

**Introduction**

**MEMORANDUM**

October 1, 2010

TO: County Council

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

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

Bill 48-10, Technical Corrections, sponsored by the County Council, is scheduled to be introduced on October 5, 2010. A public hearing is tentatively scheduled for October 26 at 1:30 p.m.

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

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

## 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

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

Chapter 17, Electricity  
Section 17-38

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

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

Chapter 21, Fire and Rescue Services  
Section 21-1

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

Chapter 29A, Legislative Oversight  
Section 29A-9

Chapter 30, Licensing and Regulations Generally  
Section 30-12

Chapter 31, Motor Vehicles and Traffic  
Section 31-22

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

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

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

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

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

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

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

2010 Laws of Montgomery County Chapter 20

By repealing:

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

Article VI  
Sections 33-86 through 33-100

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

\* \* \*

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

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

82 \* \* \*

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

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

97 \* \* \*

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

99 \* \* \*

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

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

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

117 \* \* \*

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

119 \* \* \*

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

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

125 \* \* \*

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

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

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

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

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

137 \* \* \*

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

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

143 \* \* \*

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

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

148 \* \* \*

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

158 \* \* \*

159 **19-1. Definitions.**

160 \* \* \*

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

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

170 \* \* \*

171 **19-36. Definitions.**

172 \* \* \*

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

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

178 \* \* \*

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

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

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

190 \* \* \*

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

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

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

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

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

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

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

225 \* \* \*

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

228 \* \* \*

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

232 \* \* \*

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

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

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

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

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

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

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

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

265 \* \* \*

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

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

288 **22-4A. Certification procedure.**

289 \* \* \*

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

293 \* \* \*

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

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

300

\* \* \*

301

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

305

\* \* \*

306

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

317

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

319

(1) permitted under State and local law; and

320

(2) delegated by the [Director of Fire and Rescue Services] Fire  
 321 Chief.

322

## **22-5. Definitions.**

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

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

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

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

329 \* \* \*

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

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

344 \* \* \*

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

347 \* \* \*

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

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

356 \* \* \*

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

359 \* \* \*

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

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

364 \* \* \*

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

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

373 \* \* \*

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

\* \* \*

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403**22-6. Administration [generally].**

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

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

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

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

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

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

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

- 453 (a) *Generally.*

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

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

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

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

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

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

\* \* \*

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

\* \* \*

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

\* \* \*

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

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

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

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

\* \* \*

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

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

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

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

**22-23. Inspections.**

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

546 \* \* \*

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

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

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

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

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

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

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

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

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

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

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

571 \* \* \*

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

581 \* \* \*

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

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

589 \* \* \*

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

591 \* \* \*

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

595 **33-35. Definitions.**

596 \* \* \*

597 *Employee organization:* [An:]

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

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

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

604 \* \* \*

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

607 \* \* \*

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

610 \* \* \*

611 (c) *Early retirement date.*

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

618 \* \* \*

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

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

621 \* \* \*

622 [(3) Credited service includes:

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

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

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

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

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

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

637 \* \* \*

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

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

649 \* \* \*

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

652 \* \* \*

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

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

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

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

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

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

671 \* \* \*

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

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

[(i)] (h)

\* \* \*

[(j)] (i) (1)

\* \* \*

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

\* \* \*

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

\* \* \*

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

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

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

706 \* \* \*

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

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

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

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

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

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

726 \* \* \*

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

728 \* \* \*

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

742 \* \* \*

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

744 \* \* \*

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

753 \* \* \*

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

859 **[33-94. Cost-of-living adjustments.]**

860 [(a) *Annual adjustment.* A cost-of-living adjustment must be made  
861 annually to the disability benefits awarded under this article.

862 (b) The cost-of-living adjustment must be the same as the annual  
863 adjustment made to the uniform pay plan for county employees.]

864 **[33-95. Reduction of disability benefits.]**

865 [(a) *Reduction by income received.* Disability benefits may be reduced  
866 after any cost-of-living adjustment made under section 33-94 by  
867 income received:

868 (1) As the sum of wages from employment and as the product of  
869 net earnings minus net losses from self-employment;

870 (2) From any other government group income maintenance  
871 insurance coverage for the disability;

872 (3) From social security disability benefits, including benefits  
873 payable to dependents on account of the disability;

874 (4) From any government disability plan; and

875 (5) From workers' compensation.

876 (b) *Amount of reduction.* The reduction must be determined according to  
877 the following offset formula:

878 (1) The first one hundred dollars (\$100.00) a month of income  
879 from a long-term disability plan to which the employee has  
880 contributed is exempt from the offset.

881 (2) The first three hundred dollars (\$300.00) a month of income  
882 from employment is exempt from the offset unless the salary of  
883 an employee receiving non-service-connected disability  
884 benefits is equal to or greater than the salary the employee

885 would have received if the original employment had not been  
886 interrupted.

