fire, the [director]  
 401 Fire Chief [is hereby authorized to] may take any action [that he  
 402 deems] necessary to protect [such] life or property.

- 403 (c) *Enforcement assistance.* Police and any other [agencies having  
 404 authority in this jurisdiction shall render] authorized agency must  
 405 provide necessary assistance [in the enforcement of this code] to  
 406 enforce this Chapter when [requested to do so by] the [director] Fire  
 407 Chief so requests.
- 408 (d) *Fire [prevention division] Code Compliance Section.* To assist [in the  
 409 performance of the responsibilities and the duties placed upon] the  
 410 [director] Fire Chief, the Chief may organize and supervise a [division  
 411 of fire prevention] Fire Code Compliance Section [is established  
 412 within] in the [department] Fire and Rescue Service. [This division  
 413 shall operate under the supervision of the director.] Members of [the  
 414 division of fire prevention are hereby authorized to] this Section may  
 415 enforce all County laws and [ordinances of Montgomery County  
 416 covering the following] regulations on:
- 417 (1) [The prevention of fires.] fire prevention;
  - 418 (2) [The] storage, use, and handling of explosive, flammable, toxic,  
 419 corrosive, and other hazardous gaseous, solid, and liquid  
 420 materials[.];
  - 421 (3) [The] installation and maintenance of automatic, manual, and  
 422 other private fire alarm systems and fire extinguishing  
 423 equipment[.];
  - 424 (4) [The] maintenance and regulation of fire escapes[.];
  - 425 (5) [The] maintenance of fire protection and [the] elimination of  
 426 fire hazards on land and in buildings, structures, and other  
 427 property, including those under construction[.];
  - 428 (6) [The means and] adequacy of each fire exit [in the event of  
 429 fire,] from [factories, schools, hotels, lodging houses, asylums,

430 hospitals, churches, halls, theatres, amphitheatres, and all other  
 431 places in which people work, live, or congregate from time to  
 432 time for any purpose.] any building; and

433 (7) [The] investigation of the cause[, origin and circumstances] of  
 434 any fire.

435 (e) *Authorization for requirement changes.* A fire safety requirement  
 436 proposed for imposition during the course of building construction  
 437 that would change or substitute a material, feature, construction  
 438 method, or any other [aspects] aspect of construction different from  
 439 [those which were identifiably included in] the original or amended  
 440 [submission of] subdivision, site, or construction plans and  
 441 specifications, as approved by the [department of fire and rescue  
 442 services shall] Fire and Rescue Service must only be imposed  
 443 [following a written finding by the director] if the Fire Chief finds that  
 444 the change or substitution is necessary to avoid a specific and  
 445 demonstrable threat to public safety. [A] The Chief must provide a  
 446 copy of the finding [shall be provided] to the affected person and  
 447 [shall be available] to the public [upon] on request.

448 (f) *Administrative appeals.* [The director upon petition] When petitioned  
 449 by [a] an aggrieved person [claiming to be aggrieved is authorized and  
 450 directed to], the Fire Chief must promptly review [rulings] any ruling  
 451 or [interpretations] interpretation of law or regulations made by Fire  
 452 and Rescue Service staff [during the enforcement of the provisions of]  
 453 while enforcing this [chapter] Chapter. [Such] A petition must be  
 454 filed with the [director] Fire Chief in writing within [ten (10)] 10 days  
 455 [of] after the [official administrative] ruling or interpretation. The  
 456 [director] Fire Chief may review, modify, or affirm the initial

457 [administrative] ruling or interpretation with or without a hearing, and  
 458 must send a copy of the [director's] Fire Chief's decision [shall be  
 459 provided] to the aggrieved party.

460 **22-7. Right of entry.**

461 (a) *Generally.*

462 (1) The [county executive, director and the superintendent of  
 463 police] County Executive, Fire Chief, and Police Chief, or their  
 464 authorized representatives, [upon] after exhibiting the proper  
 465 credentials or proof of identity on request, [shall have the right  
 466 to] may enter any building, structure, or premises (except [those  
 467 areas] any area actually occupied as a dwelling unit) without  
 468 consent of the occupants [at any time] during business or  
 469 operating hours and at [such] other times [as may be necessary]  
 470 in an emergency that immediately endangers life, property or  
 471 public safety, [for the purpose of performing] to perform duties  
 472 under this [chapter] Chapter or [enforcing the provisions  
 473 thereof] enforce this Chapter.

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

484                   (A) [for the purpose of enforcing] to enforce this [chapter]  
 485                   Chapter with the consent of the occupant [thereof,]; or  
 486                   (B) without [such] the consent of the occupant if [they shall  
 487                   first obtain] the Executive, Fire Chief, or Police Chief  
 488                   obtains a search warrant [in accordance with] under  
 489                   prescribed legal procedure, or [if there is a present]  
 490                   during or immediately after an emergency such as a  
 491                   fire[,] or explosion [or the like, or immediately following  
 492                   such emergency].

493                   \*       \*       \*

494 **22-8. Report of fire and rescue [incidents] incident.**

495                   \*       \*       \*

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

498                   \*       \*       \*

499 **22-10. [General provisions applicable to permits] Permits and certificates.**

500                   \*       \*       \*

501           (b) *Application for permit.* [All applications] Each application for a  
 502           permit required by this Chapter must be made to the [Division of Fire  
 503           Prevention] Fire and Rescue Service or [the] Department of  
 504           Permitting Services, as applicable, in the form prescribed.  
 505           [Applications for permits] Each application must be accompanied by  
 506           [the] any plans, specifications, or details required by the [Director of  
 507           Fire and Rescue Services] Fire Chief or the Director of Permitting  
 508           Services, as applicable.

509           (c) *Inspection [prerequisite to] before issuance of permit.* Before a  
 510           permit may be issued, the [Director of Fire and Rescue Services] Fire

511 Chief or the Director of Permitting Services, as applicable, [or their  
 512 respective authorized representatives,] may inspect and approve [the  
 513 receptacles, vehicles, buildings, devices, premises, storage spaces or  
 514 areas to be used] any receptacle, vehicle, building, device, premises,  
 515 storage space, or area to be used.

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

520 \* \* \*

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

525 \* \* \*

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

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

532 (2) If any construction or installation work is performed in  
 533 violation of the plans and specifications as approved by the  
 534 [Director of Fire and Rescue Services] Fire Chief or the  
 535 Director of Permitting Services, as applicable, the Chief or  
 536 Director must issue a written notice [must be issued] to the  
 537 responsible party to stop work on that portion of the work

538 which is in violation. The notice must state the nature of the  
 539 violation, and any responsible party must not continue work  
 540 [must not be continued] on that portion until the violation has  
 541 been corrected.

