AGENDA ITEM 10
February 27, 2018
Introduction

MEMORANDUM

February 21, 2018

TO: County Council

FROM: Amanda Mihill, Legislative Attorney AMihill

SUBJECT: **Public Hearing:** Bill 3-18, Technical Corrections

Bill 3-18, Technical Corrections, sponsored by Lead Sponsor County Council, was introduced on February 6, 2018. Action is tentatively scheduled for March 6.

Bill 3-18 would correct technical, typographical, grammatical, reference and codification errors in, and make stylistic, clarifying and conforming amendments to, various provisions of County law.

This packet contains:

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Bill No. 3-18
Concerning: Technical Corrections
Revised: 1/31/2018 Draft No. 1
Introduced: February 6, 2018
Expires: August 6, 2019
Executive: ________
Effective: ________
Sunset Date: ________
Ch. _____, Laws of Mont. Co. ________

COUNTY COUNCIL
FOR MONTGOMERY COUNTY, MARYLAND

Lead Sponsor: County Council

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

By amending

Montgomery County Code
Chapter 1A, Structure of County Government
Sections 1A-101, 1A-102, 1A-105, 1A-106, 1A-109, and 1A-204

Chapter 2, Administration
Sections 2-7 and 2-123A

Chapter 11B, Contracts and Procurement
Sections 11B-33A and 11B-72

Chapter 16, Elections
Sections 16-18, 16-20, and 16-26

Chapter 19A, Ethics
Sections 19A-17 and 19A-32

Chapter 25A, Housing, Moderately Priced
Section 25A-3

Chapter 29, Landlord-Tenant Relations
Sections 29-19, 29-20, and 29-53

Chapter 30B, Economic Development
Section 30B-7

Chapter 33, Personnel and Human Resources
Sections 33-4, 33-37, 33-42, 33-42A, 33-44, 33-59, and 33-74

Chapter 44, Schools and Camps
Section 44-3

Chapter 52, Taxation
Section 52-55

Chapter 60, Silver Spring, Bethesda, Wheaton and Montgomery Hills Parking Lot Districts
Sections 60-1 and 60-16

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 1A-101, 1A-102, 1A-105, 1A-106, 1A-109, 1A-204, 2-7, 2-123A, 11B-33A, 11B-72, 16-18, 16-20, 16-26, 19A-17, 19A-32, 25A-3, 29-19, 29-20, 29-53, 30B-7, 33-4, 33-37, 33-42, 33-42A, 33-44, 33-59, 33-74, 44-3, 52-55, 60-1, and 60-16 are amended as follows:

1A-101. Scope of article.

* * *

(c) List of appointed officials.

* * *

(4) Executive Director of the Office of the County Council [Administrator] (optional).

* * *

1A-102. Process for appointing and confirming officials.

* * *

(d) Executive Director of the Office of the County Council [Administrator].

(1) There is a position of Executive Director of the Office of the County Council [Administrator]. The Council may appoint someone to fill this position.

(2) The Executive Director of the Office of the County Council [Administrator] must be a professionally qualified administrator.

(3) The Executive Director of the Office of the County Council [Administrator] is not a merit system employee.

(4) An appointment must be by a majority vote of councilmembers in office.

1A-105. Acting officials.

(a) *Scope*. This Section applies to acting:

* * *

(5) Executive Directors of the Office of the County Council [Administrators].

* * *

(f) Executive Director of the Office of the County Council [Administrator].

(1) If the position of Executive Director of the Office of the County Council [Administrator] is vacant, the Council may appoint an acting Executive Director [Council Administrator].

(2) (A) If the Executive Director of the Office of the County Council [Administrator] becomes temporarily absent or disabled, the Council may appoint an acting Executive Director [Council Administrator].

(B) If the Council does not appoint an acting Executive Director of the Office of the County Council [Administrator] under this paragraph, the Executive Director [Council Administrator] may appoint an acting Executive Director [Council Administrator].

(3) An acting Executive Director of the Office of the County Council [Administrator], who is not a merit system employee, must be a professionally qualified administrator.

* * *

(h) *Removal.*

* * *

(2) The Council may remove an acting Executive Director of the Office of the County Council [Administrator] at any time.

1A-106. Salaries of the County Executive and Councilmembers.

* * *

(c) *Annual adjustments.*

(1) Beginning on December 3, 2018, the salaries of the Councilmembers must be adjusted annually on the first Monday in December by the annual average percentage increase, if any, in the Consumer Price Index for All Urban Consumers (CPI-U) for the [Washington-Baltimore Metropolitan Area] Washington-Arlington-Alexandria Core Based Statistical Area (CBSA), as published by the United States Department of Labor, Bureau of Labor Statistics, or any successor index, for the 12 months preceding September 1 of that year.

