


MEMORANDUM

September 16, 2016

TO: County Council

FROM: Josh Hamlin, Legislative Attorney 

SUBJECT: **Action:** Expedited Bill 29-16, Fire Safety Code – Administration - Reorganization

**Planning, Housing and Economic Development Committee recommendation (3-0):
enact the Bill as amended.**

Expedited Bill 29-16, Fire Safety Code – Administration - Reorganization, sponsored by Lead Sponsor Council President at the request of the County Executive, was introduced on July 12, 2016. A public hearing was held on August 2 and a Planning Housing and Economic Development Committee worksession was held on September 15. Expedited Bill 29-16 is the legislative component of the transfer of certain fire code inspection services that was given effect by the approval of the FY17 Operating Budget.

Expedited Bill 29-16 would:

- 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;
- 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;
- identify the duties and responsibilities of the fire code inspectors;
- provide that the Montgomery County Fire and Rescue Service retains authority for fire and explosive investigations;
- identify who may become assistant State fire marshal, special assistant State fire marshal, and deputy State fire marshal pursuant to State law; and
- generally amend the law related to the administration and enforcement of the Fire Safety Code.

Public Hearing and Correspondence

A public hearing on Expedited Bill 29-16 was held on August 2, at which there was one speaker. Diane Jones testified on behalf of the County Executive in support of the Bill (©41). Ms. Jones pointed out that certain fire code inspection services that were transferred from Montgomery County Fire and Rescue Services (MCFRS) to the Department of Permitting Services (DPS) in 2012 resulted in increased efficiency and “millions of dollars of cost savings.” She noted that not all inspection services were transferred in 2012, and that Expedited Bill 29-16 is the last step in

the transfer of these services, which were effectuated with the approval of the FY17 Operating Budget. Ms. Jones indicated that this transfer “is expected to result in increased efficiencies of costs and staffing and improved consistency of interpretation and application of the same NFPA Code.”

The Council also received a statement from the Apartment and Office Building Association of Metropolitan Washington (AOBA) expressing “strong support” for the Bill (©42-44). AOBA welcomes the lower costs and shorter review times that are expected to result from the transfer of remaining fire code inspection services to DPS.

Background and Staff Recommendation

As mentioned in the County Executive’s memorandum, Expedited Bill 29-16 is the legislative implementation of a reorganization that was discussed and funded as part of the Council’s approved FY17 Operating Budget (see ©45-53). As noted by Diane Jones in her public hearing testimony, fire code inspection services related to new construction were transferred to DPS in 2012. This Bill (in conjunction with the approval of the 2017 Operating Budget) serves to transfer remaining inspection services related to existing buildings from MCFRS to DPS. MCFRS will still be authorized to enter buildings in emergency situations and will continue to oversee all fire and explosive investigations.

The PHED Committee discussed the transfer at its April 25, 2016 budget worksession.¹ The DPS budget including the transfer was recommended by Council staff in the packet for that worksession, and approved as part of the FY17 Operating Budget (see ©54-56). The DPS Fire Prevention and Fire Code Compliance Program is described in the Approved FY17 Operating Budget as follows:

The Fire Prevention and Fire Code Compliance program is responsible for ensuring public safety through enforcement of the National Fire Codes and Standards, the Montgomery County Fire Code and Maryland State Fire Prevention Codes. This is accomplished through plans review, permit issuance and inspections of fire protection systems and fire alarm systems for new construction. The program is also responsible for preventive inspections for existing occupied facilities within Montgomery County. This program issues Fire Code Compliance permits and operational permits for all businesses, schools, multi-family buildings, healthcare facilities, places of worship and all other commercial buildings or occupancies. This program also responds to and investigates code violations through a complaints program.

Technical and corrective amendments: Since Expedited Bill 29-16 was introduced, Council staff was informed of certain technical and corrective amendments to the introduced Bill. These changes are limited to stylistic amendments using the current legislative drafting conventions and correction of typographical errors.

¹ The complete packet for the April 25 PHED Committee worksession may be accessed at:
http://www.montgomerycountymd.gov/council/Resources/Files/agenda/cm/2016/160425/20160425_PHED1.pdf
The worksession may be viewed at:
http://montgomerycountymd.granicus.com/MediaPlayer.php?view_id=136&clip_id=11504

Committee recommendation: enact Expedited Bill 29-16 with the technical and corrective amendments.

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Expedited Bill No. 29-16
Concerning: Fire Safety Code –
Administration – Reorganization
Revised: June 29, 2016 Draft No. 3
Introduced: July 12, 2016
Expires: January 12, 2018
Enacted: _____
Executive: _____
Effective: _____
Sunset Date: None
Ch. _____, Laws of Mont. Co. _____

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 22-1, 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

Heading or defined term.

Underlining

Added to existing law by original bill.

[Single boldface brackets]

Deleted from existing law by original bill.

Double underlining

Added by amendment.

[[Double boldface brackets]]

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:

Sec. 1. Sections 2-42B, 22-1, 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 and 22-96 are amended as follows:

2-42B. Functions; Advisory Committee.

(a) *Functions.* The Department of Permitting Services is responsible for:

- (1) reviewing building plans and specifications, building permits, occupancy permits, and licensing facilities for compliance with fire prevention law. In exercising these functions, the Director of Permitting Services [must] may consult with the Director of Fire and Rescue Services in all matters involving the interpretation, application, or revision of fire prevention laws and codes.
- (2) code enforcement, inspection, and licenses (except where those functions are assigned by law to another department or agency), including:

* * *

- (C) issuing building, electrical, fire alarm, fire protection system, mechanical, stormwater discharge, and on-site water supply and sewage disposal permits;
- (D) administering and enforcing agricultural preservation and historic resources laws and regulations[.]; and
- (E) administering and enforcing the fire safety code, pursuant to § 22-6(d).

* * *

22-2. Purpose; intent.

* * *

- (b) Where no specific standard or requirement is specified in this Chapter, or any other applicable law or regulation, compliance with applicable

(2)

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.

* * *

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

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

* * *

22-4A. Certification procedure.

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

* * *

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

* * *

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

* * *

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

* * *

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

* * *

- (f) The [Fire Chief and the] Director [of Permitting Services] must issue a decision on a request for a waiver under subsections (a), (b), and (c), within 10 days after receiving the request. [Either the Fire Chief or the] The Director [of Permitting Services] has complete discretion to approve or reject a waiver. The decision of the [Fire Chief or the] Director [of Permitting Services] is final, and no appeal may be taken. If [either the Fire Chief or] the Director [of Permitting Services] grants a waiver, the [Fire Chief or] Director must find in writing that the waiver complies with subsection (d) or (e), as applicable.
- (g) The Director [of Permitting Services] may grant a waiver under this Section only to the extent[:
- (1)] permitted under State and local law[; and
 - (2) delegated by the Fire Chief].

22-5. Definitions.

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

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.

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.

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.

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

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

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

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

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

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

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

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

Central station[: An] means an office to which remote alarm and supervisory signaling devices are connected, where personnel are in attendance at all times 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:

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

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

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

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

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

Director means the Director of Permitting Services.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Fire official[:] means any person serving as a designated employee, representative, or agent of the Montgomery County Fire and Rescue Service or 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

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

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

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

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

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

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.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

22-6. Administration.

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

* * *

- (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.
- (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:

* * *

- (5) maintenance of fire protection and elimination of fire hazards on land and in buildings, structures, and other property, including those under construction; and
- (6) adequacy of each fire exit from any building[; and].
- [(7) investigation of the cause of any fire.]
- (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.
- (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

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

* * *

22-7. Right of entry.

