

Expedited Bill No. 29-16
Concerning: Fire Safety Code –
Administration – Reorganization
Revised: June 29, 2016 Draft No. 3
Introduced: July 12, 2016
Enacted: September 20, 2016
Executive: September 28, 2016
Effective: September 28, 2016
Sunset Date: None
Ch. 30, Laws of Mont. Co. 2016

COUNTY COUNCIL FOR MONTGOMERY COUNTY, MARYLAND

Lead Sponsor: Council President at the request of the County Executive

AN EXPEDITED ACT to:

- (1) transfer the Fire Code Compliance Section to the Department of Permitting Services and provide that certain duties performed by the Fire Code Compliance Section must be performed by the Department of Permitting Services;
- (2) transfer to the Department of Permitting Services responsibility to implement certain fire prevention and fire code compliance obligations imposed under Chapter 22, Fire Safety Code;
- (3) identify the duties and responsibilities of the fire code inspectors;
- (4) provide that the Montgomery County Fire and Rescue Service retains authority for fire and explosive investigations;
- (5) identify who may become assistant State fire marshal, special assistant State fire marshal, and deputy State fire marshal pursuant to State law; and
- (6) generally amend the law related to the administration and enforcement of the Fire Safety Code

By amending

Montgomery County Code

Chapter 2. In General

Section 2-42B

Chapter 22. Fire Safety Code

Sections 22-2, 22-3, 22-4A, 22-5, 22-6, 22-7, 22-9, 22-10, 22-13, 22-14, 22-15, 22-15A, 22-16, 22-18, 22-23, 22-31, 22-33, 22-37, 22-39, 22-41, 22-44, 22-45, 22-46, 22-50, 22-75, 22-79, 22-88, 22-96

Boldface

Underlining

[Single boldface brackets]

Double underlining

[[Double boldface brackets]]

* * *

Heading or defined term.

Added to existing law by original bill.

Deleted from existing law by original bill.

Added by amendment.

Deleted from existing law or the bill by amendment.

Existing law unaffected by bill.

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

standards of the National Fire Protection Association (NFPA), International Code Council (ICC), American Insurance Association (AIA), or any other nationally recognized fire safety standard approved by the [Fire Chief] Director of Permitting Services is prima facie evidence of compliance with this Chapter.

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22-3. Construction and scope of chapter.

(a) This Chapter applies to existing conditions and to conditions arising after this Chapter was adopted. However, a condition legally existing when this Chapter was adopted, but not in strict compliance with this Chapter, may continue only if the [Fire Chief] Director finds that the condition is not a distinct hazard to life or property.

* * *

(d) Nothing in this Chapter [shall be construed to limit] limits the authority of any [fire officer] individual who has been appointed [deputy or special deputy] an assistant State fire marshal or special assistant State fire marshal in accordance with the Public Safety Article [article 38A] of the Annotated Code of Maryland, or the authority granted by other laws or codes.

(e) This Chapter does not render any other applicable law or regulation invalid. If a conflict arises between this Chapter and another law or regulation, the fire marshal and the head of the agency responsible for enforcing the conflicting law or regulation must agree which applies. If they cannot agree, any remaining conflict must be referred to the [Fire Chief] Director. The decision of the [Fire Chief] Director in any matter relating to fire safety in or for any building, structure, area, or premises is final. Within 30 days after any remaining conflict has been resolved, the

55 [Fire Chief] Director and the head of the agency responsible for enforcing
56 the conflicting law or regulation must forward to the County Executive a
57 joint proposal to amend a law or regulation to eliminate the conflict.

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59 **22-4A. Certification procedure.**

60 (a) The Director [of Permitting Services], in accordance with Chapter 8, may
61 recommend a waiver of an examination of plans for the erection or
62 alteration of a building which involve structural work or structural
63 changes affecting public safety or health if:

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65 (b) The [Fire Chief] Director may waive all or part of the regular field
66 inspection of construction if the architect or engineer certifies to the [Fire
67 Chief] Director that:

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69 (c) The [Fire Chief] Director may waive any final inspection under this
70 Chapter which relates to the issuance of a certificate of use and occupancy
71 if the registered engineer or architect who supervised the construction or
72 reconstruction of the building certifies to the [Fire Chief] Director under
73 oath that:

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75 (d) The Director [of Permitting Services] may grant a waiver related to plan
76 review under subsection (a) if the waiver is warranted in light of
77 subsection (a) and:

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79 (e) The [Fire Chief] Director may grant a waiver related to construction
80 inspection, and use and occupancy inspection under subsections (b) and
81 (c), if the waiver is warranted in light of subsections (b) and (c) and:

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22-5. Definitions.

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

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Agent[: The term “agent”] means any person who [shall have] has charge, care or control of any building as owner, or agent of the owner, or as executor, executrix, administrator, administratrix, trustee or guardian of the estate of the owner. Any such person representing the actual owner [shall be bound to] must comply with the provisions of this code to the same extent as if he were the owner.

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Air supported structure[: The phrase “air supported structure”] means a structural and mechanical system which is constructed of high strength fabric or film and achieves its shape, stability and support by pretensioning with internal air pressure.

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108 *Alternative[:]* means a system, condition, arrangement, material, or equipment
109 submitted to the [Fire Chief] Director as a substitute for a code requirement.

110 *Approved[:]* means acceptable to the [Fire Chief] Director. In determining the
111 acceptability of installations or procedures, equipment, or materials, the [Fire
112 Chief] Director may base acceptance on compliance with the NFPA or other
113 appropriate standards. In the absence of such standards, the [Fire Chief]
114 Director may require evidence of proper installation, procedure, or use. The
115 [Fire Chief] Director may also refer to the listings or labeling practices of any
116 nationally recognized testing laboratory, inspection agency, or other
117 organization which evaluates products and can determine compliance with
118 appropriate standards for and the satisfactory performance of such equipment or
119 materials in actual usage.