887 (3) Income from employment between three hundred one dollars  
888 (\$301.00) and six hundred dollars (\$600.00) a month has a one  
889 dollar (\$1.00) offset for each four dollars (\$4.00) of income.

890 (4) Income from employment above six hundred dollars (\$600.00)  
891 a month has a one dollar (\$1.00) offset for each two dollars  
892 (\$2.00) of income.

893 (5) Income received under subsection (a)(2) through (5) of this  
894 section has a one dollar (\$1.00) offset for each one dollar  
895 (\$1.00) of income.

896 (c) *Refusal of employment.* If an employee refuses to accept two (2)  
897 offers of employment offered under section 33-98, which were  
898 commensurate with the training, education, experience, and physical  
899 and mental capabilities of the employee, the amount that employment  
900 would have paid if accepted will be offset from the disability benefits  
901 of the employee in the same manner as income from employment  
902 under subsection (b) of this section.

903 (d) *Refusal of training.* If an employee refuses to participate in retraining  
904 offered under section 33-98, the disability benefits received by the  
905 employee will be reduced by half.

906 (e) *Termination of employment.*

907 (1) If the employment offered by the county under section 33-98  
908 terminates, the employee will continue to receive the amount of  
909 disability benefits, which were offset by the income received  
910 from the employment, that the employee received while in the  
911 employment.

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

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

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

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

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

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

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

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

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

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

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

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

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

967 **33-86 — 33-100. Reserved.**

968 \* \* \*

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

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

974 \* \* \*

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

989 \* \* \*

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

991 \* \* \*

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

1000 \* \* \*

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

1002 (a) Contribution limitations.

1003 (1) \* \* \*

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

1008 \* \* \*

1009 **33-128. Definitions.**

1010 \* \* \*

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

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

1018 \* \* \*

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

1020 \* \* \*

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

1025 \* \* \*

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

1027 \* \* \*

1028 (b) The Department of Police may:

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

1034 \* \* \*

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

1037 \* \* \*

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

1039 \* \* \*

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

1042 \* \* \*

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

1044 \* \* \*

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

1046 \* \* \*

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

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

1061 \* \* \*

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

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

1064 \* \* \*

1065 (g) Public service company means:

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

1073 \* \* \*

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

1076 \* \* \*

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

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

1084 \* \* \*

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

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

1099 \* \* \*

1100 (e) *Exemptions from tax.*

1101  
 1102  
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\* \* \*

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

\* \* \*

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

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

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

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

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

\* \* \*

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

\* \* \*

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

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

1159 \* \* \*

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

1162 \* \* \*

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

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

1166 \* \* \*

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

1168 (A) A covered building that achieves:

1169 [1.] (1) \* \* \*

1170 [2.] (2) \* \* \*

1171 (B) Any other building that achieves:

1172 [1.] (1) \* \* \*

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

1178 \* \* \*

1179 (d) *Amount of credit.*

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

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

1184 \* \* \*

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

1188 \* \* \*

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

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

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

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

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

1200 \* \* \*

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

1203 \* \* \*

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

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

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

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

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

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

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

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

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

1239 \* \* \*

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

1242 \* \* \*

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

1244 \* \* \*

1245 (e) As used in this Article:

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

1249 \* \* \*

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

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

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

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

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

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

1271 \* \* \*

1272 (b) The [director] Director may revoke or suspend any license issued  
 1273 under this [division upon a finding] Division if the Director finds that  
 1274 the establishment [is being so operated as to constitute] is a nuisance  
 1275 [by reason] because of noise or indecent or immoral activity [on the  
 1276 part of the guests] by any guest, owner, operator, or [their employees]  
 1277 employee. The [director] Director may also revoke or suspend any  
 1278 license issued [hereunder] under this Chapter if the owner or operator  
 1279 of the establishment has, while operating the establishment, been  
 1280 convicted of violating:

- 1281 (1) the provisions of [article 27 of the Annotated Code of  
 1282 Maryland, 1957] the Criminal Law Article of the Maryland  
 1283 Code[, set forth] listed in [section] Section 54-20; or  
 1284 (2) [of violating section 123 or 124 (] the drunkenness and  
 1285 disorderly conduct[]) of article 27] provisions of Section 10-201  
 1286 of the Criminal Law Article of the Maryland Code while on the  
 1287 licensed premises.

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

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

1292 \* \* \*

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

1299 \* \* \*

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

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

1314 \* \* \*



## LEGISLATIVE REQUEST REPORT

### Bill 48-10, *Technical Corrections*

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

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

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

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

**FISCAL IMPACT:** To be requested.

**ECONOMIC IMPACT:** To be requested.

**EVALUATION:** Not applicable.

**EXPERIENCE ELSEWHERE:** Not applicable.

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

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

**PENALTIES:** Not applicable.