(a) *Generally.*

(1) The County Executive, Fire Chief, [and] Police Chief, and Director of Permitting Services, or their authorized representatives, after exhibiting the proper credentials or proof of identity on request, may enter any building, structure, or premises (except any area actually occupied as a dwelling unit) without consent of the occupants during business or operating hours and at other times in an emergency that immediately endangers life, property or public safety, to perform duties under this Chapter or enforce this Chapter.

(2) For a multi-family dwelling, the Executive, Fire Chief, [and] Police Chief, and Director of Permitting Services, or their authorized representatives, may only enter without consent any space that is not part of an individual dwelling unit, such as a storage room, laundry room, boiler room, utility room, hallway, or

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

* * *

22-9. Investigation of fires.

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

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

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

* * *

22-10. Permits and certificates.

* * *

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

(c) *Inspection before issuance of permit.* Before a permit may be issued, the [Fire Chief or the] Director [of Permitting Services, as applicable,] may inspect and approve 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 [Fire Chief or the] Director [of Permitting Services, as applicable].

* * *

(g) *Revocation.* Any permit or certificate issued under this Chapter may be suspended or revoked if the [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 [Fire Chief]

Director 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 [Fire Chief or the] Director of Permitting Services, [as applicable,] the [Chief or] Director must issue a written notice 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 on that portion until the violation has been corrected.

* * *

22-13. Regulations.

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

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

* * *

22-14. National standards.

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

Sec. 22-15. Special hazards.

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

22-15A. Compilation of requirements.

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

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

* * *

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

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

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

* * *

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

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

22-18. Compliance.

* * *

(b) *Orders or notices.*

* * *

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

* * *

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

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

* * *

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

* * *

22-23. Inspection.

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

* * *

22-31. Fire hydrant maintenance.

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

* * *

22-33. Fire lanes.

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

* * *

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

* * *

22-37. Regulating fire extinguisher service.

The [Fire Chief] Director must:

* * *

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

* * *

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

* * *

22-41. Places of assembly.

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

Not more than _____ persons permitted in _____

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

* * *

22-44. Flammable liquids generally.

* * *

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

* * *

22-45. Aboveground tank storage of flammable liquids.

* * *

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

* * *

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

- (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.

* * *

22-50. Application of flammable finishes.

- (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:

* * *

22-75. Procedures in case of fire.

* * *

- (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

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

* * *

22-79. Dangerous buildings.

* * *

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

DO NOT ENTER

UNSAFE TO OCCUPY

It is a misdemeanor to occupy this building

or to remove or deface this notice.

Department of

[Fire and Rescue] Permitting Services

Montgomery County, Maryland

* * *

22-88. Open fires generally.

* * *

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

* * *

22-96. Smoke detectors.

* * *

- (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.

* * *

Sec. 2. Transition.

- (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.

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

Sec. 3. Expedited Effective Date

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

Approved:

Nancy Floreen, President, County Council

Date

Approved:

Isiah Leggett, County Executive

Date

This is a correct copy of Council action.

Linda M. Lauer, Clerk of the Council

Date

LEGISLATIVE REQUEST REPORT

Expedited Bill 29-16

Fire Safety Code – Administration - Reorganization

- DESCRIPTION:** The Bill will transfer the Fire Code Compliance Section from the Montgomery County Fire and Rescue Service (MCFRS) to the Department of Permitting Services (DPS) and provide that certain duties and responsibilities are performed by DPS.
- PROBLEM:** In 2012 the responsibility for inspections of all newly constructed fire protection systems was transferred from MCFRS to DPS which already had responsibility for review and approval of plans for fire protection systems for new construction. This move further enhanced the concept of DPS's "one stop shop" services, gained operational efficiencies, resulted in improved levels of service and reduced costs for customers. After the March 2012 transfer, MCFRS retained responsibility for enforcement of the NFPA fire code in existing buildings and for certain permits and inspections. However, there was a recognition that code compliance permits and inspections of existing buildings should be revisited at a future time to achieve greater efficiencies. The Bill would complete the transfer to a "one stop shop" by moving the remaining permit issuance and inspection functions from MCFRS to DPS. The move will expand important safety inspections, streamline services and costs for both customers and the County, eliminate overlap and achieve greater consistency in code interpretation and application among the similar positions performing these services.
- GOALS AND OBJECTIVES:** Realize efficiencies of costs and staffing by combining similar positions (plans reviewers and inspectors) that are administering the same NFPA code and providing opportunities for combined existing building inspections with construction related tenant fit-out inspections; Realize consistency of code interpretations by combining into a division and to optimize consistent interpretations with related construction codes; Realize cost efficiencies through use of existing permit and inspections infrastructure including for the processing and tracking of applications, scheduling of inspections, collection of and accounting for revenue.
- COORDINATION:** Department of Permitting Services, Montgomery County Fire and Rescue Services and Office of Management and Budget
- FISCAL IMPACT:** The fiscal impact would be approximately \$162,216 annually for a Division Chief, approximately \$150,000 for new office space, and opportunity for increased revenue recovery through billing system, and reduced and avoided expenditures through efficiencies of operations and applied resources.

ECONOMIC IMPACT:	Beneficial economic impacts are expected as functions are identified that can be consolidated and or streamlined. It is difficult to assess the impacts at this time, but permit fee savings may be realized and processing time is expected to shorten.
EVALUATION:	Not applicable.
EXPERIENCE ELSEWHERE:	Not applicable.
SOURCE OF INFORMATION:	Department of Permitting Services and Montgomery County Fire and Rescue Services
APPLICATION WITHIN MUNICIPALITIES:	Not applicable.
PENALTIES:	Not applicable.

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OFFICE OF THE COUNTY EXECUTIVE
ROCKVILLE, MARYLAND 20850

Isiah Leggett
County Executive

MEMORANDUM

June 15, 2016

TO: Nancy Floreen, President
County Council

FROM: Isiah Leggett, County Executive 

SUBJECT: Fire Code Compliance Transfer

In accordance with the Operating Budget transmittal and subsequent discussion and action by the County Council, attached please find proposed legislation to amend Chapter 22 of the Montgomery County Code and transfer the functions of the Fire Prevention and Code Compliance Division from the Montgomery County Fire and Rescue Services (MCFRS) to the Department of Permitting Services (DPS). Under this legislation, the MCFRS will retain the right to enter any site in an emergency to preserve life and property and will continue to oversee all fire and explosive investigations.

The legislation transfers the Fire Code Compliance functions from MCFRS to DPS to supervise and enforce all County fire prevention and safety laws in connection with buildings and property. The legislation further enhances the County's "one stop shop" services, will enable operational efficiencies to be realized, and will result in improved levels of service, reduction of costs for customers and streamline services.

I appreciate your introducing the attached Bill as emergency legislation in furtherance of the transfer in the FY17 Operating Budget. A Fiscal/Economic Impact Statements and Legislative Request Report are attached as well.

If you have any questions or need assistance, please contact Diane Schwartz Jones, Director of DPS or Fire Chief Scott Goldstein.

Attachment (legislation packet)

Fiscal Impact Statement
Council Bill XX-16 Fire Code Enforcement

1. Legislative Summary:

Bill XX-16 will transfer the Fire Code Compliance Section from the Montgomery County Fire and Rescue Service to the Department of Permitting Services and provide that certain duties and responsibilities performed by the Department of Permitting Services and generally amend Chapter 22.