120 *Approved plastic container[:]* The phrase “approved plastic container”] means
121 a plastic container of not more than five (5) gallons capacity which has been
122 labeled by Underwriters Laboratories, Inc., or Factory Mutual, Inc., as being
123 suitable for the storage of Class I flammable liquids.

124 *Assembly[:]* The term “assembly”] means places of assembly including, but not
125 limited to, all buildings or portions of buildings used for gathering together fifty
126 (50) or more persons in commercial places of assembly and one hundred (100)
127 or more persons in noncommercial places of assembly. Places of assembly
128 [shall] include those facilities used for such purposes as deliberation, worship,
129 entertainment, amusement, or awaiting transportation. Occupancy of any room
130 or space for assembly purposes by less than one hundred (100) persons in a
131 building of other occupancy and incidental to such other occupancy [shall] must
132 be classed as part of the other occupancy and subject to the provisions applicable
133 thereto.

134 *Authority having jurisdiction*[: The Fire Chief] means the Director or Fire Chief
135 with appropriate responsibility.

136 *Automatic fire extinguishing system*[: The phrase “automatic fire extinguishing
137 system”] means any system which is designed and installed to detect a fire and
138 subsequently expel an extinguishing agent without any human intervention.

139 *Basement*[: The term “basement”] means a portion of the building partly
140 underground, but having less than half its clear height below the average grade
141 of the adjoining ground.

142 [*Buildings*: The term “buildings”] *Building* means a structure wholly or partially
143 enclosed, either standing alone or cut off from other structures by fire walls, and
144 which is designed for housing persons, animals or property.

145 *Building official*[: The phrase “building official”] means the officer or other
146 designated authority charged with the administration and enforcement of the
147 building code.

148 *Burning*[: The term “burning”] means lighting, igniting, kindling, or setting fire
149 to combustible materials, adding fuel to a fire, or permitting combustible
150 material to burn.

151 *Cellar*[: The term “cellar”] means the portion of the building, partly
152 underground, having half or more than half of its clear height below the average
153 grade of the adjoining ground.

154 *Central fire communications center*[:] means the public fire service
155 communication facilities operated by the Montgomery County Fire and Rescue
156 Service as part of the County emergency operations center.

157 *Central station*[: An] means an office to which remote alarm and supervisory
158 signaling devices are connected, where personnel are in attendance at all times
159 to supervise the circuits and investigate signals.

160 *Central station system*[: A] means a system, or group of systems, in which the
161 operations of circuits and devices are signaled automatically to, recorded in,
162 maintained and supervised from an approved central station having competent
163 and experienced observers and operators who [shall] must, upon receipt of a
164 signal, take such action as [shall be] is required by this standard. Such systems
165 [shall] must be controlled and operated by a person, firm or corporation whose
166 principal business is the furnishing and maintaining of supervised signaling
167 service.

168 *Combination system*[: A] means a household fire warning system whose
169 components may be used in whole or in part, in common with a nonfire
170 emergency signaling system, such as a burglar alarm system or an intercom
171 system, without degradation of or hazard to the fire warning system.

172 *Compressed gas*[: The phrase “compressed gas”] means and includes any
173 mixture or material having in the container either an absolute pressure exceeding
174 forty (40) pounds per square inch at seventy (70) degrees Fahrenheit or an
175 absolute pressure exceeding one hundred four (104) pounds per square inch at
176 one hundred thirty (130) degrees Fahrenheit or both; or any liquid flammable
177 material having a vapor pressure as defined in section 1.424 exceeding forty
178 (40) pounds per square inch at one hundred (100) degrees Fahrenheit.

179 *Combustible fiber*[: The phrase “combustible fiber”] means any material in a
180 fibrous or shredded form which will readily ignite when heat sources are
181 present.

182 *Combustible liquid*[: The phrase “combustible liquid”] means a liquid having a
183 flash point at or above one hundred (100) degrees Fahrenheit (37.8 degrees
184 Centigrade). Combustible liquids [shall be] are subdivided as follows:

185 *Class II liquids* [shall] include those having flash points at or above one hundred
186 (100) degrees Fahrenheit (37.8 degrees Centigrade) and below one hundred
187 forty (140) degrees Fahrenheit (60 degrees Centigrade).

188 *Class IIIA liquids* [shall] include those having flash points at or above one
189 hundred forty (140) degrees Fahrenheit (60 degrees Centigrade) and below two
190 hundred (200) degrees Fahrenheit (93.4 degrees Centigrade).

191 *Class IIIB liquids* [shall] include those having flash points at or above two
192 hundred (200) degrees Fahrenheit (93.4 degrees Centigrade).

193 *Combustible refuse*[: The phrase “combustible refuse”] means all combustible
194 or flammable loose rubbish, litter or waste materials generated by any
195 occupancy which are refused, rejected or considered worthless and are disposed
196 of by incineration on the premises where generated or periodically transported
197 from the premises.

198 *Combustible waste*[: The phrase “combustible waste”] means combustible or
199 flammable loose waste materials which are generated by any establishment or
200 process and, being salvageable, are retained from scrap for reprocessing on the
201 premises where generated or transported to a plant for processing, including but
202 not limited to all combustible fibers, hay, straw, hair, feathers, down, wood
203 shavings, turnings, all types of paper products, soiled cloth trimmings and
204 cuttings, rubber trimmings and buffings, metal fines, and any mixture of the
205 above items or any other salvageable combustible or flammable waste material.

206 *Director* means the Director of Permitting Services.

207 *Distribute*[: The term “distribute” as used in this chapter shall include] includes
208 rental, leasing and giving away as a prize or a premium.

209 *D.O.T. container*[: The phrase “D.O.T. container”] means any container
210 approved by the U.S. Department of Transportation for shipping any liquid,
211 gaseous or solid material of a flammable, toxic or other hazardous nature.