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

545 **22-23. Inspections.**

546 (a) The Fire [Administrator] Chief must designate in writing a qualified  
 547 individual to serve as the County Fire Marshal. Under State law, the  
 548 County Fire Marshal serves as an assistant State fire marshal [for the  
 549 purpose of implementing and enforcing] to enforce State fire  
 550 prevention laws. The County Fire Marshal may ask the State Fire  
 551 Marshal to appoint one or more qualified employees of the  
 552 Montgomery County Fire and Rescue Service to serve as a special  
 553 assistant State fire marshal.

554 \* \* \*

555 **22-37. Regulating fire extinguisher service.**

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

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

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

563 [ii.] (2) [The] registration of firms [engaging in the business of  
 564 hydrostatically testing] that hydrostatically test U.S.

565 Department of Transportation specification gas cylinders used  
566 for portable fire extinguishers;

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

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

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

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

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

578 **29A-9. Reports.**

579 \* \* \*

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

589 \* \* \*

590 **30-12. Alcoholic beverages-Consumption on public property.**

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

597 \* \* \*

598 **31-22. Applicability of Article.**

599 \* \* \*

600 [Nothing in this article, however, shall] This Article does not apply to any  
 601 public [streets] street or parking [lots] lot acquired or operated [pursuant to chapter  
 602 86 of this Code] under Article 29 of the Maryland Code.

603 **33-15. Judicial review and enforcement.**

604 (a) Any aggrieved merit system employee, or applicant, or the chief  
 605 administrative officer may obtain judicial review of a merit system  
 606 protection board order or decision from the circuit court for the county  
 607 in the manner prescribed under [[chapter 1100, subtitle B]] Chapter  
 608 200 of Title 7 of the Maryland Rules of Procedure. In addition, with  
 609 respect to orders or opinions relating to personnel of Montgomery  
 610 County fire and rescue corporations, the independent fire and rescue  
 611 corporation affected by the merit system protection board order, as  
 612 well as any aggrieved fire and rescue corporation employee, may  
 613 obtain judicial review of the board's order or decision as provided in  
 614 this section.

615 (b) The court, in hearing the case, shall apply the judicial review  
 616 standards as set forth in the Maryland [[administrative procedures  
 617 act]] Administrative Procedures Act, [[article 41, Maryland Code

618 Annotated, section 255]] Subtitle 2 of Title 10 of the State  
 619 Government Article of the Maryland Code. The court review shall be  
 620 on the basis of the record before the board. Judicial review of board  
 621 decisions issued hereunder also includes appellate review by the  
 622 [[special courts of appeals of Maryland]] Court of Special Appeals.

623 \* \* \*

624 **33-35. Definitions.**

625 \* \* \*

626 *Employee organization:* [An:]

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

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

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

633 \* \* \*

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

636 \* \* \*

637 **33-38. Normal retirement date, mandatory retirement date, early**  
 638 **retirement date, and trial retirement.**

639 \* \* \*

640 (c) *Early retirement date.*

641 (1) A member, other than a group G member, who has not met the  
 642 age and service requirements for a normal retirement may elect  
 643 to [retire on the first day of a month and may elect to] receive  
 644 pension payments beginning on an early retirement date the

645 first day of a month after [if] the following requirements are  
646 met:

647 \* \* \*

648 **33-41. Credited service.**

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

650 \* \* \*

651 [(3) Credited service includes:

652 (A) The time during which a member receives service-  
653 connected disability benefits under Article VI of this  
654 chapter; and

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

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

663 [(5)] (3) \* \* \*

664 [(6)] (4) \* \* \*

665 [(7)] (5) \* \* \*

666 \* \* \*

667 (f) *Use of sick leave for credited service.* An employee [whose retirement  
668 is effective on or after May 1, 1970, or who becomes vested on or after  
669 October 1, 1971,] must receive credit toward retirement for any  
670 accumulated sick leave, up to a maximum of 4,224 hours. Each 176  
671 hours of accumulated sick leave is equal to 1 month of credited service.

672 Accumulated sick leave totaling less than 11 days must not be credited  
 673 for retirement purposes. Accumulated sick leave totaling 11 to 22 days  
 674 must be credited as 1 month of service for retirement purposes. An  
 675 employee who transfers to the Retirement Savings Plan must receive  
 676 credit toward retirement under the optional plan or integrated plan under  
 677 Section 33-37(i) for the employee’s accumulated sick leave.

678 \* \* \*

679 **33-42. Amount of pension at normal retirement date or early retirement**  
 680 **date.**

681 \* \* \*

682 [(g) *Calculation for members receiving benefits under the disability benefits*  
 683 *program.*

684 (1) When a member who receives disability benefits under Article VI  
 685 reaches the normal retirement date, the formula to calculate  
 686 retirement benefits must be the same as in subsection (b)(1) and  
 687 (b)(2)(A) and (B), except that the member’s salary at the time of  
 688 the disability, plus cost-of-living adjustments and annual  
 689 increments, must be used to calculate the retirement benefits  
 690 instead of average final earnings.

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

- 695 (A) Under this subsection;
- 696 (B) Under subsection (b) of this section.]

697 [(h)] (g) \* \* \*

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

700 \* \* \*

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

702 \* \* \*

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

716 [(i)] (h) \* \* \*

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

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

720 \* \* \*

721 **33-46. Death benefits and designation of beneficiaries.**

722 \* \* \*

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

725 (1) (A) If a member other than a Group F or G member dies while  
 726 employed by the County or a participating agency [on or  
 727 after August 15, 1965,] and the employing department or  
 728 agency, a beneficiary, or another person submits  
 729 satisfactory proof to the Chief Administrative Officer that  
 730 the employee's death resulted from injuries sustained in  
 731 the line of duty or was directly attributable to the inherent  
 732 hazards of the duties the employee performed and the  
 733 death was not due to willful negligence, the County must  
 734 pay benefits as follows:

735 \* \* \*

736 **33-48. [Disability retirement hearing board.] Reserved.**

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

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

744 **33-49. [Medical review committees.] Reserved.**

745 [(a) *Establishment.* For each disability retirement application received by  
 746 the disability retirement hearing board, the board must designate a  
 747 medical review committee. Any committee established by the board  
 748 exists until that committee makes a final report to the board on all  
 749 medical examination referred to that committee based on applications  
 750 submitted to the board before the date on which the disability benefits  
 751 program under article VI of chapter 33 takes effect.