2. An estimate of changes in County revenues and expenditures regardless of whether the revenues or expenditures are assumed in the recommended or approved budget.

There will be no significant change in County revenues as a result of this Bill as fees will continue to be set and revenues generated through the duties and services of the Fire Code Compliance Section. Expenditures in general do not change materially as the Section is being moved in total from the Department of Fire and Rescue Services to the Department of Permitting Services. Apart from the estimated operating cost of \$162,216 for a new Division Chief, over time expenditures are expected to decrease, or in the alternative, avoid increase, as efficiencies due to coordination of services among staff are realized. There is also an expenditure of approximately \$150,000 one-time to create space for the transferred section.

3. Revenue and expenditure estimates covering at least the next 6 fiscal years. These are inflated by CPI adjustments according to the schedule below.

Estimate Revenues:

FY17 \$1,435,000

FY18 \$1,463,700

FY19 \$1,497,365

FY20 \$1,536,296

FY21 \$1,576,240

FY22 \$1,617,222

Estimated Expenditures:

Division Chief - The first year of the position is budgeted at 75% of the salary, 9 months out of the year, the following year the additional annualized amount of 25% is added to the budget for the following totals.

FY17 \$121,662

FY18 \$162,216

FY19 \$162,216

FY20 \$162,216

FY21 \$162,216

FY22 \$162,216

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

There is no impact to retiree pension or group insurance costs as a result of this Bill.

5. An estimate of expenditures related to County's information technology (IT) systems, including Enterprise Resource Planning (ERP) systems.

No additional systems or resource planning will be required to implement the Bill.

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

Bill No. _____ does not authorize future spending.

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

The Bill does not result in the addition of any new staff responsibilities simply a transfer of them between departments.

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

See number 7.

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

Bill _____ will not require an additional appropriation.

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

There are no additional revenue or costs estimates as a result of this Bill.

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

See number 10.

12. If a Bill is likely to have no fiscal impact, why that is the case.

The Bill is likely to have a limited fiscal impact as described in question 2.

13. Other fiscal impacts or comments.

Not applicable.

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

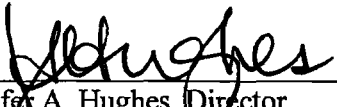
Diane Schwartz Jones, DPS

Hadi Mansouri, DPS

Barb Suter, DPS

David Steckel, MCFRS

Dennis Hetman, OMB



Jennifer A. Hughes, Director
Office of Management and Budget

5/24/16
Date

**Economic Impact Statement
Bill #-16, Fire Code Enforcement – Reorganization**

Background:

This legislation would:

- transfer the Fire Code Compliance Section (FCC) to the Department of Permitting Services (DPS) and provide that certain duties performed by FCC must be performed by DPS,
- transfer to DPS responsibility to implement certain fire prevention and fire code compliance obligations imposed under Chapter 22, Fire Safety Code,
- identify the duties and responsibilities of the fire code inspectors,
- provide that the Montgomery County Fire and Rescue Service retains authority for fire and explosive investigations, and
- identify who may become Assistant State Fire Marshal, Special Assistant State Fire Marshal, and Deputy State Fire Marshal pursuant to State law.

The economic impact statement will estimate the impacts on the County's economy based on the goal of Bill #-16 presented in the first bullet.

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

Sources of information include:

- DPS,
- the Office of Management and Budget (OMB), and
- Aswath Damodaran, "The Value of Synergy", Working Paper, Stern School of Business, New York University, October 2005.

The Legislative Request Report presents the goals and objectives of Bill #-16 as follows:

"realize efficiencies of costs and staffing by combining similar positions (plans reviewers and inspectors) that are administering the same National Fire Protection Association (NFPA) Code and provide opportunities for combined existing building inspections with construction related tenant fit-out inspections."

Finance assumes that the goal of realizing efficiencies of costs and staffing is the goal of achieving operational synergy. Synergy in private industry refers to an "increase in value that is generated by combining two entities to create a new and more valuable entity (Damodaran)." One aspect of synergy is achieving economies of scale that would arise from the combination of two separate operations in one thereby becoming more cost-efficient. Applying this concept of operational synergy to the goals and objectives of Bill #-16 and stated in the fiscal impact statement, "apart from the estimated operating cost of \$162,216 for a new Division Chief, over time expenditures are expected to decrease, or avoid an increase, as efficiencies due to coordination of services among staff are realized." Bill #-16 is expected to achieve economies of scale. Because of such economies of scale, operating costs by the County government are reduced and such savings may support lower permitting fees

Economic Impact Statement
Bill #-16, Fire Code Enforcement – Reorganization

and reduce processing time to review permits. Finance assumes that both lower permitting fees and permitting time would yield lower costs of private construction.

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

The variables that could affect the economic impact estimates are the reduction in the amount of permitting fees from current fees and the reduction in the amount of time to review and process the permits.

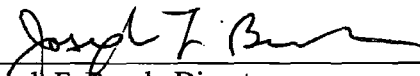
3. The Bill's positive or negative effect, if any on employment, spending, savings, investment, incomes, and property values in the County.

Bill #-16 would have a positive economic effect on private construction attributed to the economies of scale presented in paragraphs 1 and 2. However, without detailed data, it is difficult to determine the amount of cost savings from reduced permitting fees and expedited review process to the private construction industry.

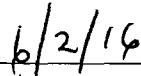
4. If a Bill is likely to have no economic impact, why is that the case?

Bill #-16 would likely have a positive economic impact. Please see paragraph 3.

5. The following contributed to or concurred with this analysis: David Platt, Mary Casciotti, and Robert Hagedoorn, Finance; Hadi Mansouri DPS; and Dennis Hetman, OMB.



Joseph F. Beach, Director
Department of Finance



Date

**Testimony on Behalf of County Executive Isiah Leggett
In Support of Expedited Bill 29-16**

Good afternoon, my name is Diane Jones. I am the Director of the Department of Permitting Services and I am pleased to provide testimony this afternoon on behalf of County Executive Isiah Leggett in support of Expedited Bill 29-16.

This bill is another step in streamlining work begun in 2012. In 2012 fire code inspection services related to construction were transferred from the Montgomery County Fire and Rescue Services to the Department of Permitting Services. This move merged services into existing business processes of DPS and resulted in significant enhancement to services through time and cost savings to businesses and residents. Lengthy delays in inspection services and separate inspection fees were eliminated. Savings that have amounted to approximately 6-8 weeks of reduced time awaiting inspections and cumulatively millions of dollars of cost savings. These time savings have also resulted in earlier return on investments for businesses locating in Montgomery County.

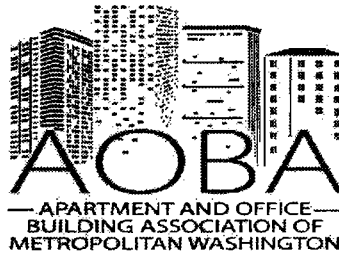
However, not all inspection services transferred. Inspections of existing buildings remained at MCFRS. At the time of the transfer of fire code inspection services related to construction, the work group comprised of representatives from businesses, the Department of Economic Development, the chambers of commerce, MCFRS, and DPS all recognized that the next step for streamlining fire code compliance services was the transfer of the remaining inspections for existing buildings.

This transfer of the remaining portion of fire code compliance services was effected earlier this year with the approval of the FY17 operating budget. The transfer has been accomplished through the cooperative work of Fire Chief Goldstein and his staff at MCFRS, along with DPS to effect a smooth transfer of the remaining fire code compliance services to DPS. DPS will continue to support MCFRS and work together as we always do.