212 *Dwelling*[: The term “dwelling”] means a single unit providing complete and
213 independent living facilities for one (1) or more persons including permanent
214 provisions for living, sleeping, eating, cooking and sanitation.

215 *Dwelling unit*[: The phrase “dwelling unit”] means one or more habitable rooms
216 which are occupied or which are intended or designed to be occupied by one (1)
217 family with facilities for living, sleeping, cooking and eating.

218 *Existing condition*[: The phrase “existing condition”] means any situation,
219 circumstance or physical makeup of any structure, premises or process which
220 was on-going or in effect prior to the adoption of this code.

221 *Explosive*[: The term “explosive”] means a chemical compound or mechanical
222 mixture, that is commonly used or intended for the purpose of producing an
223 explosion, that contains any oxidizing and combustible units, or other
224 ingredients, in such proportions, quantities or packing that an ignition by fire,
225 by friction, by concussion, by percussion or by detonator of any part of the
226 compound or mixture may cause such a sudden generation of highly heated
227 gases that the resultant gaseous pressures are capable of producing destructive
228 effects on contiguous objects or of destroying life and limb.

229 *Fire apparatus*[: The phrase “fire apparatus”] means a vehicle such as a fire
230 pumper, aerial ladder truck, elevated platform, rescue squad or similar fire-
231 fighting or rescue equipment.

232 *Fire Chief*[: The] means the Fire Chief appointed under Section 21-3 or [. Fire
233 Chief includes] the Fire Chief’s designee.

234 *Fire code inspector* means a qualified employee in the Department of Permitting
235 Services.

236 *Fire department*[:] means the Montgomery County Fire and Rescue Service.

237 *Fire department connection (siamese connection)*[: The phrase “fire department
238 connection (siamese connection)”] means a connection on a building for [the]

239 fire department use in supplementing or supplying water for standpipes and
240 sprinkler systems.

241 *Fire door*[: The phrase “fire door”] means a tested, listed, or approved door and
242 door enclosure constructed and installed for the purpose of preventing the spread
243 of fire through openings in walls, partitions, or other horizontal or vertical
244 construction. See Standard for Fire Doors and Windows, NFPA No. 80 for
245 classification and types of fire doors.

246 *Fire hazard*[: The phrase “fire hazard”] means any thing or act which increases
247 or may cause an increase of the hazard or menace of fire to a greater degree than
248 that customarily recognized by persons in the public service regularly engaged
249 in preventing, suppressing or extinguishing fire; or which may obstruct, delay,
250 hinder or interfere with the operations of the fire department or the egress of
251 occupants in the event of fire.

252 *Fire hydrant*[: The phrase “fire hydrant”] means a valved outlet on a water
253 supply system with one or more threaded outlets and used to supply fire
254 department hose and pumpers with water.

255 *Fire lane*[: The phrase “fire lane”] means the road, path, or other passageway
256 developed to allow the passage of fire apparatus through congested areas.

257 *Fire Marshal or County Fire Marshal*[:] means a qualified employee of the
258 [Montgomery County Fire and Rescue Service] Department of Permitting
259 Services designated by the [Fire Chief] Director as the County Fire Marshal.
260 *Fire Marshal* includes the Fire Marshal’s designee, unless the context clearly
261 indicates otherwise.

262 *Fire official*[:] means any person serving as a designated employee,
263 representative, or agent of the Montgomery County Fire and Rescue Service or
264 the Department of Permitting Services.

265 *Fire protection system*[: The phrase “fire protection system”] means any fire
266 alarm device or system, fire detection device or system or fire extinguishing
267 device or system, or their combination, which is designed and installed for
268 detecting, controlling or extinguishing a fire or otherwise alerting occupants or
269 the fire department, or both that a fire has occurred.

270 *Fire separation*[: The phrase “fire separation”] means construction of rated fire
271 resistance or the maintenance of clear area to resist the spread of fire.

272 *Fireworks display*[: The phrase “fireworks display”] means the use of fireworks
273 in a manner to provide audio and visual entertainment to a group of people.

274 *Flamespread rating*[: The phrase “flamespread rating”] means the comparative
275 performance of fire travel over the surface of a material when tested in
276 accordance with the provisions of nationally recognized test methods. Grouping
277 of ratings is listed in Life Safety Code, NFPA No. 101.

278 *Flammable*[: The term “flammable”] means capable of burning or producing
279 flame at ordinary temperatures, or being easily ignited.

280 *Flammable finishing*[: The phrase “flammable finishing”] means the spraying,
281 dipping, flow-coating or electro-static bonding of flammable substances on
282 other materials, devices or construction.

283 *Flammable liquid*[: The phrase “flammable liquid”] means a liquid having a
284 flash point below one hundred (100) degrees Fahrenheit (37.8 degrees
285 Centigrade) and having a vapor pressure not exceeding forty (40) pounds per
286 square inch (absolute) at one hundred (100) degrees Fahrenheit (37.8 degrees
287 Centigrade) and [shall be] is known as a Class I liquid. Class I liquids [shall be]
288 are subdivided as follows:

289 *Class IA* [shall include] includes those liquids having flash points below
290 seventy-three (73) degrees Fahrenheit (22.8 degrees Centigrade) and having a

291 boiling point below one hundred (100) degrees Fahrenheit (37.8 degrees
292 Centigrade).

293 *Class IB* [shall include] includes those liquids having flash points below
294 seventy-three (73) degrees Fahrenheit (22.8 degrees Centigrade) and having a
295 boiling point at or above one hundred (100) degrees Fahrenheit (37.8 degrees
296 Centigrade).

297 *Class IC* [shall include] includes those liquids having flash points at or above
298 seventy-three (73) degrees Fahrenheit (22.8 degrees Centigrade) and below one
299 hundred (100) degrees Fahrenheit (37.8 degrees Centigrade).

300 *Flammable solid*[: The phrase “flammable solid”] means a solid substance,
301 other than one (1) classified as an explosive, which is liable to cause fires
302 through friction, through absorption of moisture, through spontaneous chemical
303 changes or as a result of retained heat from manufacturing or processing.

