COUNTY COUNCIL
FOR MONTGOMERY COUNTY, MARYLAND

By: Council President

AN ACT to correct technical, typographical, grammatical, and codification errors in, and make stylistic and conforming amendments to, County law regarding:

(1) animal control;
(2) arts and humanities and the Public Arts Trust;
(3) cable communications franchise procedures;
(4) County employee benefits and personnel laws;
(5) road construction;
(6) taxes and tax credits;
(7) the Office of the Inspector General; and
(8) other subjects of laws enacted after the 1994 codification of County laws.

By amending
Montgomery County Code
 Chapter 5A, Arts and Humanities
    Sections 5A-1 and 5A-6
 Chapter 8, Buildings
    Section 8-44
 Chapter 8A, Cable Communications
    Section 8A-9(f)
 Chapter 33, Personnel
 Chapter 49, Streets and Roads
    Sections 49-37 and 49-57
 Chapter 52, Taxation
    Section 52-74 and Article XI
The County Council for Montgomery County, Maryland approves the following Act:
Section 1. Chapter 21 of the Laws of Montgomery County 1998 is amended to repeal former Sections 5-19A, 5-20, and 5-21 of the Code entirely, including any amendments to those sections made by a law enacted before Chapter 21 of L.M.C. 1998 took effect.

Sec. 2. Sections 5A-1 and 5A-6 of the Code, as amended by Chapter 24 of the Laws of Montgomery County 1999, and Section 8-44(b) of the Code are amended as follows:

5A-1. Declaration of purpose.

The County Council finds that:

* * *

(b) In addition to the dedication and devotion of individuals and groups practicing and studying the arts and humanities, the advancement of these subjects requires assistance and support not only through an atmosphere within the community favoring the free flow of thought, imagination and inquiry, but also through the coordination and availability of material, conditions, and resources facilitating the exchange of meaningful ideas and the expression of creative thought.

* * *

5A-6. Council Authority.

The Arts and Humanities Council, in cooperation with the County government and other local public agencies, should:

(a) Support, encourage, and promote the arts and humanities in the County, including projects, performance, research, education, information
exchange, historic preservation, and other activities that advance the artistic, cultural, and intellectual environment in the County.

* * *

8-44. Public arts trust.

* * *

(b) The Chief Administrative Officer or a designee must administer the trust in consultation with:

(1) Arts and Humanities Council [of Montgomery County];

* * *

Sec. 3. Section 8A-9(2), as amended by Chapter 18 of the Laws of Montgomery County 1998, is amended as follows:

Sec. 4. Section 33-35, as amended by Chapter 27 of the Laws of Montgomery County 1998, is amended as follows:

33-35. Definitions.

In this Article, the following words and phrases have the following meanings:

* * *

Fiduciary: A person who:

* * *

(3) renders investment advice for a fee or other compensation about assets of a retirement system or has authority or responsibility to render that advice; or

* * *
Sec. 5. Section 33-38A of the Code, as amended by Chapter 26 of the Laws of Montgomery County 1999, is amended as follows:

33-38A. Deferred Retirement Option Plans.

(a) DROP Plan for Group F members.

(8) Death benefit. If an employee dies during the employee's participation in the program, the employee's beneficiary will receive:

(A) the death benefit that the beneficiary would have received if the employee had retired on the date on which the employee began to participate in the program, adjusted under subsection [(6)(C)] (6)(D); and

(B) the balance of the employee's DRSP account.

Sec. 6. Sections 33-42, 33-43, 33-46, and 33-47, as amended by Chapter 31 of the Laws of Montgomery County 1998, are amended as follows:

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

(i) Maximum annual benefit. Despite any other provision governing the retirement system, the annual benefit of a member must not exceed the limits of Internal Revenue Code Section 415 that apply to the plan. The Chief Administrative Officer must freeze or reduce a member's annual benefit to comply with this subsection.

[Internal Revenue Code]
33-43. Disability retirement.

(d) Non-service-connected disability retirement. A member may be retired on a non-service-connected disability retirement if:

(1) The member has 5 years of credited service [and is not eligible for normal retirement];

33-46. Death benefits and designation of beneficiaries.