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

755 \* \* \*

756 **33-52. Payment of benefits.**

757 \* \* \*

758 (b) *Discontinuance of pension payments.* A member must not receive  
 759 pension payments while serving in an appointed or elected County  
 760 office that receives any compensation paid by the County. A member  
 761 appointed to a full-time County position must become a member of  
 762 the retirement system or the Retirement Savings Plan under Sections  
 763 33-37 and 33-115 and make member contributions until later  
 764 separation under Article III or Article VIII. The retirement benefit of  
 765 an employee who resumes membership in the optional or integrated  
 766 plan must be recalculated when the employee later separates from  
 767 service. The retirement benefit under the integrated or optional plans  
 768 of Article III of an employee who becomes a member of the  
 769 Retirement Savings Plan must resume when the employee later  
 770 separates from service.

771 \* \* \*

772 **33-84. Strikes and lockouts.**

773 \* \* \*

774 (c) If an employee or employee organization [shall violate the provisions  
 775 of] violates this Section, the employer, after adequate notice and a fair  
 776 hearing before the permanent umpire who finds that the [aforesaid]  
 777 alleged violations have occurred and [finds] that any or all of the  
 778 following actions are necessary in the public interest, may, subject to

779 the law enforcement officer's bill of rights, [article 27, section 727 et  
 780 seq., Annotated Code of Maryland.] Title 3, Subtitle 1 of the Public  
 781 Safety Article of the Maryland Code:

782 \* \* \*

783 **ARTICLE VI. [DISABILITY BENEFITS.] RESERVED.**

784 **[33-86. Applicability.]**

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

- 786 (1) Are members of the retirement system under this chapter on or after  
 787 May 15, 1986, and submitted an application for disability benefits on  
 788 or after May 15, 1986, but before July 1, 1989, or is an elected official  
 789 on July 1, 1989, and submitted an application for disability benefits on  
 790 or after May 16, 1986, but before December 3, 1990;
- 791 (2) Are members of the retirement system under this chapter before May  
 792 15, 1986, but who opted into the disability benefits program under this  
 793 article and submitted an application for disability benefits on or after  
 794 May 15, 1986, but before July 1, 1989; or
- 795 (3) At any time chose to participate in the elected officials' plan and  
 796 submitted an application for disability benefits on or after May 15,  
 797 1986, but before December 3, 1990.]

798 **[33-87. Definitions.]**

799 [(a) *In general.* In this article, the following words have the meanings indicated.

800 (b) *Administrator.* "Administrator" means:

- 801 (1) The disability retirement hearing board, when the application  
 802 for benefits under this chapter is filed by a member with the  
 803 disability retirement hearing board before May 15, 1986, and  
 804 there is no final decision from the disability retirement hearing  
 805 board on the application before May 15, 1986.

- 806 (2) For all other applications for benefits under this chapter,  
807 administrator means the entity that contracts with the county to  
808 administer as a third part administrator:
- 809 a. The disability retirement program under section 33-43 of  
810 this chapter; and
- 811 b. The disability benefits program under this article.
- 812 (c) *Employee*. “Employee” means an individual who participates in the  
813 county retirement system under article III of this chapter.
- 814 (d) *Final earnings*. “Final earnings” means:
- 815 (1) The annual average of the regular salary of an employee less  
816 any shift pay differential for the eighteen-month period  
817 immediately preceding the disability or any consecutive  
818 eighteen-month period, whichever is greater; or
- 819 (2) For an employee whose salary has been reduced as a result of a  
820 disciplinary action, the annual average of the regular salary of  
821 the employee for the eighteen-month period preceding the  
822 disability.
- 823 (e) *Non-service-connected disability*. “Non-service-connected disability”  
824 has the same meaning as “service-connected disability” except that it  
825 is the result of an illness or injury that was incurred while away from  
826 the performance of duty as an employee.
- 827 (f) *Service-connected disability*. “Service-connected disability” means a  
828 condition of an employee that:
- 829 (1) Is the natural and proximate result of an accident occurring, an  
830 occupational disease incurred, or a condition aggravated while  
831 in the performance of duty as an employee;

- 832                   (2) Is not due to the willful misconduct or willful negligence of the  
833                   employee;
- 834                   (3) Makes the employee:
- 835                   a. Incapable of performing the job that the employee  
836                   performed before the illness or injury; and
- 837                   b. Unable to engage in available employment  
838                   commensurate with the training, education, and  
839                   experience of the employee; and
- 840                   (4) Is likely to be permanent.]

841 **[33-88. Non-service-connected disability benefits.]**

842           [An employee may receive non-service-connected disability benefits if the  
843           employee:

- 844           (1) Has a non-service-connected disability;
- 845           (2) Has five (5) years of credited service under the county retirement  
846           system of this chapter;
- 847           (3) Is not eligible for normal retirement under the county retirement  
848           system of this chapter; and
- 849           (4) Is not eligible for service-connected disability benefits; and
- 850           (5) Has an injury or illness which occurred subsequent to enrollment in  
851           the Montgomery County employees' retirement system.]

852 **[33-89. Service-connected disability benefits.]**

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

857 **[33-90. Temporary disability.]**

858 [(a) *Waiver.* In extenuating circumstances, the administrator may waive  
 859 the requirement that an employees' disability is likely to be  
 860 permanent.

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

864 (1) Has ended; or

865 (2) Is permanent.]

866 **[33-91. Administrative application for benefits.]**

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

869 (1) Becomes ill or injured; and

870 (2) Is unable to perform at an acceptable level of competence the  
 871 duties and responsibilities of the position to which the  
 872 employee is assigned.

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

875 **[33-92. Accrual of benefits.]**

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

877 (1) The date that the employee exhausts all accrued sick and  
 878 compensatory leave in excess of eighty (80) hours; or

879 (2) The date that the application for disability benefits is approved.]

880 **[33-93. Amount of benefits.]**

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

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

888 **[33-94. Cost-of-living adjustments.]**

- 889 [(a) *Annual adjustment.* A cost-of-living adjustment must be made  
 890 annually to the disability benefits awarded under this article.  
 891 (b) The cost-of-living adjustment must be the same as the annual  
 892 adjustment made to the uniform pay plan for county employees.]

893 **[33-95. Reduction of disability benefits.]**

- 894 [(a) *Reduction by income received.* Disability benefits may be reduced  
 895 after any cost-of-living adjustment made under section 33-94 by  
 896 income received:  
 897 (1) As the sum of wages from employment and as the product of  
 898 net earnings minus net losses from self-employment;  
 899 (2) From any other government group income maintenance  
 900 insurance coverage for the disability;  
 901 (3) From social security disability benefits, including benefits  
 902 payable to dependents on account of the disability;  
 903 (4) From any government disability plan; and  
 904 (5) From workers' compensation.  
 905 (b) *Amount of reduction.* The reduction must be determined according to  
 906 the following offset formula:  
 907 (1) The first one hundred dollars (\$100.00) a month of income  
 908 from a long-term disability plan to which the employee has  
 909 contributed is exempt from the offset.