304 *Flash point*[: The phrase “flash point”] means the minimum temperature in
305 degrees Fahrenheit at which a flammable liquid will give off sufficient vapors
306 to form an ignitable mixture with air near the surface or in the container, but will
307 not sustain combustion. The flash point of a liquid [shall] must be determined
308 by appropriate test procedure and apparatus as specified below. The flash point
309 of flammable liquids having a flash point below one hundred seventy-five (175)
310 degrees Fahrenheit [shall] must be determined in accordance with nationally
311 recognized good practice using the Tag Closed Tester. The flash point of
312 flammable liquids having a flash point of one hundred seventy-five (175)
313 degrees Fahrenheit or higher [shall] must be determined in accordance with
314 nationally recognized good practice using the Pensky-Martens Closed Tester
315 (ASTM D 93).

316 *Gallon*[: The term “gallon”] means one (1) U.S. standard gallon.

317 *Grade*[: The term “grade”] means the reference plane representing the average
318 elevation of finished ground level adjoining the building at all exterior walls.

319 *Household fire warning system*[: The term “household fire warning system”
320 shall mean] means a system of devices that produce an audible alarm signal in
321 the household for the purpose of notifying the occupants of the presence of a
322 fire so they may evacuate the premises. The term “household fire warning
323 system” [shall] does not include alarm systems where the signal is extended to
324 another location such as a fire department or central station service.

325 *Liquefied petroleum gas (LP gas)*[: The phrase “liquefied petroleum gas (LP
326 gas)”] means any material which is composed predominantly of the following
327 hydrocarbons, or mixtures of them: propane, propylene, butane (normal butane
328 or isobutane) and butylenes.

329 *Loose house*[: The phrase “loose house”] means a separate detached building in
330 which unbaled combustible fibers are stored.

331 *Means of egress*[: The phrase “means of egress”] means a continuous and
332 unobstructed path of travel from any point in a building or structure to a public
333 space and consists of three (3) separate and distinct parts: (a) the exitway access,
334 (b) the exitway, and (c) the exitway discharge; a means of egress comprises the
335 vertical and horizontal means of travel and [shall include] includes intervening
336 room spaces, doors, hallways, corridors, passageways, balconies, ramps, stairs,
337 enclosures, lobbies, escalators, horizontal exits, courts and yards.

338 *Multi-family dwelling*[: The phrase “multi-family dwelling”] means any
339 building or portion thereof, which is designed, built, rented, leased, sold, let or
340 hired out to be occupied, or which is occupied as the home or residence of three
341 (3) or more families living independently of each other and doing their own
342 cooking in such building and [shall include] includes flats and apartments.

343 *Notice*[: The term “notice”] means the verbal or written statement which gives
344 an order, information or warning.

345 *Ordinary conduct*[: The phrase “ordinary conduct”] means the customary
346 procedures which are normally followed.

347 *Owner*[: The term “owner”] means any person who alone or jointly or severally
348 with others [shall have] has legal title to any building, structure or premises with
349 or without accompanying actual possession thereof and [shall include] includes
350 his or her duly authorized agent or attorney, a purchaser, devisee, fiduciary and
351 any person having a vested or contingent interest in the property in question.

352 *Permit*[: The term “permit”] means an official document or certificate issued by
353 the authority having jurisdiction for the purpose of authorizing performance of
354 a specified activity.

355 *Person*[: The term “person” shall include] means a corporation, firm,
356 partnership, association, organization and any other group acting as a unit as
357 well as individuals. [It shall also include] *Person* includes an executor,
358 administrator, trustee, receiver or other representative appointed according to
359 law. Whenever the term [“person”] *person* is used in any section of this [code]
360 Chapter prescribing a penalty or fine, as to partnerships or associations, the term
361 [shall include] includes the partners or members thereof and, as to corporations,
362 [shall include] includes the officers, agents or members thereof who are
363 responsible for any violation of such section.

364 *Places of assembly*[: The phrase “places of assembly”] means places of
365 assembly including, but not limited to, all buildings or portions of buildings used
366 for gathering together fifty (50) or more persons in noncommercial places of
367 assembly. *Places of assembly* [shall] include those facilities used for such
368 purposes as deliberation, worship, entertainment, amusement, or awaiting
369 transportation. Occupancy of any room or space for assembly purposes by less

370 than one hundred (100) persons in a building or other occupancy and incidental
371 to such other occupancy [shall] must be classed as part of the other occupancy
372 and subject to the provisions applicable thereto.

373 *Process*[: The term “process”] means the manufacturing, handling, blending,
374 conversion, purification, recovery, separation, synthesis or use, or any
375 combination, of any commodity or material regulated by this code.

376 *Public stable*[: The phrase “public stable”] means any place which has available
377 for hire for riding or riding instruction purposes any horse or pony; or where
378 horses or ponies other than those belonging to the owner of the stable are kept,
379 boarded or trained.

380 [*Repairs*: The term “repair”] *Repair* means the reconstruction or renewal of any
381 part of an existing building or structure for the purpose of its maintenance. The
382 term [“repair”] *repair* or [“repairs”] *repairs* [shall] does not apply to any change
383 in construction.

384 *Representative*[:] means a person duly appointed in the name of the Fire Chief,
385 Director, or Fire Marshal to administer or enforce this Chapter.

386 *Safety can*[: The phrase “safety can”] means an approved container of not over
387 five (5) gallons capacity having a spring-closing lid and spout cover.

388 *Small arms ammunition*[: The phrase “small arms ammunition”] means any
389 shotgun, rifle, pistol or revolver cartridges.

390 *Smoking*[: The term “smoking”] means lighting, igniting, holding or possessing
391 any lighted cigar, cigarette or pipe; or, carrying, throwing or depositing any
392 lighted or smoldering cigar, cigarette or pipe.