This transfer and consolidation in DPS is expected to result in increased efficiencies of costs and staffing and improved consistency of interpretation and application of the same NFPA Code. We will be able to realize opportunities for combined existing building inspections with construction related tenant fit-out inspections and realize cost efficiencies through use of existing permit and inspections infrastructure including for the processing and tracking of applications, scheduling of inspections, collection of and accounting for revenue.

Expedited Bill 29-16 provides clarity for the public with respect to provision of fire code compliance services for all structures in the streamlined DPS model and will memorialize the transfer of all fire code compliance services as reflected in the approved DPS FY17 Budget.

The initial transfer of services has been highly successful and we look forward to extending that success to the recent transfer of fire code compliance services for existing buildings. On behalf of County Executive Leggett, thank you for your consideration and we urge the County Council to approve Expedited Bill 29-16.



**WRITTEN STATEMENT OF THE APARTMENT AND OFFICE BUILDING
ASSOCIATION OF METROPOLITAN WASHINGTON IN SUPPORT OF
EXPEDITED BILL 29-16, FIRE SAFETY CODE - ADMINISTRATION -
REORGANIZATION**

AUGUST 10, 2016

The Apartment and Office Building Association of Metropolitan Washington (AOBA) is a non-profit trade association representing more than more than 122,000 apartment units and over 30 million square feet of office space in suburban Maryland, the majority of which, including 62,400 apartment units and over 24 million square feet of office space, are located in Montgomery County. AOBA is pleased to submit this statement in support of Bill 29-16, Fire Safety Code - Administration - Reorganization. County Executive Isiah Leggett's legislative proposal seeks to complete the transfer, begun in 2012, of fire code compliance functions from the Montgomery County Fire and Rescue Service (MCFRS) to the Department of Permitting Services (DPS). In 2012, the County transferred responsibility for inspections of fire protection systems in *new* construction to DPS while MCFRS retained authority over existing buildings. Expedited B29-16 will move those remaining functions applicable to existing buildings from MCFRS to DPS. AOBA concurs with the County Executive that the proposed change will further the County's goal of cementing DPS' position as a one-stop shop for permit issuance and inspection functions while allowing MCFRS to retain the authority to enter a site to preserve life

and property and over fire and explosive investigations – core functions properly housed with that agency.

AOBA commends the County Executive for proposing the consolidation, which fittingly is being considered at the same time that the County is conducting a business regulatory reform effort. Earlier this year, the County Executive charged his Economic Advisory Group with leading a “Regulatory Reform” effort in the County to receive feedback on opportunities for streamlining rules and regulations for businesses, and for improving the County government's services to businesses. The transfer of fire protection systems for existing buildings, following budget approval as part of the FY17 operating budget, will help the County achieve the desired goal of improving critical County government services while also resulting in desired cost savings and efficiencies in the operation and administration of the County's fire protection inspection functions. AOBA hopes that, these improvements and savings will also translate into reduced permit fees and review time for DPS customers.¹ Lower costs and shorter review periods will help enhance the County's competitive position in the region and foster an environment for business investment and growth.

The efficient administration of a jurisdiction's licensing and permitting authority and the ease with which customers can obtain applicable permits and licenses to open and operate businesses are critical components of any economic development strategy. AOBA members are continuously seeking, for example, permits for tenant build-outs, having plans reviewed, and build-out work inspected before occupancy. The final transfer of fire protection systems for

¹Economic Impact Statement #1 (“Because of such economies of scale, operating costs by the County government are reduced and such savings may support lower permitting fees and reduce processing time to review permits. Finance assumes that both lower permitting fees and permitting time would yield lower costs of private construction.”); and #2 (“The variables that could affect the economic impact statements are the reduction in the amount of permitting fees from current fees and the reduction in the amount of time to review and process the permits.”)

existing buildings will allow AOBA members and other customers to visit a single agency. In real estate, time is money, and the less time our members spend visiting multiple agencies to secure permits, the more quickly they can open and operate businesses which contribute to the County's tax base. AOBA is especially encouraged by the DPS director's testimony at the August 2 hearing that the transfer will also result in improved consistency of interpretation and application of applicable codes. The manner in which a jurisdiction implements its regulatory policies can tarnish or enhance its reputation as an attractive place to do business. Conflicting interpretations by sister agencies can signal to existing and prospective businesses that a jurisdiction's regulatory climate cannot and will not support their location, operation and expansion. Time spent navigating conflicting agency positions is time and importantly, money, not spent investing in the County.

Finally, AOBA commends MCFRS, DPS and their respective leadership for their effective and efficient administration of agency functions. These departments recognize and understand the value of working with, and informing, the public, their customers, on various initiatives. Their role as ambassadors for the County to the public along with adoption of B29-16 will help encourage residents, businesses and investors to "Choose Montgomery." Thank you for the opportunity to submit this written statement expressing AOBA's strong support of B29-16.



Permitting Services

Mission Statement

The Department of Permitting Services' (DPS) primary mission is to promote the health, safety and welfare and economic well-being of residents, businesses and communities of Montgomery County with timely, professional, transparent and consistent review and processing of plans and permits and through inspections of structures, rights-of-way and development. DPS protects the public through application and enforcement of national, state and local codes for fire and life safety, electrical, mechanical, energy, accessibility, building and other public safety and zoning codes. DPS protects the environment through application and enforcement of national, state and local environmental protection codes protecting our natural resources. DPS protects residential and business communities and users of public rights-of-way through inspections of work within public rights-of-way and inspections to assure adherence to approved site plans and special exceptions. DPS strives to promote economic well-being and customer service through ongoing process improvements, timely response and service while ensuring that structures are safe for occupants and visitors, sustainable for future generations and that development is consistent with requirements to protect the environment.

Budget Overview

The total approved FY17 Operating Budget for the Department of Permitting Services is \$37,744,592, an increase of \$3,851,187 or 11.36 percent from the FY16 Approved Budget of \$33,893,405. Personnel Costs comprise 74.91 percent of the budget for 236 full-time position(s) and two part-time position(s), and a total of 243.65 FTEs. Total FTEs may include seasonal or temporary positions and may also reflect workforce charged to or from other departments or funds. Operating Expenses account for the remaining 25.09 percent of the FY17 budget.

County Government Reorganization

In Spring 2016, the County Executive announced the transfer of the Fire Code Compliance section of Fire Rescue Services to the Department of Permitting Services. The department also internally reorganized several divisions, which are reflected below. A new division of Fire Prevention and Fire Code Compliance has been created in the Department of Permitting Services to complete the County Executive's goal of a "one-stop shop" for efficient service delivery and to reduce costs. The department also internally reorganized several divisions, which is reflected below.

In FY17 the Information Technology Automation Enhancement fee will be suspended and the square footage fee for one and two-family detached dwelling units that exceed 5,000 square feet is extended for an additional year.

Linkage to County Result Areas

While this program area supports all eight of the County Result Areas, the following are emphasized:

- ❖ **An Effective and Efficient Transportation Network**
- ❖ **Healthy and Sustainable Neighborhoods**
- ❖ **A Responsive, Accountable County Government**
- ❖ **Safe Streets and Secure Neighborhoods**
- ❖ **Strong and Vibrant Economy**
- ❖ **Vital Living for All of Our Residents**

Department Performance Measures

Performance measures for this department are included below (where applicable), with multi-program measures displayed at the front of this section and program-specific measures shown with the relevant program. The FY16 estimates reflect funding based on the FY16 approved budget. The FY17 and FY18 figures are performance targets based on the FY17 approved budget and funding for comparable service levels in FY18.