- 910           (2)    The first three hundred dollars (\$300.00) a month of income  
911           from employment is exempt from the offset unless the salary of  
912           an employee receiving non-service-connected disability  
913           benefits is equal to or greater than the salary the employee  
914           would have received if the original employment had not been  
915           interrupted.
- 916           (3)    Income from employment between three hundred one dollars  
917           (\$301.00) and six hundred dollars (\$600.00) a month has a one  
918           dollar (\$1.00) offset for each four dollars (\$4.00) of income.
- 919           (4)    Income from employment above six hundred dollars (\$600.00)  
920           a month has a one dollar (\$1.00) offset for each two dollars  
921           (\$2.00) of income.
- 922           (5)    Income received under subsection (a)(2) through (5) of this  
923           section has a one dollar (\$1.00) offset for each one dollar  
924           (\$1.00) of income.
- 925       (c)    *Refusal of employment.* If an employee refuses to accept two (2)  
926           offers of employment offered under section 33-98, which were  
927           commensurate with the training, education, experience, and physical  
928           and mental capabilities of the employee, the amount that employment  
929           would have paid if accepted will be offset from the disability benefits  
930           of the employee in the same manner as income from employment  
931           under subsection (b) of this section.
- 932       (d)    *Refusal of training.* If an employee refuses to participate in retraining  
933           offered under section 33-98, the disability benefits received by the  
934           employee will be reduced by half.
- 935       (e)    *Termination of employment.*

936 (1) If the employment offered by the county under section 33-98  
 937 terminates, the employee will continue to receive the amount of  
 938 disability benefits, which were offset by the income received  
 939 from the employment, that the employee received while in the  
 940 employment.

941 (2) The administrator may restore the disability benefits in whole  
 942 or in part:  
 943 a. To facilitate reemployment; or  
 944 b. If the administrator determines that the employee is  
 945 unable to be employed.

946 (f) *Review of offset formula.* Every two (2) years, the county executive  
 947 must review the offset formula and recommend changes to the dollar  
 948 amounts to the county council in order to accommodate changes or no  
 949 changes in general income levels.]

950 **[33-96. Discontinuation or termination of disability benefits.]**

951 [The administrator must terminate disability benefits granted under this  
 952 article if the employee:

- 953 (1) Recovers from the disability as determined by the administrator;
- 954 (2) Fails or refuses to provide the administrator with the information that  
 955 the administrator requires; or
- 956 (3) Reaches the normal retirement date under the county retirement  
 957 system of this chapter.]

958 **[33-97. Medical examination.]**

959 [Unless the administrator determines that fewer medical examinations are  
 960 needed, the administrator may require the employee to undergo annual medical  
 961 examinations.]

962 **[33-98. Retraining and employment of employees.]**

- 963           [(a) *Program established.* By regulation adopted under method (1) of  
 964           section 2A-15 of this Code, the county executive must develop a  
 965           program for retraining, if retraining is necessary, and employment of  
 966           employees who are receiving disability benefits under this article.
- 967           (b) *Implementation of program.* The administrator will implement the  
 968           retraining and employment program.
- 969           (c) *Employment level.* Any employment offered to an employee under  
 970           this section must be commensurate with the training, education,  
 971           experience, and physical and mental capabilities of the employee.
- 972           (d) *Participation required.* Unless the chief administrative officer  
 973           exempts an employee based on medical evidence that would preclude  
 974           successful completion of the retraining program, the employee is  
 975           required to participate in the program.]

976 **[33-99. Appeals of decisions.]**

- 977           [(a) If the county or an employee disagrees with a preliminary decision of  
 978           the administrator, the county or the employee has a right to a hearing  
 979           before the administrator. The contract between the county and the  
 980           administrator must provide procedures to:
- 981                   (1) Assure the impartiality of the hearing;  
 982                   (2) Notify the employee of the right to counsel at the hearing; and  
 983                   (3) Establish a record of the hearing that will be the basis for  
 984                   subsequent reviews.
- 985           (b) The county or the employee may appeal on the record the final  
 986           decision of the administrator to the merit system protection board  
 987           within thirty (30) days from the date that the employee receives  
 988           written notice of the decision.

989 (c) The county or the employee may appeal the final decision of the merit  
 990 system protection board to a court of competent jurisdiction as  
 991 provided in the Maryland Rules of Procedure, chapter 1100, subtitle  
 992 B.]

993 **[33-100. Regulations.]**

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

996 **33-86 — 33-100. Reserved.**

997 \* \* \*

998 **33-103. Labor relations administrator.**

999 (a) A Labor Relations Administrator must be appointed to effectively  
 1000 administer this Article as it governs selection, certification, and  
 1001 decertification procedures, prohibited practices, and the choice of a  
 1002 mediator/fact-finder. The Administrator must:

1003 \* \* \*

1004 (5) Investigate and attempt to resolve or settle, as provided in this  
 1005 article, charges of engaging in prohibited practices. However,  
 1006 if the employer and a certified representative have negotiated a  
 1007 valid grievance procedure, the labor relations administrator  
 1008 [shall] must defer to that procedure [for the resolution of  
 1009 disputes] to resolve any dispute that properly [submissible] may  
 1010 be submitted to the procedure, absent a showing that the  
 1011 deferral results in the application of principles repugnant to this  
 1012 [article] Article. [Furthermore, the labor relations] The  
 1013 administrator [shall] must defer to state procedures in [those  
 1014 matters which are] any matter governed by the Law-  
 1015 Enforcement Officers' Bill of Rights, [article 27, sections 727--

1016 734D, Annotated Code of Maryland] Title 3, Subtitle 1 of the  
1017 Public Safety Article of the Maryland Code.

1018 \* \* \*

1019 **33-111. Strikes and lockouts.**

1020 \* \* \*

1021 (c) If an employee or employee organization violates [the provisions of]  
1022 this Section, the employer, after adequate notice and a fair hearing  
1023 before the labor relations administrator who finds that the violations  
1024 have occurred and [finds] that any or all of the following actions are  
1025 necessary in the public interest, may impose any of the following  
1026 sanctions, subject to the Law-Enforcement Officers' Bill of Rights,  
1027 [article 27, sections 727--734D, Annotated Code of Maryland.] Title  
1028 3, Subtitle 1 of the Public Safety Article of the Maryland Code:

1029 \* \* \*

1030 **33-118. Maximum annual contribution.**

1031 (a) Contribution limitations.

1032 (1) \* \* \*

1033 (A) \$30,000, effective January 1, 1995, or \$40,000, effective  
1034 January 1, 2002 (the "dollar limitation"); [or] as adjusted  
1035 by the Internal Revenue Service from time to time to  
1036 reflect cost of living increases; or

1037 \* \* \*

1038 **33-128. Definitions.**

1039 \* \* \*

1040 (h) *Disability Arbitration Board* or *Board* means the 3 persons designated  
1041 under Section [33-43A(m)] 33-43(m) to review an appeal of the final

1042 decision of the Administrator regarding an application for disability  
 1043 benefits.