393 *Standpipe*[: The term “standpipe”] means a pipe and attendant hose valves and
394 hose (if provided) used for conveying water to various parts of a building for
395 fire-fighting purposes.

396 *Story*[: The term “story”] means that portion of a building included between the
 397 surface of any floor and the surface of the floor next above it or, if there is no
 398 floor above it, the space between such floor and the ceiling next above it. A
 399 basement [shall be] is counted as a story, if it is used for business or dwelling
 400 purposes. A mezzanine floor [shall be] is counted as a story, if it covers over
 401 one-third of the area of the floor next below it or if the vertical distance between
 402 the floor next below it and the floor next above it is twenty (20) feet or more.

403 *Street*[: The term “street”] means a public thoroughfare (street, avenue or
 404 boulevard) which has been dedicated for vehicular use by the public and can be
 405 used for access by fire department vehicles.

406 *Supervised automatic fire extinguishing system*[: The phrase “supervised
 407 automatic fire extinguishing system”] means any automatic fire extinguishing
 408 system which is constantly monitored so as to determine operating condition at
 409 all times.

410 *System*[: The term “system”] means several items of equipment assembled,
 411 grouped or otherwise interconnected for the accomplishment of a purpose or
 412 function.

413 *Water capacity*[: The phrase “water capacity”] means the volumetric measure
 414 of the amount of water a container can hold.

415 **22-6. Administration.**

416 (a) *Authority of Fire Chief and Director of Permitting Services generally.*
 417 The Fire Chief and the Director of the Department of Permitting Services
 418 must administer this Chapter. The Fire Chief and the Director of
 419 Permitting Services must perform [any other] the respective duty or
 420 duties assigned under this Chapter or any other applicable law. The Fire
 421 Chief and the Director of Permitting Services may delegate any power or
 422 duty under this Chapter to any other County [fire official] employee.

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(c) *Enforcement assistance.* Police and any other authorized agency must provide necessary assistance to enforce this Chapter when the Fire Chief or the Director of Permitting Services so requests.

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(d) *Fire Code Compliance [Section].* [To assist the Fire Chief, the Chief may organize and supervise a Fire Code Compliance Section in the Fire and Rescue Service. Members of this Section] The Department of Permitting Services may enforce all County laws and regulations on:

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(5) maintenance of fire protection and elimination of fire hazards on land and in buildings, structures, and other property, including those under construction; and

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(6) adequacy of each fire exit from any building[; and].

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[(7) investigation of the cause of any fire.]

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(e) *Authorization for requirement changes.* A fire safety requirement proposed for imposition during the course of building construction that would change or substitute a material, feature, construction method, or any other aspect of construction different from the original or amended subdivision, site, or construction plans and specifications, as approved by the [Fire and Rescue Service] Director must only be imposed [if the Fire Chief] if the Director finds that the change or substitution is necessary to avoid a specific and demonstrable threat to public safety. The [Chief] Director must provide a copy of the finding to the affected person and to the public on request.

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(f) *[Administrative appeals.* When petitioned by an aggrieved person, the Fire Chief must promptly review any ruling or interpretation of law or regulations made by Fire and Rescue Service staff while enforcing this

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450 Chapter. A petition must be filed with the Fire Chief in writing within 10
 451 days after the ruling or interpretation. The Fire Chief may review,
 452 modify, or affirm the initial ruling or interpretation with or without a
 453 hearing, and must send a copy of the Fire Chief's decision to the
 454 aggrieved party.] Fire and explosive investigation section. The Fire
 455 Chief may organize and supervise a Fire and Explosive Investigation
 456 Section in the Fire and Rescue Service to investigate the cause and origin
 457 of any fire. The Fire Chief may ask the State fire marshal to appoint one
 458 or more qualified employees of the Fire and Rescue Service to serve as a
 459 special assistant State fire marshal.

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461 **22-7. Right of entry.**

462 (a) *Generally.*

- 463 (1) The County Executive, Fire Chief, [and] Police Chief, and Director
 464 of Permitting Services, or their authorized representatives, after
 465 exhibiting the proper credentials or proof of identity on request,
 466 may enter any building, structure, or premises (except any area
 467 actually occupied as a dwelling unit) without consent of the
 468 occupants during business or operating hours and at other times in
 469 an emergency that immediately endangers life, property or public
 470 safety, to perform duties under this Chapter or enforce this
 471 Chapter.
- 472 (2) For a multi-family dwelling, the Executive, Fire Chief, [and]
 473 Police Chief, and Director of Permitting Services, or their
 474 authorized representatives, may only enter without consent any
 475 space that is not part of an individual dwelling unit, such as a
 476 storage room, laundry room, boiler room, utility room, hallway, or

477 basement. However, the Executive, Fire Chief, and Police Chief
478 may enter any individual dwelling unit:

479 * * *

480 **22-9. Investigation of fires.**

481 (a) *Authority of [director] Fire Chief generally.* The [director] Fire Chief
482 [shall have] has the authority to investigate the cause, origin and
483 circumstances of every fire, explosion or other emergency in which the
484 fire department has a reasonable interest or is called for assistance,
485 including inspection of any document pertinent to the investigation.
486 When the [Director] Fire Chief has reason to believe that a fire or
487 explosion may be the result of a violation of any law, he or she [shall]
488 must immediately take custody of and safeguard all physical evidence in
489 connection therewith and [shall have] has the authority to prohibit the
490 disturbance or removal of any material, substance, device or utility in or
491 upon any building or property wherein or whereon a fire or explosion has
492 occurred until the investigation of the fire is complete and to take such
493 photographs and statements and make such drawings as he may deem
494 necessary.