Initiatives

- ★ The current Information Technology Automation Enhancement fee will be suspended in FY17.
- ★ Create the new Fire Prevention Division to complete the County Executive's goal of a "One Stop Shop". This division will streamline fire safety and protection services.
- ★ Review the sign permit processes
- ★ Continue migration to eServices and begin mandating the use of ePermits and ePlans
- ★ Redesign the Department's current website to be more responsive and user-friendly
- ★ Adopt new codes including those from the National Fire Protection Association
- ★ Implement the International Green Construction Code
- ★ Publish Roadside Tree Manual

Accomplishments

- ✓ Implemented eServices for new homes, residential additions, renovations, decks, commercial building, commercial alterations, commercial additions, fire alarm and fire protections systems, electrical permits, residential revisions, rooftop solar, electrical vehicle charging stations, right-of-way permits for utilities, driveway and engineered plans, fences, and recently completed stormwater management, special protection area plan approvals and sediment control permits. To date the department has processed over 8,000 plans electronically. Additionally, electronic check payment was launched and implemented the County's new credit card payment system with expanded credit card option.
- ✓ Performed a comprehensive study and restructuring of all fees, including adoption of regulations and application of new rate structures for all calculations in the permitting system in FY16. The revised residential fees eliminated a regressive rate system, reduced permit fees for smaller houses, and provided a reduced rate for MPDU units in multi-family structures.
- ✓ Won a National Association of Counties (NACO) award for its One-Stop Shop Fire and Life Safety Permitting and Inspection unit which continues to provide consistently improved services for local businesses.
- ✓ Implemented County roadside tree and tree canopy programs through adoption of regulations, incorporation into permit processing, creation of review policy, application of requirements and completion of draft Roadside Tree Design Guidelines. In FY15 the roadside tree program resulted in 300 trees being protected and 140 trees being planted.
- ✓ Received Maryland Department of the Environment renewal of delegation of the sediment control program
- ✓ Launched the sign enforcement program
- ✓ Opened a Washington Suburban Sanitary Commission office at DPS

Productivity Improvements

- ★ Launched 30-days review plans processing program
- ★ Created solar and townhouse models for plan review reference

- ✱ Improved processing and response times - sign permits went from an estimated seven weeks to one week; service requests increased over 22% to 2,263 and response time decreased by two days

Program Contacts

Contact Barbara Suter of the Department of Permitting Services at 240.777.6244 or Dennis Hetman of the Office of Management and Budget at 240.777.2770 for more information regarding this department's operating budget.

Program Descriptions

Land Development

The Land Development program is responsible for ensuring the protection of the County's land and water resources and for the protection of the environment and the safety of residents and businesses through its engineering and inspection functions related to stormwater management, sediment control, floodplain management, special protection areas, well-and-septic systems approval, storm drain design and construction, roadside tree protection, tree canopy enhancement, record plat approval and compliance and work in the public right-of-way.

Program Performance Measures	Actual FY14	Actual FY15	Estimated FY16	Target FY17	Target FY18
Right of way Permits -- DPS average review time (In days)	5.0	5.71	5	5	5
Sediment Control Permits - DPS average review time (In days)	39.2	37.35	30	30	30
Septic Permits -- DPS average review time (In days)	12.3	15.26	15	12	10
Well Permits -- DPS average review time (In days)	10.3	11.62	12	12	10
Record Plats -- DPS average review time (In days)	14.2	9.71	9	9	9
Sediment Control Enforcement -- % of sites in compliance within 5 days following November		95.2	95.0	95.0	95.0
Successful Maryland Department of the Environment (MDE) Delegation of Review of Sediment Control and Storm-Water Management	Yes		Yes		Yes

FY17 Approved Changes	Expenditures	FTEs
FY16 Approved	7,738,804	62.50
Increase Cost: Project Search Intern	17,905	0.50
Multi-program adjustments, including negotiated compensation changes, employee benefit changes, changes due to staff turnover, reorganizations, and other budget changes affecting multiple programs.	107,606	0.50
FY17 Approved	7,864,315	63.50

Customer Service

The Customer Service program ensures customer service and satisfaction. Customer Service offers concierge service through its case management program to help coordinate DPS disciplines engaged in plans reviews on complex projects or projects needing a higher level of assistance. Customer Service assists applicants with intake and issuance of permits and facilitates the processing of permits for "green tape" projects (i.e., affordable housing and areas such as the Silver Spring, Wheaton, and Long Branch enterprise zones, strategic economic development projects, strategic redevelopment areas such as White Flint, and faith based institutions). This division measures customer satisfaction through communication and public outreach. Customer Service receives complaints, processes information requests, responds to departmental correspondence, maintains the DPS web site, publishes the DPS newsletter, and coordinates outreach events and seminars for residents, civic organizations and professionals.

FY17 Approved Changes	Expenditures	FTEs
FY16 Approved	1,194,424	10.00
Multi-program adjustments, including negotiated compensation changes, employee benefit changes, changes due to staff turnover, reorganizations, and other budget changes affecting multiple programs.	(1,194,424)	(10.00)
FY17 Approved	0	0.00

Notes: The department internally reorganized. The Customer Service program has been shifted to the Administration Division.

Building Construction

The Commercial Construction Division is responsible for ensuring public safety through the effective enforcement of commercial building construction codes and standards. This Division processes building, mechanical and electrical permit applications, issues permits, and maintains related records.

The Residential Building and Intake Division is responsible for ensuring public safety through the effective enforcement of residential building construction codes and standards. This Division processes all building permit applications, issues permits, and maintains related records.

FY17 Approved Changes	Expenditures	FTEs
FY16 Approved	11,377,075	95.90
Multi-program adjustments, including negotiated compensation changes, employee benefit changes, changes due to staff turnover, reorganizations, and other budget changes affecting multiple programs.	(11,377,075)	(95.90)
FY17 Approved	0	0.00

Notes: The department internally reorganized. The Building Construction program has been divided into two programs: Commercial Construction and Residential Building and Intake.

Commercial Construction

The Commercial Construction program is responsible for ensuring public safety through the effective enforcement of Commercial building construction codes and standards. This is accomplished through engineering plan review and construction inspection related to the administration and enforcement of building, structural, electrical, mechanical, fire-safety, and energy conservation codes and standards. This program processes Building, Mechanical and Electrical permit applications, issues permits, and maintains related records. The program also seeks correction of unpermitted building, electrical and mechanical code violations through a complaints program. This program is also responsible for conducting damage assessments during natural and other disasters and incidents and provides assistance in disaster recovery efforts.

Program Performance Measures	Actual FY14	Actual FY15	Estimated FY16	Target FY17	Target FY18
Commercial Permits – Additions – Average total time (In days) ¹	66.53	100.1	55	55	55
Commercial Permits – Additions – DPS average review time (In days) ²	31	37	37	35	35
Commercial Permits – New Construction – Average total time (In days) ³	174.66	151.10	145.00	140.00	140.00
Commercial Permits – New Construction – DPS average review time (In days) ⁴	61.55	49.90	55.00	55.00	55.00
Commercial Fast Track – Service within 2.5 hours	64	74.58	75	80	80
Building Construction Inspections – Percentage occurring on scheduled day	94	96.96	98	98	98

¹ Based on plan tracking, DPS reviews are an average of 37 days. Permit issuance is a combination of department and applicant performance times and may be impacted by satisfaction of related preconditions such as sediment control submissions and approvals and outside agency approvals.