(a) Beneficiary death benefits of an active member whose death is not service connected. Upon the death of a member under circumstances not covered by subsection (b), the designated beneficiary must receive a death benefit payment equal to:

(1) member contributions, including credited contributions, with credited interest, or a spouse’s, or domestic partner’s, and children’s benefit as provided in subsection (e); plus

(2) 50 percent of average final earnings if the member was a member of the employees’ retirement system of the state of Maryland as of August 15, 1965, and became a member of the employees’ retirement system of the County on or before December 31, 1966, or such later agency entrance date without a break in service, and who is not on leave without pay except for authorized leave without pay for illness.

(e) Spouse’s, or domestic partner’s, and children’s benefits when an active member eligible for vesting or retirement dies.

(1) A surviving spouse, domestic partner, or child who is the designated beneficiary of a member who [dies after becoming
105 eligible for vesting or retirement, but before pension payments
106 begin,] died after becoming eligible to vest or retire may elect
107 within 60 days after the member's death a benefit equal to the
108 yearly amount of benefits that would have been payable if the
109 member had vested or retired immediately before death and had
110 elected a 100-percent joint and survivor pension option. The
111 payments must begin on the member's normal retirement date if
112 the member was eligible for vesting, or immediately if the
113 member was eligible for retirement.
114
115 33-47. Administration.

117 (e) Payment of expenses and contributions.

118 (1) The [county] County must pay contributions of the [county]
119 County to the retirement system from appropriations approved
120 by the County Council.

121 (2) The board must pay:

122 (A) operating expenses of the integrated retirement plan and
123 the optional retirement plan from the assets of these
124 plans; and

125 (B) operating expenses of the elected officials' plan from
126 plan assets or from County government assets, at the
127 direction of the Chief Administrative Officer.

Sec. 7. Paragraph (3) of Section 33-116(a) of the Code, as added by
Chapter 30 of the Laws of Montgomery County 1998, is amended by
renumbering the paragraph as follows:
Participant Contributions.

(a) Percent of participant contributions.

(4) A participant who rejoins County service after military service that qualified under Section 33-119(b) as credited service may contribute * * *

Sec. 8. Chapter 23 of the Laws of Montgomery County 1998 is amended by renumbering Section 33-147 of the Code, as added by that Act, as follows:

Sec. 9. Section 49-37(a) of the Code is amended as follows:

Construction by county.

(a) No road shall be constructed by the county, whether on force account or by contract or both, unless the right-of-way for such road has been previously acquired by the county or dedicated to public use by appropriate recording among the land records of the county, and the cost of the road is to be charged against the benefited property in accordance with sections 49-51 to 49-61 and subsection (b) of this section. Any road so constructed shall conform to the minimum requirements, standards, and specifications for its particular classification as prescribed by this article; provided, that the county may require such construction to be in excess of or better than that prescribed as a minimum; provided further, that nothing herein shall prohibit. Nothing in this Section prohibits the county from constructing [roads pursuant to section 20-42 relating to] a road under a contract [services for municipalities] with a municipality or pursuant to [agreements made by the] an agreement between the county [with other governmental agencies] and another governmental agency.
Sec. 10. Section 49-57(a) of the Code is amended as follows:

Whenever a road lies partly within the unincorporated area of the county and partly within a city, town, village, or special taxing area therein which of the county that has jurisdiction over the construction or maintenance of that part of the road lying within such incorporated area, the entire [length and width of such] road may be constructed by the county or by the city, town, village, or special taxing area [in accordance with] according to the laws, ordinances, rules, and regulations [relating to the] for construction of county roads[,] or "public ways" [or such] in the city, town, village, or special taxing area [, as defined in the Annotated Code of Maryland, 1957, article 23B, section 74, in the same manner] as if [such] the road [lay] were wholly within the unincorporated area of the county or wholly within [such] the city, town, village, or special taxing area[; provided, however, that the] The county executive [or] and the governing body of [such] the city, [county]] town, village, or special taxing area [shall] must mutually consent [thereto to the other of such parties desiring so] to construct such road or public way, which consent may be granted without regard to the laws and ordinances of [such] the county or of [such] the city, town, village, or special taxing area [relating to the] regarding construction of roads or public ways and assessment [therefor] for the construction.
Sec. 11. Chapter 15 of the Laws of Montgomery County 2000 is amended by renumbering the Section of the Code added by that Act as follows:

52-18JK. Property Tax Credit – Fire Sprinkler Systems.