1044 (i) *Disability Review Panel* or *Panel* means the 4 medical doctors  
 1045 appointed as Panel members by the Chief Administrative Officer  
 1046 under Section [33-43A(c)] 33-43(c).

1047 \* \* \*

1048 **33-159. Establishment of Trust.**

1049 \* \* \*

1050 (b) *Establishment of Trust.* An Other Post Employment Benefits Trust  
 1051 known as the Retiree Health Benefits Trust, effective July 1, 2007, is  
 1052 established to fund all or a portion of benefits provide under the County  
 1053 retiree benefit plans.

1054 \* \* \*

1055 **35-13A. Anti-Hate/Violence Fund.**

1056 \* \* \*

1057 (b) The Department of Police may:

1058 (1) offer rewards for information that leads to the arrest of a person  
 1059 who commits any act in the County described in Section [27-  
 1060 26A] 27-22 or [Article 27, Section 10A or 470A, of the  
 1061 Annotated Code of Maryland] Sections 10-302 to 10-305 of the  
 1062 Criminal Law Article of the Maryland Code;

1063 \* \* \*

1064 (e) The County must deposit any money it receives under Section [27-  
 1065 26B] 27-8 into the Fund.

1066 \* \* \*

1067 **35-13B. Drug Enforcement Forfeitures Fund**

1068 \* \* \*

1069 (e) The Chief of Police must provide [two] 2 reports on the Fund to the

1070 Executive and Council as follows:

1071 \* \* \*

1072 (2) On December 15, a report including:

1073 \* \* \*

1074 (B) [DEFF] Fund approved budget by category;

1075 \* \* \*

1076 **35-18. County's right of subrogation against third parties causing**  
 1077 **disability.**

1078 [Where] If the accident, disease, disability, or death for which benefits are  
 1079 payable under this [article] Article was caused under circumstances creating a legal  
 1080 liability in a third party, the [county shall have] County has the right of subrogation  
 1081 and [shall have the right to] may enforce, for the [county's] County's benefit, the  
 1082 legal liability of [such] a third party, under the conditions and subject to the [same]  
 1083 provisions, when applicable, [which now exist] in [article 101, section 58 of the  
 1084 Annotated Code of Maryland, 1957,] Title 9 of the Labor and Employment Article  
 1085 of the Maryland Code [and the provisions of such article and section are hereby  
 1086 incorporated by reference as if set forth textually in this section]. Nothing [herein  
 1087 shall affect] in this Section affects the [county's] County's obligation to comply  
 1088 with [the provisions of section 19, article 101 of the Annotated Code of Maryland,  
 1089 1957] Title 9 of the Labor and Employment Article of the Maryland Code.

1090 \* \* \*

1091 **36A-2. Definitions.**

1092 In this [chapter] Chapter, unless the context indicates otherwise:

1093 \* \* \*

1094 (g) Public service company means:

1095 (1) any company as defined in [article 78 § 2 of the Annotated  
 1096 Code of Maryland] Section 1-101 of the Public Utility

- 1097                    Companies Article of the Maryland Code and any successor  
 1098                    provision[, or];  
 1099                    (2)    the Washington Suburban Sanitary Commission[,]; or  
 1100                    (3)    any organization which is a member of the one-telephone-  
 1101                    number utility notification system.

1102                    \*       \*       \*

1103    **52-11.        Real property tax [credits] credit for permanently and totally**  
 1104    **disabled homeowners.**

1105                    \*       \*       \*

1106                    (e)    *Applicability of [state] State law.* The minimum tax credit provided  
 1107                    [in the tax credit program provided herein] for disabled homeowners  
 1108                    under this Section [shall in no case] must not be less than the  
 1109                    minimum tax credit [provided] in [section 12F-3, article 81,  
 1110                    Annotated Code of Maryland] Section 9-102 of the Tax-Property  
 1111                    Article of the Maryland Code.

1112    **[[52-16C. Real property tax recapture.]]**

1113                    [(a)    *Tax levied; basis; rate.* There is hereby imposed upon the occasion of  
 1114                    the transfer of real property located in the county a tax on the amount  
 1115                    by which the taxable value of such property on the date of recognition  
 1116                    exceeds the assessed valuation of that property. The tax shall be  
 1117                    calculated by multiplying the amount so determined by three dollars  
 1118                    and seventy cents (\$3.70) per one hundred dollars (\$100.00).

1119                    (b)    *Assessed valuation.*  
 1120                    (1)    Subject to the provisions in paragraph (2) of this subsection,  
 1121                    "assessed valuation" shall mean the actual assessed valuation of  
 1122                    such property on which annual property taxes are payable as

1123 determined on the date of finality immediately preceding the  
 1124 date of recognition.

1125 (2) If the boundary lines of a parcel of real property on which the  
 1126 tax imposed hereunder differ on the date of recognition from  
 1127 the boundary lines of the real property of which that parcel was  
 1128 a part on the date of finality immediately preceding the date of  
 1129 recognition, the assessed valuation of such parcel shall be  
 1130 determined by allocating to that parcel a pro rata share of the  
 1131 assessed valuation of that real property which, on the preceding  
 1132 date of finality, encompassed the parcel being transferred.

1133 (c) *Taxable value of real property on the date of recognition.*

1134 (1) Taxable value of real property on the date of recognition [shall]  
 1135 must be determined by multiplying by 0.45 the consideration  
 1136 received for the transfer of such property and subtracting [eight  
 1137 thousand dollars (\$8,000.00)] \$8,000 from the resulting  
 1138 product. [Notwithstanding any of the foregoing provisions]  
 1139 However, the taxable value of real property classified [pursuant  
 1140 to state law] as "homestead property[,]" under [article 81,  
 1141 Maryland Code Annotated, section 14A(a)] Section 9-105 of  
 1142 the Tax-Property Article of the Maryland Code on the date of  
 1143 recognition [shall] must be determined by multiplying by 0.40  
 1144 the consideration received for the transfer of such property and  
 1145 subtracting [eight thousand dollars (\$8,000.00)] \$8,000 from  
 1146 the resulting product.

1147 (2) If, subsequent to the date of finality immediately preceding the  
 1148 date of recognition, betterments have been made to real  
 1149 property subject to the tax imposed by this section, the cost of

1150 such betterments incurred by the person transferring the  
 1151 property may be deducted from the consideration received for  
 1152 the transfer of that property prior to calculating the taxable  
 1153 value of such real property on the date of recognition.