² Permit issuance is a combination of department and applicant performance times and may be impacted by satisfaction of related preconditions such as sediment control submissions and approvals and outside agency approvals. Total time includes post permit issuance revisions.

³ DPS Total review time was tracked as an average of 49.90 total days. Permit issuance is a combination of department and applicant performance times and may be impacted by satisfaction of related preconditions such as sediment control submissions and approvals and outside agency approvals. Total time includes post permit issuance revisions.

⁴ Permit issuance is a combination of department and applicant performance times and may be impacted by satisfaction of related preconditions such as sediment control submissions and approvals and outside agency approvals. Total time includes post permit issuance revisions.

FY17 Approved Changes	Expenditures	FTEs
FY16 Approved	0	0.00
Multi-program adjustments, including negotiated compensation changes, employee benefit changes, changes due to staff turnover, reorganizations, and other budget changes affecting multiple programs.	4,640,462	42.50
FY17 Approved	4,640,462	42.50

Notes: The department internally reorganized. The Building Construction program has been divided into two programs: Commercial Construction and Residential Building and Intake.

Residential Building and Intake

The Residential Building and Intake program is responsible for ensuring public safety through the effective enforcement of residential building construction codes and standards. This is accomplished through engineering plan review and construction inspection related to the administration and enforcement of building, structural, electrical, mechanical, fire-safety, and energy conservation codes and standards. This program processes all building permit applications, issues permits, maintains related records, and seeks correction of building code violations through a complaints program. This program is also responsible for conducting damage assessments during natural and other disasters and incidents and provides assistance in disaster recovery efforts.

Program Performance Measures	Actual FY14	Actual FY15	Estimated FY16	Target FY17	Target FY18
Residential (home) Permits - Additions - Average total time (In days) ¹	17	19	17	17	17
Residential (home) Permits – Additions – DPS average review time (In days)	8	7	6	6	6
Residential (home) Permits – New Construction – Average total time (In days)	73.65	73.23	70.00	60.00	60.00
Residential (home) Permits – New Construction – DPS average review time (In days)	16.2	18.7	17.0	16.0	16.0
Residential (home) Fast Track – Service within 2.5 hours	94	95	95	96	96
Mechanical Permits – Walk-in service permit within 2 hours	96.53	98.14	98	98	98
Electrical Permits – Walk-in service permit within 2 hours	96.54	97.66	98	98	98

¹ Permit issuance is a combination of department and applicant performance times and may be impacted by satisfaction of related preconditions such as sediment control submissions and approvals and outside agency approvals.

FY17 Approved Changes	Expenditures	FTEs
FY16 Approved	0	0.00
Multi-program adjustments, including negotiated compensation changes, employee benefit changes, changes due to staff turnover, reorganizations, and other budget changes affecting multiple programs.	5,149,708	42.80
FY17 Approved	5,149,708	42.80

Notes: The department internally reorganized. The Building Construction program has been divided into two programs: Commercial Construction and Residential Building and Intake.

Administration

The Administration program provides policy development and leadership for all programs within the department. Staff specialists are responsible for a full range of administrative, financial, and budgetary tasks, including daily operations, revenue collection (fees and development taxes and charges), reporting and management, automation, human resources, fleet management, training, safety, quality assurance, legislative coordination, space management, historic files maintenance, and management services. This program provides outreach, customer service satisfaction and case management, which coordinates DPS disciplines engaged in plan reviews on complex projects or projects needing a higher level of assistance such as "green tape" projects (i.e., affordable housing and areas such as the Silver Spring, Wheaton, and Long Branch enterprise zones, strategic economic development projects, strategic redevelopment areas such as White Flint, and faith based institutions). This program receives complaints, processes information requests, maintains the DPS web site, publishes the DPS newsletter, and coordinates outreach events and seminars for residents, civic organizations, and professionals.

Program Performance Measures	Actual FY14	Actual FY15	Estimated FY16	Target FY17	Target FY18
Complaint resolution – Average number of days from complaint filing to final resolution	9.0	14.83	12	12	12
Complaint response – Average number of days from the complaint being filed to first inspection contact with customer	4.2	3.38	3	3	3
MPIA responses - percent of information requests responded to within 30 days after receipt by DPS	99	97	100	100	100
Percent of MC311 service requests (SR) meeting the service level agreement (SLA) response time	81.3	90	90	90	90

FY17 Approved Changes	Expenditures	FTEs
FY16 Approved	9,697,142	13.10
Increase Cost: IT Replacement Plan	250,000	0.00
Enhance: Department of Transportation lab testing chargeback	200,000	0.75
Shift: Development Ombudsman from the County Executive's office	187,498	1.00
Add: Information Technology Specialist	183,027	2.00

FY17 Approved Changes	Expenditures	FTEs
Increase Cost: Facility improvements to accomodate Division of Fire Prevention and Code Compliance	150,000	0.00
Increase Cost: Office Rent	33,249	0.00
Increase Cost: Risk Management Adjustment	29,664	0.00
Increase Cost: IT Maintenance Costs	4,999	0.00
Multi-program adjustments, including negotiated compensation changes, employee benefit changes, changes due to staff turnover, reorganizations, and other budget changes affecting multiple programs.	1,450,923	13.00
FY17 Approved	12,186,502	29.85

Notes: The department internally reorganized. The Customer Service program has been shifted to the Administration Division.

Zoning and Site Plan Enforcement

The Zoning and Site Plan Enforcement program protects the quality of life in Montgomery County and the public health, safety, welfare, and comfort through the effective application and enforcement of zoning code standards and M-NCPPC certified site plan requirements. This division reviews plans prior to permit issuance and conducts inspections, as well as investigates complaints in order to administer and enforce the zoning standards established by Chapter 59 of the Montgomery County Code. This program regulates size, shape, height, and mass of a building and the uses that are allowed on the property.

FY17 Approved Changes	Expenditures	FTEs
FY16 Approved	3,885,960	31.00
Multi-program adjustments, including negotiated compensation changes, employee benefit changes, changes due to staff turnover, reorganizations, and other budget changes affecting multiple programs.	173,719	0.00
FY17 Approved	4,059,679	31.00

Fire Prevention and Fire Code Compliance

The Fire Prevention and Fire Code Compliance program is responsible for ensuring public safety through enforcement of the National Fire Codes and Standards, the Montgomery County Fire Code and Maryland State Fire Prevention Codes. This is accomplished through plans review, permit issuance and inspections of fire protection systems and fire alarm systems for new construction. The program is also responsible for preventive inspections for existing occupied facilities within Montgomery County. This program issues Fire Code Compliance permits and operational permits for all businesses, schools, multi-family buildings, healthcare facilities, places of worship and all other commercial buildings or occupancies. This program also responds to and investigates code violations through a complaints program.