Sec. 12. Section 52-74 of the Code, as amended by Chapter 16 of the Laws of Montgomery County 1999, is amended as follows:

52-74. Administration of tax credit.

(a) * * *
(b) * * *
(c) * * *
[(c)]
(d) * * *
[(d)]
(e) * * *

Sec. 13. Article XI of Chapter 52 of the Code, as [[amended]] added by Chapter 34 of the Laws of Montgomery County 1998, is amended by renumbering Sections 52-75 (“Definitions”) through 52-80 (“Penalties”) as Sections 52-81 through 52-86, respectively, and further amending Section 52-82, as amended by this Section, as follows:

Article XI. Tobacco Tax.

* * *

52-82. Imposition of tax.

* * *

(c) The tax rate on:

* * *

(2) Cigarette tobacco is:
(A) 36 cents for each package containing 1.5 ounces or less; or
(B) for each package containing more than 1.5 ounces, 36 cents for each unit or fraction [or] of a unit containing 1.5 ounces.

(3) **Pipe tobacco** is:

(A) 36 cents for each package containing 1.5 ounces or less; or

(B) for each package containing more than 1.5 ounces, 36 cents for each unit or fraction [or] of a unit containing 1.5 ounces.

* * *

**Sec. 14. Section 2 of Chapter 5 of the Laws of Montgomery County 2000** is amended as follows:

**Sec. 2. Section 2 of Chapter [26] 13 of the Laws of Montgomery County 1997** is repealed:

**Sec. 15. Rule of Interpretation.**

The amendments in this Act are intended to make technical, typographical, grammatical, codification, and stylistic changes that do not change the substantive effect of the laws that they amend. An amendment made by this Act must be interpreted as a restatement and correction of the corresponding statutory provision, without substantive effect.

**Sec. 16. Effective Dates.**

(a) Section 1 takes effect as if enacted in Chapter 21 of the Laws of Montgomery County 1998.

(b) Section 2 takes effect as if enacted in Chapter 24 of the Laws of Montgomery County 1999.
(c) Section 3 takes effect as if enacted in Chapter 18 of the Laws of Montgomery County 1998.

(d) Section 4 takes effect as if enacted in Chapter 27 of the Laws of Montgomery County 1998.

(e) Section 5 takes effect as if enacted in Chapter 26 of the Laws of Montgomery County 1999.

(f) Section 6 takes effect as if enacted in Chapter 31 of the Laws of Montgomery County 1998.

(g) Section 7 takes effect as if enacted in Chapter 30 of the Laws of Montgomery County 1998.

(h) Section 8 takes effect as if enacted in Chapter 23 of the Laws of Montgomery County 1998.

(i) Section 9 takes effect as if enacted in Chapter 39 of the Laws of Montgomery County 1977 and recodified, as amended in this Act, in Chapter 37 Laws of Montgomery County 1986.

(j) Section 10 takes effect on October 1, 1994.

(k) Section 11 takes effect as if enacted in Chapter 15 of the Laws of Montgomery County 2000.

(l) Section 12 takes effect as if enacted in Chapter 16 of the Laws of Montgomery County 1999.

(m) Section 13 takes effect as if enacted in Chapter 34 of the Laws of Montgomery County 1998.

(n) Section 14 takes effect as if enacted in Chapter 5 of the Laws of Montgomery County 2000.
Approved:

Blair G. Ewing, President, County Council

Approved:

Douglas M. Duncan, County Executive

This is a correct copy of Council action.

Mary M. Edgar, CMC, Clerk of the Council