1154 (d) *Definitions.* For the purpose of this section, the following words and  
 1155 phrases shall have the meanings respectively ascribed to them:

1156 Assessed Valuation. That valuation determined in accordance with  
 1157 subsection (b) of this section.

1158 Betterments. All physical changes to the property which tend to  
 1159 increase the value thereof.

1160 Consideration shall be determined as follows:

1161 (1) In the case of a transfer of real property in fee simple,  
 1162 consideration shall be determined in accordance with  
 1163 section 52-19 of this chapter.

1164 (2) In the case of a transfer of a partial interest in real  
 1165 property, the value of the interest transferred shall be  
 1166 used to construe the value of the entire property.

1167 Date of Finality. January 1, the date as of which assessments of real  
 1168 property become final for the taxable year next following.

1169 Date of Recognition. The date on which the transfer of real property  
 1170 takes place.

1171 Major Betterments. Improvements which cause an increase in the  
 1172 value of improvements on the property by more than two hundred  
 1173 (200) percent.

1174 New Construction. The improving of property on which no previous  
 1175 improvements existed.

1176 Real Property. Land and improvements thereon.

1177 Taxable Value of Real Property on the Date of Recognition. That  
 1178 value determined in accordance with subsection (c) of this section.

1179 Transfer shall include:

- 1180 (1) The transfer of real property in fee simple.
- 1181 (2) The transfer of a partial interest in real property.

1182 (e) *Exemptions from tax.*

1183 (1) The tax imposed hereunder shall not apply to the initial transfer  
 1184 of property on which there is new construction or on which  
 1185 major betterments have been constructed subsequent to the date  
 1186 of finality immediately preceding the date of recognition.

1187 (2) The tax imposed [hereunder shall] under this Section does not  
 1188 apply to any transfer of land:

1189 (A) [transfers of land] assessed as agricultural land, under  
 1190 [section] Section 52-21(d) [of the Montgomery County  
 1191 Code, as amended; nor to];

1192 (B) [transfers of land] classified as rezoned if [such transfers  
 1193 are] the transfer is taxed under [section] Section 52-21(e)  
 1194 [of the Montgomery County Code, as amended; nor to];

1195 or  
 1196 (C) [transfers of land] assessed as planned development  
 1197 [lands] land under [section 19(f) of article 81 of the  
 1198 Annotated Code of Maryland] Title 8, Subtitle 2 of the  
 1199 Tax-Property Article of the Maryland Code.

1200 (3) The tax imposed hereunder shall not apply to the transfer of real  
 1201 property by any nonprofit hospital or nonprofit religious or  
 1202 charitable organization, association or corporation, nor by any  
 1203 municipality, county or state government or any

1204 instrumentality, agencies or political subdivisions thereof, nor  
1205 to the transfer of real property by will or descent.

1206 (4) The tax imposed hereunder shall not apply to the transfer of real  
1207 property made pursuant to a bona fide written contract or  
1208 agreement entered into prior to the date on which this section  
1209 becomes law; provided, that the director of finance may require  
1210 satisfactory proof that the contract or agreement was entered  
1211 into prior to such date.

1212 (5) In the event a parcel of real property is transferred more than  
1213 once between dates of finality, the tax imposed hereunder shall  
1214 be collected only once; provided, that no boundary lines have  
1215 been changed or no improvements have been made subsequent  
1216 to the initial date of recognition. In the event boundary lines  
1217 changed, the assessed valuation shall be determined in  
1218 accordance with paragraph (b)(2) of this section.

1219 (f) *Payment of tax.*

1220 (1) The transferor of property subject to the tax imposed hereunder  
1221 shall be solely liable for the payment of the tax. The tax shall be  
1222 paid at the time of or prior to the presentation of any instrument  
1223 to the county supervisor of assessments for transfer of any  
1224 interest in real property on the assessment records of the  
1225 county. In the case of a transfer of an interest in real property  
1226 which is not required by law or ordinance to be transferred on  
1227 the assessment records of the county, the tax shall be paid  
1228 before any instrument conveying such interest shall be  
1229 presented to the clerk of the circuit court for recordation.

- 1230           (2) The tax shall be paid to the director and payment shall be  
1231           evidenced by fixing an official stamp upon the deed or  
1232           instrument by the director or his authorized representative  
1233           showing the amount of the tax paid. Where the director, after  
1234           payment, determines that a greater tax is due, the difference in  
1235           tax shall then be immediately due and payable. Interest shall  
1236           run at a rate of eight (8) percent per annum from the date of  
1237           initial payment on the amount of the additional tax due.
- 1238           (3) Prior to the time of payment, the taxpayer shall submit to the  
1239           director a report upon such forms and setting forth such  
1240           information as the director may prescribe. The director may, at  
1241           his discretion, require satisfactory proof of any information  
1242           contained in such forms.
- 1243           (g) *Appraisal of property; additional tax due.* Where the director has  
1244           reason to believe the consideration for an interest in real property has  
1245           been incorrectly stated by the taxpayer, the director may cause to be  
1246           made an appraisal of the property in question. If such appraisal shows  
1247           a different value from that reported by the taxpayer, and if the director  
1248           then determines that a greater tax is due, the greater tax shall  
1249           immediately be due and payable. If, prior to such determination by the  
1250           director, the property has been transferred and the tax imposed  
1251           hereunder has been paid at the lesser amount, interest on the  
1252           difference in tax due shall run at the rate of eight (8) percent per  
1253           annum from the date of initial payment. The transferor and transferee  
1254           shall be jointly and severally liable for payment of the difference in  
1255           tax due.

1256 (h) *Appeals.* In accordance with the jurisdictional approval of the state  
 1257 department of assessments and taxation, any decision made by the  
 1258 director under the provisions of this section may be appealed by any  
 1259 aggrieved party to the property tax assessment appeal board of the  
 1260 county not later than thirty (30) days following the mailing of the  
 1261 notice of such decision by the director. In the event the aforesaid  
 1262 appeal procedure is not approved by the state department of  
 1263 assessments and taxation, appeals from any decision of the director  
 1264 under the provisions of this section may be made by any interested or  
 1265 aggrieved party to the circuit court for the county, which shall have  
 1266 the power to affirm the decision, or if such decision is not in  
 1267 accordance with law, to modify or reverse such decision, with or  
 1268 without remanding the case for rehearing. Whenever any such appeal  
 1269 is taken, a copy thereof shall be served on the director by the appellant  
 1270 in accordance with the Maryland Rules of Procedure. The director  
 1271 shall, in accordance with the Maryland rules, file with the circuit court  
 1272 originals of all papers and evidence presented, together with a copy of  
 1273 his opinion. Any party to the proceeding may introduce additional  
 1274 evidence in the circuit court. Any party to the proceeding in the circuit  
 1275 court may appeal the decision of the circuit court to the court of  
 1276 special appeals within thirty (30) days of the decision. The review  
 1277 proceedings provided by this section shall be exclusive.]]