495 (b) *Authority of [Director] Fire Chief to enter and examine.* The [Director]
496 Fire Chief [shall have] has the authority at all times, in performance of
497 the duties imposed by the provisions of this chapter, to enter upon and
498 examine any building or premises, vehicle or thing where any fires or
499 attempts to cause fires [shall] have occurred, or which at the time may be
500 burning, and also the power to enter upon at any time any building or
501 property adjacent to that in which the fire or attempt to cause fires has
502 occurred, should he or she deem it necessary in the proper discharge of
503 his or her duties; and he or she may, in the exercise of his or her discretion,

504 take full control and custody of such buildings and premises, and place
505 such person in charge thereof as he or she may deem proper, until his or
506 her examination and investigation [shall be] is completed.

507 (c) *Testimony; arrests.* The [Director] Fire Chief, in making this inspection
508 or investigation, may, when in his or her judgment necessary, take the
509 testimony on oath of all persons supposed to be cognizant of any facts, or
510 to have the means or knowledge in relation to the matter herein required
511 to be examined and inquired into, and to cause the testimony to be
512 reduced to writing; and when, in his or her judgment, the examination
513 discloses that the fire or explosion or attempt to cause a fire or explosion
514 was of incendiary origin, the [Director] Fire Chief [shall] must notify the
515 appropriate authorities and [shall] must transmit a copy of the testimony
516 so taken to the state's attorney for the county or city wherein the fire or
517 explosion or attempt to cause a fire or explosion occurred.

518 (d) *Witnesses; production of documents; oaths.* The [Director] Fire Chief
519 [shall have] has the power to summon witnesses and to compel their
520 attendance before him or her to testify in relation to any matter which is,
521 by the provision of this chapter, a subject of inquiry and investigation by
522 the [Director] Fire Chief, and [shall] also [have] has the power to cause
523 to be produced before him or her such papers as he or she may require in
524 making such examination. The [Director] Fire Chief is [hereby]
525 authorized to administer oaths and affirmations to persons appearing as
526 witnesses before him or her.

527 (e) *Interference with [Director] Fire Chief; failure to appear, produce*
528 *documents, etc.* Any person who interferes with the [Director] Fire Chief
529 in the performance of his or her duties under this section, or who fails to
530 appear when summoned, or fails to provide such documents and records

531 as are summoned or who fails to testify when requested [shall be] is guilty
 532 of a misdemeanor and, upon conviction thereof, [shall be] is subject to
 533 the penalty section of the chapter.

534 * * *

535 **22-10. Permits and certificates.**

536 * * *

537 (b) *Application for permit.* Each application for a permit required by this
 538 Chapter must be made to the [Fire and Rescue Service or] Department of
 539 Permitting Services[, as applicable,] in the form prescribed. Each
 540 application must be accompanied by any plans, specifications, or details
 541 required by [the Fire Chief or] the Director [of Permitting Services, as
 542 applicable].

543 (c) *Inspection before issuance of permit.* Before a permit may be issued, the
 544 [Fire Chief or the] Director [of Permitting Services, as applicable,] may
 545 inspect and approve any receptacle, vehicle, building, device, premises,
 546 storage space, or area to be used.

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

550 * * *

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

554 * * *

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

556 (1) If any installation requiring a permit or inspection is covered or
 557 concealed without having first been inspected, the [Fire Chief]

558 Director must require by written notice that the work be exposed
559 for inspection. The permittee must pay any cost of exposing and
560 recovering the work.

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

569 * * *

570 **22-13. Regulations.**

571 (a) The Director may recommend, and the Executive may adopt, under
572 method (2) of section 2A-15 of this Code, written regulations for the
573 administration of the provisions of this chapter including a schedule of
574 fees and hold public hearings as part of this regulation-making process.
575 Such regulations and amendments thereto [shall] must not conflict with
576 nor waive any provisions of this chapter nor be less restrictive than its
577 provisions [and shall become effective upon their adoption by the County
578 Executive under method (2) of section 2A-15 of this Code]. In the case
579 of fees, the County Executive [shall] must promptly forward to the
580 County Council a copy of the new fee schedule for use in budgetary
581 planning activities. Such fees [shall] must be in accordance with formulas
582 based upon criteria to include area or estimated cost of construction, or
583 cost of inspection and processing or a minimal set fee per category, not
584 to exceed the cost of administering and enforcing this code.

585 (b) The Director [shall] must hold public hearings, upon adequate public
586 notice of not less than thirty (30) days, ~~[[prior to]]~~ before forwarding his
587 or her recommendations for regulations setting forth the standards and
588 requirements for controlling the hazards of fire and explosion from
589 improper storage, handling or use of substances, materials or devices and
590 for controlling the hazardous use of property.

591 * * *

592 **22-14. National standards.**

593 The [Fire Chief] Director must recommend that the Executive adopt by
594 regulation under Section 22-13 those parts of the National Fire Code as published by
595 the National Fire Protection Association, or a comparable code published by a similar
596 organization, that the [Fire Chief] Director finds will promote the purposes of this
597 Chapter.

598 **Sec. 22-15. Special hazards.**

599 In occupancies of an especially hazardous nature, or where special hazards exist
600 in addition to the normal hazard of the occupancy, or where access for fire apparatus
601 is unduly difficult, additional safeguards may be required by the ~~[[director]]~~ Director
602 consisting of additional fire appliance units, more than one type of appliance, or special
603 systems suitable for the protection of the hazard involved. Such devices or appliances
604 may consist of automatic fire alarm systems, automatic sprinkler or water spray
605 systems, standpipe and hose, fixed or portable fire extinguishers, suitable asbestos,
606 blankets, breathing apparatus, manual or automatic covers, or carbon dioxide, foam or
607 other special fire extinguishing systems. Where such systems are installed, they
608 ~~[[shall]]~~ must be in accordance with the applicable standards of the National Fire
609 Protection Association.