Program Performance Measures	Actual FY14	Actual FY15	Estimated FY16	Target FY17	Target FY18
Fire Protection (Sprinkler Permits) – Average total time (In days)	34.6	15	15	15	15
Fire Protection (Sprinkler Permits) – DPS average review time (in days)	33.6	11.60	12	12	12

FY17 Approved Changes	Expenditures	FTEs
FY16 Approved	0	0.00
Shift: Transfer of Fire Rescue Code Compliance to DPS	2,743,878	26.00
Add: Division Chief - Division of Fire Prevention and Code Compliance	133,362	1.00
Multi-program adjustments, including negotiated compensation changes, employee benefit changes, changes due to staff turnover, reorganizations, and other budget changes affecting multiple programs.	966,686	7.00
FY17 Approved	3,843,926	34.00

Budget Summary

	Actual FY15	Budget FY16	Estimate FY16	Approved FY17	% Chg Bud/App
PERMITTING SERVICES					
EXPENDITURES					
Salaries and Wages	17,140,293	18,036,021	18,122,077	20,866,345	15.7 %
Employee Benefits	6,638,516	6,979,039	6,764,992	7,408,950	6.2 %
Permitting Services Personnel Costs	23,778,809	25,015,060	24,887,069	28,275,295	13.0 %
Operating Expenses	7,408,453	8,878,345	8,794,499	9,469,297	6.7 %
Permitting Services Expenditures	31,187,262	33,893,405	33,681,568	37,744,592	11.4 %
PERSONNEL					
Full-Time	201	207	207	236	14.0 %
Part-Time	1	1	1	2	100.0 %
FTEs	206.50	212.50	212.50	243.65	14.7 %
REVENUES					
Automation Enhancement Fee	1,843,372	1,942,650	2,215,709	0	-100.0 %
Building Permits	18,619,057	17,303,987	25,665,265	25,665,265	48.3 %
Electrical Permits and Licenses	4,058,410	3,403,352	3,997,312	3,997,312	17.5 %
Fire Code Enforcement Permits	1,701,380	2,435,618	1,412,610	2,847,610	16.9 %
Grading/Storm Drains/Paving/Driveway Permits	5,462,025	4,777,732	5,811,013	5,811,013	21.6 %
Investment Income	65,618	177,460	148,370	211,960	19.4 %
Mechanical Construction Permit	1,545,272	1,547,794	1,185,045	1,185,045	-23.4 %
Miscellaneous Revenues	(1,039)	0	0	0	—
Occupancy Permits	693,126	1,201,028	885,252	885,252	-26.3 %
Other Charges/Fees	67,645	75,059	104,484	104,484	39.2 %
Other Fines/Forfeitures	114,445	85,043	147,464	147,464	73.4 %
Other Licenses/Permits	452,502	1,954,704	0	880,061	-55.0 %
Sediment Control Permits	3,056,766	1,222,542	3,306,018	3,306,018	170.4 %
Sign Permits	155,908	317,674	140,650	140,650	-55.7 %
Special Exception Fee	230,400	322,149	322,149	322,149	—
Stormwater Mgmt and Water Quality Plan Fee	295,150	133,765	281,443	281,443	110.4 %
Utility Permits	0	1,175,879	1,034,616	1,034,616	-12.0 %
Well and Septic	303,950	344,150	299,412	299,412	-13.0 %
Permitting Services Revenues	38,663,987	38,420,586	46,956,812	47,119,754	22.6 %

FY17 Approved Changes

	Expenditures	FTEs
PERMITTING SERVICES		
FY16 ORIGINAL APPROPRIATION	33,893,405	212.50
Changes (with service impacts)		
Enhance: Department of Transportation lab testing chargeback [Administration]	200,000	0.75
Add: Information Technology Specialist [Administration]	183,027	2.00
Add: Division Chief - Division of Fire Prevention and Code Compliance [Fire Prevention and Fire Code Compliance]	133,362	1.00
Other Adjustments (with no service impacts)		
Shift: Transfer of Fire Rescue Code Compliance to DPS [Fire Prevention and Fire Code Compliance]	2,743,878	26.00
Increase Cost: FY17 Compensation Adjustment	422,503	0.00
Increase Cost: IT Replacement Plan [Administration]	250,000	0.00
Shift: Development Ombudsman from the County Executive's office [Administration]	187,498	1.00
Increase Cost: Facility improvements to accommodate Division of Fire Prevention and Code Compliance [Administration]	150,000	0.00
Increase Cost: Group Insurance Adjustment	148,625	0.00
Increase Cost: Annualization of FY16 Lapsed Positions	135,031	0.00
Increase Cost: Office Rent [Administration]	33,249	0.00
Increase Cost: Risk Management Adjustment [Administration]	29,664	0.00
Increase Cost: Project Search Intern [Land Development]	17,905	0.50
Increase Cost: IT Maintenance Costs [Administration]	4,999	0.00

	Expenditures	FTEs
Increase Cost: Printing and Mail	3,329	0.00
Decrease Cost: Retiree Health Insurance Pre-funding	(160)	0.00
Decrease Cost: Motor Pool Adjustment	(12,131)	0.00
Shift: Telecommunications to the Telecommunications Non-Departmental Account	(76,010)	0.00
Decrease Cost: Elimination of One-Time Items Approved in FY16	(111,940)	0.00
Decrease Cost: Retirement Adjustment	(246,821)	0.00
Decrease Cost: Annualization of FY16 Personnel Costs	(344,821)	(0.10)
FY17 APPROVED	37,744,592	243.65

Program Summary

Program Name	FY16 APPR		FY17 APPR	
	Expenditures	FTEs	Expenditures	FTEs
Land Development	7,738,804	62.50	7,864,315	63.50
Customer Service	1,194,424	10.00	0	0.00
Building Construction	11,377,075	95.90	0	0.00
Commercial Construction	0	0.00	4,640,462	42.50
Residential Building and Intake	0	0.00	5,149,708	42.80
Administration	9,697,142	13.10	12,186,502	29.85
Zoning and Site Plan Enforcement	3,885,960	31.00	4,059,679	31.00
Fire Prevention and Fire Code Compliance	0	0.00	3,843,926	34.00
Total	33,893,405	212.50	37,744,592	243.65

Future Fiscal Impacts

Title	CC APPROVED (\$000s)					
	FY17	FY18	FY19	FY20	FY21	FY22

PERMITTING SERVICES

EXPENDITURES

FY17 Approved 37,745 37,745 37,745 37,745 37,745 37,745

No inflation or compensation change is included in outyear projections.

Annualization of Positions Approved in FY17 0 79 79 79 79 79

New positions in the FY17 budget are generally assumed to be filled at least two months after the fiscal year begins. Therefore, the above amounts reflect annualization of these positions in the outyears. Added 2 IT specialists and 1 Division Chief calculated in the FY17 budgeted at three fourths annual costs, out years include the additional one quarter differential

Elimination of One-Time Items Approved in FY17 0 (170) (170) (170) (170) (170)

Items recommended for one-time funding in FY17 will be eliminated from the base in the outyears.

IT Maintenance Costs 0 124 127 52 10 10

Represents additional maintenance costs for the system upgrades and post-warranty maintenance for servers, scanners, and printers.

IT Replacement Plan 0 (282) 379 169 (282) (282)

Key components of Permitting Service's technology replacement plan include: FY18 Scanners (\$31,500) FY19 Servers \$60,000, Servers \$600,000; FY20 Permit DB Servers - Hardware & Software \$450,000 FY21 Scanners (\$31,500)

Office Rent 0 76 64 68 72 72

Represents projected rent increase.

Retiree Health Insurance Pre-funding 0 (36) (76) (97) (120) (120)

These figures represent the estimated cost of pre-funding retiree health insurance costs for the County workforce.

Labor Contracts 0 144 144 144 144 144

These figures represent the estimated annualized cost of general wage adjustments, service increments, and other negotiated items.