1278 **52-18A. Tax credit for certain nonprofit organizations.**

1279 (a) [There is hereby granted] The Director of Finance must grant a single  
 1280 tax credit against the amount of the ordinary [county] County taxes or  
 1281 any other special charges or assessments levied against:

- 1282 (1) the personal property owned by any nonprofit, nonstock  
 1283 cooperative housing corporation;
- 1284 (2) leased real property and improvements in the [county] County  
 1285 used exclusively as a theater by nonprofit community theatrical  
 1286 organizations [in accordance with the conditions and provisions  
 1287 of paragraphs (a) and (k-1), section 9C, article 81, Annotated  
 1288 Code of Maryland] under Titles 6 and 9 of the Tax-Property  
 1289 Article of the Maryland Code; and
- 1290 (3) tangible personal property used to improve, replace, or maintain  
 1291 the roads, common areas, or other common facilities owned by  
 1292 a nonprofit organization, association, or foundation which was  
 1293 formed [for the sole purpose of improving, replacing, and  
 1294 maintaining] solely to improve, replace, and maintain the roads,  
 1295 common areas, or other common facilities established under the  
 1296 town sector or planned retirement community zones of [the  
 1297 county zoning ordinance] Chapter 59 where the common  
 1298 facilities are dedicated for the use of all residents of the  
 1299 development without payment of fees or admissions for their  
 1300 use.
- 1301 (b) The [director] Director of [finance for the county is hereby designated  
 1302 to] Finance must administer the tax credits granted under [paragraphs  
 1303 (a) and (k-1), section 9C, article 81, Annotated Code of Maryland]  
 1304 Titles 6 and 9 of the Tax-Property Article of the Maryland Code.
- 1305 (c) The [county executive is delegated authority to prepare such  
 1306 regulations, adopted] County Executive may adopt regulations under  
 1307 method (2) [of section 2A-15 of this Code, as the county executive  
 1308 determines may be needed for the administration of] to administer the

1309 tax credits [to the extent such regulations are not inconsistent]  
 1310 consistent with [section 9C, article 81, Annotated Code of Maryland]  
 1311 Titles 6 and 9 of the Tax-Property Article of the Maryland Code.

\* \* \*

1313 **52-18B. Moderate-income multifamily rental housing facility real property**  
 1314 **tax deferral.**

\* \* \*

1316 (d) Interest [shall] must accrue on the deferred taxes at the rate specified  
 1317 in [article 81, section 48(a) of the Annotated Code of Maryland]  
 1318 Sections 8-421, 10-102, 14-602, and 14-603 of the Tax-Property  
 1319 Article of the Maryland Code.

1320 **52-18I. Property tax credit – Leased property – Religious organizations.**

\* \* \*

1322 (g) A denial of a tax credit may be appealed [in accordance with law] to the  
 1323 Maryland Tax Court.

\* \* \*

1325 **52-18Q. Property tax credit – energy and environmental design.**

1326 (a) *Definitions.* In this [section] Section the following words have the  
 1327 meanings indicated:

\* \* \*

1329 (2) “*High performance building*” means:

1330 (A) A covered building that achieves:

1331 [1.] (1) \* \* \*

1332 [2.] (2) \* \* \*

1333 (B) Any other building that achieves:

1334 [1.] (1) \* \* \*

1335 [2.] (2) An energy and environmental design standard that  
 1336 the Director of the Department of Permitting  
 1337 Services finds is equivalent to the silver, gold or  
 1338 platinum rating from the USGBC for LEED-NC,  
 1339 LEED-CS, or LEED-EB.

1340 \* \* \*

1341 (d) *Amount of credit.*

1342 (1) For a covered building, the amount of the credit is:

1343 (A) 25% of the property tax owed on the building for 5 years,  
 1344 if the building achieves a gold rating for LEED-NC or  
 1345 LEED-CS or an equivalent standards; [or]

1346 \* \* \*

1347 (C) 10% of the property tax owed on the building for 3 years,  
 1348 if the building achieves the gold rating for LEED-EB or  
 1349 an equivalent standard; or

1350 \* \* \*

1351 **52-18R. Property tax credit — renewable energy.**

1352 (a) *Definitions.* In this Section, the following words have the meanings  
 1353 indicated:

1354 [“]Director[”] means the Director of the Department of Finance or  
 1355 the Director’s designee.

1356 [“]Eligible cost[”] means the cost of buying or installing a solar or  
 1357 geothermal energy device or energy conservation device, including  
 1358 any part, component, or accessory necessary to operate the device,  
 1359 that is installed within 12 months before a property owner submits an  
 1360 application to the Department of Finance under subsection (f).

1361 [“]Energy conservation device[”] means a device that:

1362

\* \* \*

1363

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

1364

1365

\* \* \*

1366

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

1367

The tax credit [shall] must be allowed as of the taxable year "date of finality" or "semi-annual date of finality," as defined in [section 2, article 81 of the Annotated Code of Maryland, 1957.] Section 1-101 of the Tax-Property Article of the Maryland Code [Such allowance shall be made upon notice being given by the county council to the director of finance that] if the Council notifies the Director of Finance that the property, by reason of a conveyance, assignment, deed, or other instrument recorded among the land records of the [county] County, [such real property] is affected and servient to a scenic easement which:

1375

(a) [Is] is irrevocable by its own terms;

1376

(b) [Creates] creates a perpetual servitude [upon] on the land [therein] described; and

1377

1378

(c) [Meets] meets the basic requirements, together with the standards of one [(1) of two (2)] of the categories [provided for in the preceding section] in Section 52-31.

1379

1380

1381

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

1383

1384

1385

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

1386

[This article and the regulations hereunder shall take effect as of the date of its passage. However, the tax credit herein provided for shall in no event affect any tax amount due until the levy made for the fiscal year beginning July 1, 1970.]

1387

1388

1389 This [article] Article is [deemed to be enacted and passed] intended to comply with  
 1390 the intent and purpose of [section 12E, article 81, of the Annotated Code of  
 1391 Maryland, 1957] Section 9-208 of the Tax-Property Article of the Maryland Code,  
 1392 and any inconsistency [therewith] with that Section should be resolved in favor of  
 1393 that [law] Section. If a Court of competent jurisdiction declares any part [hereof  
 1394 shall be declared] of this Article legally ineffectual [by a court of competent  
 1395 jurisdiction], then [it is the intent of the county council] the Council intends that  
 1396 the [whole article shall become void and of no effect] entire Article becomes  
 1397 ineffective. In any event, any tax [credits] credit granted [hereunder shall not be  
 1398 recoverable, except where the same were] under this Article must not be recovered  
 1399 unless that credit was procured by fraud, misrepresentation, or intentional mistake.