610 **22-15A. Compilation of requirements.**

611 (a) The ~~[[director shall]]~~ Director must prepare informational material
 612 designed to provide the public and prospective developers with a clear
 613 understanding of the procedures to be followed in securing approval of
 614 fire safety aspects of construction or rehabilitation projects. This
 615 information ~~[[shall]]~~ must be transmitted to the department or office
 616 responsible for the compilation and publication of the development
 617 manual required in subsection (d)(2) of section 2-27A for integration into
 618 such manual. Further, the ~~[[director shall]]~~ Director must assure that all
 619 proposed regulatory and procedural changes regarding fire safety
 620 requirements are made available to the responsible department or office
 621 for inclusion in the agenda of regulatory change called for in subsection
 622 (d)(4) of section 2-27A. Furthermore, all significant interpretations of
 623 fire safety code provisions and all general waivers or precedent-setting
 624 waivers to such code provisions ~~[[shall]]~~ must be similarly forwarded to
 625 the responsible department or office in standardized format for
 626 circulation to users of the development manual.

627 (b) The Director is [hereby] authorized and directed to designate a staff
 628 member(s) or a unit within the [department] Department of Permitting
 629 Services to be responsible for providing information required herein to
 630 the public and to maintain a continuing liaison with industry
 631 representatives and other governmental agencies regulating or
 632 monitoring housing construction and occupancy.

633 * * *

634 **22-16. Order to eliminate dangerous or hazardous conditions generally.**

635 (a) *Generally.* Whenever the Director, or other authorized fire official, [shall
 636 find] finds any structure or upon any premises dangerous or hazardous
 637 conditions or materials as follows, the Director [he shall] must order such

638 dangerous conditions or materials to be removed or remedied in
639 accordance with the provisions of this code:

640 * * *

641 (b) Notice to repair, alter, etc.; condemnation tags. Whenever the ~~[[director]]~~
642 Director deems any chimney, smoke stack, stove, oven, incinerator,
643 furnace or other heating device, electric fixture or any appurtenance
644 thereto or anything regulated under provisions of this code in or upon any
645 building, structure or premise to be defective or unsafe so as to create an
646 immediate hazard, he or she ~~[[shall]]~~ must serve upon the owner or the
647 person having control of the property written notice to repair or alter as
648 necessary and ~~[[shall]]~~ must notify any other authority enforcing codes
649 regulating such equipment. He or she may affix a condemnation tag
650 prohibiting the use thereof until such repairs or alterations are made.
651 When affixed, such tag may be removed only by the order of the
652 ~~[[director]]~~ Director and may be removed only when the hazard to which
653 the order pertains has been eliminated in an approved manner. Until
654 removed, that item or device which has caused the hazard ~~[[shall]]~~ must
655 not be used or permitted to be used.

656 [(c) Actions under section 1-7. Nothing in this section shall be construed to
657 prevent the division of fire prevention members from immediately
658 proceeding under section 1-7 of the County Code when a violation of this
659 chapter is observed.]

660

661 **22-18. Compliance.**

662

* * *

663 (b) *Orders or notices.*

664

* * *

665 (2) If the property is occupied by a person other than the owner, the
 666 owner is responsible for compliance with the order or notice unless
 667 within [5] five days after the order or notice is issued:

668 * * *

669 (B) the owner and occupant notify the [Fire Chief] Director of
 670 this decision.

671 (c) *Unauthorized tag removal.* A person has committed a Class A violation
 672 if that person:

673 * * *

674 (2) removes the tag without written permission of the [Fire Chief]
 675 Director.

676 * * *

677 **22-23. Inspection.**

678 (a) The [Fire Chief] Director must designate in writing a qualified individual
 679 to serve as the County Fire Marshal. Under State law, the County Fire
 680 Marshal serves as an assistant State fire marshal to enforce State fire
 681 prevention laws. The Director must appoint fire code inspectors to assist
 682 the Fire Marshal in performing the Fire Marshal's duties. The County
 683 Fire Marshal may ask the State [Fire Marshal] fire marshal to appoint one
 684 or more qualified employees of the [Montgomery County Fire and
 685 Rescue Service] Department of Permitting Services to serve as an
 686 [special] assistant State fire marshal.

687 * * *

688 **22-31. Fire hydrant maintenance.**

689 All private fire hydrants [shall] must be tested, maintained and serviced
 690 annually. A report of this maintenance [shall] must be submitted to the [division of
 691 fire prevention] Director.

692

* * *

693 **22-33. Fire lanes.**

694 (a) If the [Director] fire official [shall find] finds a private entrance or exit
 695 [sidewalks] sidewalk or vehicular [driveways] driveway or interior
 696 private [driveways] driveway or [sidewalks] sidewalk obstructed by
 697 snow, debris, construction material, vehicles or other matter liable to
 698 interfere with the ingress or the operation of fire departments or other
 699 emergency vehicles in case of fire, the fire official [he shall] must order
 700 the obstructions removed.

* * *

701

702 (g) Any police officer or [member of the division of fire prevention and any
 703 other fire department officer] fire official or [county] County employee
 704 specifically designated by the [County] Executive finding a vehicle or
 705 trailer parked in violation of this chapter [shall] must attach to such
 706 vehicle or trailer [parked in violation of this chapter] a notice to the owner
 707 and operator [thereof] that such vehicle or trailer has been parked in
 708 violation of this chapter and instructing the owner and operator, or either
 709 of them, to report to the nearest commissioner of district court for
 710 Montgomery County within fifteen (15) days of the time when such
 711 notice was so attached to such vehicle or to pay to the Department of
 712 Finance as a penalty and in full satisfaction of such violation the sum of
 713 ten dollars (\$10.00) or as [shall] otherwise [be fixed from time to time]
 714 set by the [[County]] Executive with the approval of the County Council.

* * *

715

716 **22-37. Regulating fire extinguisher service.**

717 The [Fire Chief] Director must:

* * *

718

719 **22-39. Rules and regulations for servicing portable fire extinguishers.**

720 * * *

721 (b) Whenever the words "name of governmental authority having
722 jurisdiction" appear in the adoptive rules and regulations they [shall]
723 mean the Director [of the Department of Fire and Rescue Services].