Subtotal Expenditures 37,745 37,680 38,292 37,990 37,478 37,478

Annualization of Personnel Costs and FTEs

Information Technology Specialist	170,227	2.00	215,984	2.00
Division Chief - Division of Fire Prevention and Code Compliance	121,662	1.00	155,003	1.00
Total	291,889	3.00	370,987	3.00

The Commercial Building Construction Division is responsible for ensuring public safety through the effective enforcement of building construction codes and standards. This is accomplished through engineering plan review and construction inspection related to the administration and enforcement of building, structural, electrical, mechanical, fire-safety, energy conservation, and accessibility codes and standards. This Division processes Fire Protection Systems, Mechanical and Electrical permit applications, issues permits, and maintains related records. Commercial Building seeks correction of unpermitted building, electrical and mechanical code violations through a complaints program. The division is also responsible for conducting damage assessments during natural and other disasters and incidents and provides assistance in disaster recovery efforts.

The Residential Building and Intake Division responsible for ensuring public safety through the effective enforcement of residential building construction codes and standards. This is accomplished through engineering plan review and construction inspection related to the administration and enforcement of building, structural, electrical, mechanical, fire-safety, and energy conservation codes and standards. This Division processes building permit applications, issues permits, maintains related records, and seeks correction of building code violations through a complaints program. This division is also responsible for conducting damage assessments during natural and other disasters and incidents and provides assistance in disaster recovery efforts.

Fire Protection Staff Transfer

The Executive's press release on April 1, 2016 announced his decision to move Fire Prevention Staff to DPS. The staff reported to work at DPS on April 4, 2015. The Executive's proposed FY17 budget (published before the press release) indicated this change to the Council. The Fire Code Compliance Staff enforces annual inspections for existing buildings (defined as one year after construction). Staff for this function were in the FY16 DPS budget. Fire code compliance permits, fire protection system inspections (sprinkler systems), and specialty permits are in Fire and Rescue's FY16 budget. Through FY16, Fire and Rescue will pay these staff members and receive permit revenue.

The DPS Director justified the transfer of Fire Code Compliance Staff and a proposed new position for a Division Chief as follows:

The transfer of the Fire Code Compliance program from MCFRS to DPS completes work that began a few years ago to streamline and improve service delivery by the County. The Fire Protection Systems inspections for new construction were moved to the Department of Permitting Services from MCFRS. This was initiated in response to business community frustration and was the result of a coordinated effort involving representatives from the business community, local chambers, Department of Economic Development, MCFRS and DPS. At the time there was a strong interest expressed in moving existing building fire code compliance inspections to DPS as well. One of the expressed reasons was to assure consistency in construction inspections and post-construction inspections and to assure greater efficiencies. As you know, the transfer of Fire Protection Systems inspections for new construction has been very successful with significant reductions in timing of inspection services (an improvement of an estimated average of 6 weeks of time) and significant reduction in costs to businesses as well as improved economic return as delay in occupancy due to inspections was reduced. The current transfer of existing building code compliance completes the transfer that had been begun and we expect to realize additional efficiencies with this transfer.

The Chief who supervised the Fire Code Compliance group is not transferring to DPS. More importantly though, the new Division of Fire Prevention and Code Compliance will combine the Fire Protection Systems section at DPS and the Fire Code Compliance Section from MCFRS. The Fire Protection Systems Section has responsibility for reviewing plans for fire alarms and fire protection and fire protection systems associated with construction. The Fire Code Compliance Section has the responsibility for fire code compliance for existing buildings and activities. Both staffs work from the same codes and are comprised of similar positions. Coming together provides the opportunity to merge to a centralized database and use existing resources to better meet organizational and community needs.

This unification under a single Division Chief within DPS will make better use of resources, expand the reach of each unit to more comprehensively provide services, as well as provide greater consistency in interpretation and application of laws, training, standards, policies, and department service delivery from construction through the life of the building. The Division Chief will be crucial to achieving those objectives.

Why make this change before the move to Wheaton?

Streamlining the use of resources will be a good investment in the short term and the long term and should not be deferred for a move several years out. This unification under a single Division Chief within DPS will make better use of resources, expand services, as well as provide greater coordination so that laws, standards, policies, and the department service delivery and daily operation is implemented uniformly and efficiently.

In the pre-recession days before 2009, a Fire Chief supervised Fire Code Compliance Staff as a full-time occupation. More recently, a Fire Division Chief was in charge as a part-time function (in addition to the duties of being a Division Chief). (The Fire and Rescue Department is not reducing its complement of Chiefs due to the transfer of the Fire Prevention Staff.) With the same amount of work and more staff, the DPS budget is proposing a less efficient operation than exists today. To the extent the Department expects increased efficiencies from the re-merged staff, those efficiencies are not evidenced by the Department's proposed staffing. The Fire Chief who previously had responsibility for this unit agreed with the proposal to add a Division Chief.

The *proposed* inclusion of Fire Code Compliance in DPS is a fait accompli.⁷ The best reason to do it is to regain cross training opportunities that were lost when the new building permit section was moved to DPS. In the words of DPS:

The move enables us to complete the one-stop-shop for fire safety services that was begun a few years ago. That effort has resulted in significant service improvements and reduced costs to businesses. Steps to address efficiencies and improve service and reach should not await the several years that it will take to complete design, construction and the move for the Wheaton Building.

Staff agrees with transferring the section to DPS.⁸

⁷ It sounds much more pleasant to use French language than anything staff could say in English. French is the language of diplomacy, is it not?

⁸ Staff does not agree with the idea that DPS's vision for a "one stop shop" should include every function in County Government that requires an annual inspection (DHCA, HHS, and DEP all have inspection responsibilities).

DPS is treated as an Enterprise fund. The Fire and Rescue Department is taxpayer supported. The Fire Code Compliance Section required about \$1.4 million in tax support, with permit fees covering half the cost. The Council should expect that DPS will ultimately propose fees for these inspections that will match their costs.

Council Staff Recommendation: The budget for Building Construction should be approved with the new Commercial, Residential, and Fire Code divisions (including the new Division Chief), but the approved budget should be revised to reflect these organizational changes.

If the Council believes that costs should be trimmed from the DPS proposed budget, the new Division Chief position might be a target.

	<i>Administration</i>		<i>Changes</i>	
	FY16 App.	FY17 Rec.		%
Program Total	\$9,697,151	\$11,250,010	\$ 1,552,859	16.0%
<i>FTEs</i>	13.1	21.1	8	61.0%

The Administration program provides policy development, management services, and administrative support for all aspects of the Department.

This office absorbed staff from the Customer Service Division. Customer Service is a section under the Director in the new organization. Three of the 26 staff transferred from Fire Prevention were assigned to this office.

New IT Positions

Two new IT position are included in the proposed budget. Staff asked the Department why permanent IT positions were required:

DPS has 4 IT staff positions, 5 IT contractors and an IT manager for a system that serves approximately 67 business processes plus the incoming Fire Code Compliance software systems and processes. The Department serves a high volume of customers and is increasingly dependent on electronic services to meet the time improvements that our customers desire and that we aim to provide. The IT section supports a staff of 243 FTE. The IT team, with the assistance of several full-time contractors, develop and launch electronic services for workflow and continuously evolving work responsibilities with new codes, regulations, laws and responsibilities including providing support for revenue collection for services such as impact taxes, TPAR payments, School Facility Payments, fee changes, etc.⁹

⁹ To name just some of what the IT staff do – not to mention continuous software patches and updates for numerous software systems – ePermits (apply online); online fee payments (credit card, electronic checks, deferred); ePlans; permit system enhancements; disaster recovery/COOP; applications development; DPS website support (dynamic applications); permits, licenses & management information report development; system interfaces and support (M-NCPPC; dataMontgomery; SDAT; Municipalities; OCP for building contractor licenses; BOA for conditional use fees; multiple County departments; Siebel, DTS-