1400 **52-68. Administration of tax credit.**

1401 \* \* \*

1402 (c) A denial of a tax credit may be appealed [in accordance with State law]  
 1403 to the Maryland Tax Court.

1404 \* \* \*

1405 **52-96. Tax levied; rates.**

1406 \* \* \*

1407 (e) As used in this Article:

1408 (1) *Ton*, when [applies] applied to carbon dioxide in gaseous form,  
 1409 means the amount of gas in cubic feet which is the equivalent  
 1410 of 2000 pounds on a molecular weight basis.

1411 \* \* \*

1412 **52-99. Collection; interest and penalties; violation; lien.**

1413 \* \* \*

1414 (d) Any failure to pay the tax when due under Section ~~[[52-97]]~~ 52-98,  
 1415 and any violation of Section ~~[[52-97]]~~ 52-98 of this Section, is a Class

1416 A violation. Each violation is a separate offense. A conviction under  
 1417 this subsection does not relieve any person from paying the tax.

1418 \* \* \*

1419 **54-20. Denial where operator has been convicted of certain state law violations.**

1420 [An] The Director may deny an initial or annual license [for the operation  
 1421 of] to operate an establishment under this [division] Division [may be denied by  
 1422 the director] if [he] the Director finds the owner or operator of the proposed  
 1423 establishment has been convicted of violating the following provisions of [article  
 1424 27 of the Annotated Code of Maryland, 1957, as amended: Sections 15 to 17  
 1425 inclusive (bawdy houses and houses of ill fame; prostitution, etc.), section 125  
 1426 (disorderly houses), sections 237 to 264C inclusive (gaming), section 277 (illegal  
 1427 keeping of, or sale of narcotics), section 291 (opium joints), sections 121 and 122C  
 1428 disturbance of the peace)] the Criminal Law Article of the Maryland Code:

- 1429 (a) Section 10-202 (keeping disorderly house);
- 1430 (b) Title 12 (gaming);
- 1431 (c) Title 5 (controlled dangerous substances, prescriptions, and other  
 1432 substances); or
- 1433 (d) Section 10-201 (disturbing the public peace and disorderly conduct).

1434 [Nor shall such a license be issued by the director, in his discretion,] The Director  
 1435 may deny an initial or annual license if the owner or operator has been convicted of  
 1436 any similar [offenses] offense outside [the territorial jurisdiction of the state]  
 1437 Maryland.

1438 **54-26. Revocation or suspension generally.**

1439 \* \* \*

1440 (b) The [director] Director may revoke or suspend any license issued  
 1441 under this [division upon a finding] Division if the Director finds that  
 1442 the establishment [is being so operated as to constitute] is a nuisance

1443 [by reason] because of noise or indecent or immoral activity [on the  
 1444 part of the guests] by any guest, owner, operator, or [their employees]  
 1445 employee. The [director] Director may also revoke or suspend any  
 1446 license issued [hereunder] under this Chapter if the owner or operator  
 1447 of the establishment has, while operating the establishment, been  
 1448 convicted of violating:

- 1449 (1) the provisions of [article 27 of the Annotated Code of  
 1450 Maryland, 1957] the Criminal Law Article of the Maryland  
 1451 Code[, set forth] listed in [section] Section 54-20; or  
 1452 (2) [of violating section 123 or 124 (] the drunkenness and  
 1453 disorderly conduct)] of article 27] provisions of Section 10-201  
 1454 of the Criminal Law Article of the Maryland Code while on the  
 1455 licensed premises.

1456 Revocation or suspension of a license under this subsection [shall be  
 1457 in accordance with the provisions of subsection (b) of section] must  
 1458 follow the procedures in Section 54-21(b).

1459 **56-10. Powers and authority of council generally.**

1460 \* \* \*

1461 (q) *Condemnation.* To condemn land or property, including  
 1462 improvements, and [all] any other rights, title, and interest therein, in  
 1463 the name of [Montgomery] the County for [such] an urban renewal  
 1464 project, [pursuant to Article Real Property, title 12, subtitle 1,  
 1465 Annotated Code of Maryland, 1957, as amended] under Title 12,  
 1466 Subtitle 1 of the Real Property Article of the Maryland Code.

1467 \* \* \*

1468 **60-2. Acquisition of land for parking lots; improvement, operation,**  
 1469 **maintenance and sale or lease thereof.**

1470 (a) [For the purpose of providing] To provide off-street parking facilities  
 1471 for the use of the public [within] in and for each district, the [county is  
 1472 hereby authorized to] County may acquire by purchase, lease,  
 1473 condemnation, or otherwise any land [within] in a district, or any land  
 1474 outside [of] any district, [provided that such] if the land is located in  
 1475 whole or in part within [six hundred (600)] 600 feet of the boundary of  
 1476 any [such] district as [now or hereafter defined] created or modified,  
 1477 after public hearing [pursuant to section 11B-33] under Section 11B-46.  
 1478 After acquiring [such] any land, the [county] County may improve the  
 1479 [same] land for use as off-street parking lots and operate and maintain  
 1480 [such] a parking [facilities in accordance with the provisions of] facility  
 1481 under this [chapter] Chapter.

1482 \* \* \*

1483 **Sec. 2. Section 3 of Chapter 20 of the 2010 Laws of Montgomery**  
 1484 **County is amended as follows:**

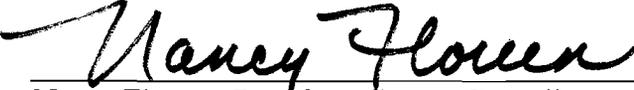
1485 **Sec. 3. Revenue Allocation Suspended.**

1486 Notwithstanding County Code Section 52-100, as enacted by Section 1 of  
 1487 this Act, the revenue received from the tax levied under County Code Section 52-  
 1488 96 in the first full fiscal year the tax is collected must be held in a special reserve  
 1489 account.

1490

1491 *Approved:*

1492

1493 

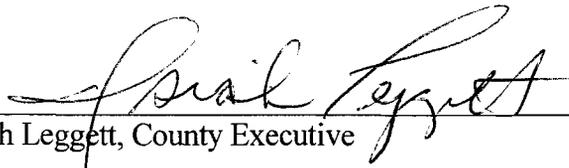
11/23/10

1494 Nancy Floreen, President, County Council

Date

1495 *Approved:*

1496

1497 

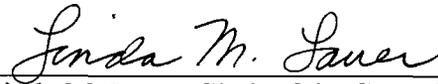
12/6/10

1498 Isiah Leggett, County Executive

Date

1499 *This is a correct copy of Council action.*

1500

1501 

12/7/10

1502 Linda M. Lauer, Clerk of the Council

Date