724 * * *

725 **22-41. Places of assembly.**

726 (a) *Occupancy certificate generally.* In every place of public or private
727 assembly, there [shall] must be a certificate permanently posted in a
728 conspicuous place in the room near the entrance. Such certificate [shall]
729 must be furnished and signed by the Director [or his authorized
730 representative], and [such certificate shall] must read as follows:

731 Not more than _____ persons permitted in _____
732 _____

733 Department of
734 [Fire and Rescue] Permitting Services
735 Montgomery County, Maryland

736 * * *

737 **22-44. Flammable liquids generally.**

738 * * *

739 (d) *Testing underground installations.* Before being covered or placed in
740 use, tanks and piping connected to underground tanks [shall] must be
741 tested for tightness in the presence of the fire official. No portion of the
742 system [shall] may be covered, filled with product or used until it has
743 been approved by the Department of Permitting Services. Test
744 procedures ~~[[shall]]~~ must be specified by the ~~[[director]]~~ Director.

745 * * *

746 **22-45. Aboveground tank storage of flammable liquids.**

747

* * *

748 (d) *Temporary use of portable tanks.* The provisions of subsection (a) of this
 749 section [shall] do not prohibit the temporary use of portable tanks less
 750 than six hundred sixty (660) gallons capacity in conjunction with the
 751 dispensing of flammable or combustible liquids into the fuel tanks of
 752 motor vehicles or other motorized equipment on premises not normally
 753 accessible to the public. Such installation [shall] must only be made
 754 under permit from the Department of Permitting Services. The permit
 755 [shall] must include a definite time limit, not to exceed six (6) months.

756

* * *

757 **22-46. Abandonment of tanks of flammable or combustible liquids.**

758

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760

761

(a) *Permit required.* A permit [shall] must be obtained from the Department
 of Permitting Services to remove, abandon, place temporarily out of
 service or otherwise dispose of any flammable or combustible liquid tank.

* * *

762 **22-50. Application of flammable finishes.**

763

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766

(a) *Permit required.* A permit [shall] must be obtained from the Department
 of Permitting Services for spraying or dipping operations utilizing more
 than one (1) gallon of flammable or combustible liquids on any working
 day for the following activities:

767

* * *

768 **22-75. Procedures in case of fire.**

769

* * *

770

771

772

(b) *Evacuation.* Whenever a fire occurs in a building or there is reason to
 believe a fire exists in a building, the building [shall] must be immediately
 evacuated and not reoccupied without the permission of the fire official

773 in charge. If the building is provided with a manual fire alarm system, it
774 [shall be] is the duty of any person who has knowledge of the fire to
775 activate the manual fire alarm. Complete evacuation is not required when
776 other procedures are detailed in a fire plan that has been approved by the
777 [Director] fire official.

778 * * *

779 **22-79. Dangerous buildings.**

780 * * *

781 (f) *Posting and form of notice to vacate.* Every notice to vacate [shall] must,
782 in addition to being served as provided in subsection (e) of this section,
783 be posted at or upon each exit of the building, and be in substantially the
784 following form:

785 **DO NOT ENTER**

786 **UNSAFE TO OCCUPY**

787 **It is a misdemeanor to occupy this building**
788 **or to remove or deface this notice.**

789 **Department of**

790 **[Fire and Rescue] Permitting Services**

791 **Montgomery County, Maryland**

792 * * *

793 **22-88. Open fires generally.**

794 * * *

795 (d) The [[director]] Director [or the fire official] may prohibit such burning
796 at any time [[he]] the Director determines that the kindling of an open fire
797 creates a fire hazard.

798 * * *

799 **22-96. Smoke detectors.**

* * *

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813

(d) *Equipment*: All devices, combinations of devices and equipment required herein are to be installed in conformance with the building code and this section, and approved by the Montgomery County Department of [fire and rescue] Permitting Services and listed by said Department for the purpose for which they are intended; said list may be subsequently amended by the Department of [fire and rescue] Permitting Services as necessary. Such approval [shall be] is permanent unless the ~~[[director]]~~ Director subsequently finds that the equipment is hazardous, unreliable or otherwise detrimental to public health or safety, in which case, the ~~[[director]]~~ Director may suspend or revoke approval. The Director may in any such case determine whether replacement of existing installation [shall be] is required. Transfer to the inactive list [shall] does not affect equipment approval.

814

* * *

815 **Sec. 2. Transition.**

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826

(a) *Regulations*. Any regulation in effect when this Act takes effect that implements a function transferred to the Department of Permitting Services or the Director of the Department of Permitting Services under Section 1 of this Act continues in effect, but any reference in any regulation to the Montgomery County Fire and Rescue Services or the Fire Chief from which the function was transferred must be treated as referring to the Department of Permitting Services and the Director of the Department of Permitting Services to which the function is transferred. The transfer of a function under this Act does not affect any right of a party to any legal proceeding begun before this Act took effect.

827 (b) *Responsibilities and rights.* Any responsibility or right granted by law,
828 ordinance, regulation, delegation of authority, contract, or other
829 document to the Montgomery County Fire and Rescue Services or the
830 Fire Chief in connection with a function, duty or authority transferred
831 under Section 1 of this Act is transferred to the Department of Permitting
832 Services and the Director of the Department of Permitting Services.

833

834 **Sec. 3. Expedited Effective Date**

835 The Council declares that this legislation is necessary for the immediate
836 protection of the public interest. This Act takes effect on the date on which it becomes
837 law. The amendments made in Section 1 apply retroactively to July 1, 2016.

838

839 *Approved:*

840

841 *Nancy Floreen* *September 22, 2016*
Nancy Floreen, President, County Council Date

842 *Approved:*

843 *Timothy L. Firestone (Acting)* *September 28, 2016*
Isiah Leggett, County Executive Date

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

845 *Linda M. Lauer* *Sept 29, 2016*
Linda M. Lauer, Clerk of the Council Date

846