(2) Beginning on December 7, 2015, the salary of the County Executive must be adjusted annually on the first Monday in December by the annual average percentage increase, if any, in the Consumer Price Index for All Urban Consumers (CPI-U) for the [Washington-Baltimore Metropolitan Area] Washington-Arlington-Alexandria Core Based Statistical Area (CBSA), as published by the United States Department of Labor, Bureau of Labor Statistics, or any successor index, for the 12 months preceding September 1 of that year.

1A-109. Delegation of Authority; Sub-delegation.

* * *

(j) Section 1A-105 exclusively governs the appointment of an acting:

* * *

(5) Executive Director of the Office of the County Council [Administrator].

1A-204. Supervision of offices and appointment of heads.

* * *

(b) *Legislative Branch.*

(1) Office of the County Council.

(A) The Council appoints the Executive Director of the Office of the County Council [Administrator] as provided for in Section 1A-102(d), and may give direction to members of the Council's staff. In the absence of direction from the Council, officers of the Council may give directions to the Council's staff.

(B) Except for the Clerk of the Council, the Executive Director of the Office of the County Council [Administrator] or another person designated by the Council appoints and supervises all merit system employees of the Office.

(C) Under the merit system laws, the County Council appoints and removes the Clerk of the Council by a resolution approved by a majority of all councilmembers in office. The Executive Director of the Office of the County Council [Administrator] supervises the Clerk on all matters.

* * *

(4) Office of Zoning and Administrative Hearings.

(A) The County Council, by a majority vote of Councilmembers in office, may appoint one or more hearing examiners of the Office of Zoning and Administrative Hearings, and designate a hearing examiner or the <u>Executive Director of the Office of the County</u> Council [Administrator] as Director of the Office.

2-7. Location of Sheriff's office; compensation of Sheriff; required use of vehicle.

* * *

(b) Salary.

* * *

(2) Beginning on December 2, 2013, the Sheriff's salary must be adjusted annually on the first Monday in December by the annual average percentage increase, if any, in the Consumer Price Index for All Urban Consumers for the [Washington-Baltimore Metropolitan Area] <u>Washington-Arlington-Alexandria Core Based Statistical Area (CBSA) as published by the United States Department of Labor, Bureau of Labor Statistics</u>, or any successor index, for the 12 months preceding September 1 of that year.

* * *

2-123A. Compensation of the State's Attorney

* * *

(b) Beginning on January 6, 2014, the salary of the State's Attorney must be adjusted annually on the first Monday in January by the annual average percentage increase, if any, in the Consumer Price Index for All Urban Consumers for the [Washington-Baltimore Metropolitan Area] <u>Washington-Arlington-Alexandria Core Based Statistical Area (CBSA) as published by the United States Department of Labor, Bureau of Labor Statistics</u>, or any successor index, for the 12 months preceding September 1 of that year.

11B-33A. Wage requirements.

* * *

(e) *Wage requirement.*

* * *

(2) The Chief Administrative Officer must adjust the wage rate required under this subsection, effective July 1 of each year, by the annual average increase, if any, in the Consumer Price Index for [all urban consumers for the Washington- Baltimore metropolitan area] All Urban Consumers (CPI-U) for the Washington-Arlington-Alexandria Core Based Statistical Area (CBSA), as published by the United States Department of Labor, Bureau of Labor Statistics, or any successor index, for the previous calendar year. The Chief Administrative Officer must calculate the adjustment to the nearest multiple of 5 cents, and must publish the amount of this adjustment not later than March 1 of each year. Each adjustment under this paragraph applies to any contract covered by this Section which:

* * *

11B-72. Scope of Article.

* * *

The Director must adjust the amount in paragraph (1) every 2 years to reflect the aggregate increase, if any, in the Consumer Price Index for [all urban consumers for the Washington-Baltimore metropolitan area] All Urban Consumers (CPI-U) for the Washington-Arlington-Alexandria Core Based Statistical Area (CBSA) as published by the United States Department of Labor, Bureau of Labor Statistics, or any successor index, for the previous 2 years. The Director must calculate the adjustment to the nearest multiple of $100.

* * *

16-18. Definitions.

In this Article, the following terms have the meanings indicated:

* * *

Consumer Price Index means the Consumer Price Index for All Urban Consumers[: All items in Washington-Baltimore, DC-MD-VA-WV (CMSA)] (CPI-U) for the Washington-Arlington-Alexandria Core Based Statistical Area (CBSA), as published by the United States Department of Labor, Bureau of Labor Statistics, or a successor index.

* * *

16-20. Collecting qualifying contributions.

* * *

(b) Other than a contribution from an applicant candidate or the candidate's spouse, an applicant candidate must not accept an eligible contribution from an individual greater than $150.

(c) An applicant candidate must not accept a loan from anyone other than the candidate or the candidate's spouse. An applicant candidate or the candidate's spouse must not contribute or lend a combined total of more than $6000 each to the candidate's publicly funded campaign account.

[(c)] (d) *Consumer Price Index adjustment.* The Chief Administrative Officer must adjust the contribution limit established in Subsection (b), effective July 1, 2018, and July 1 of each subsequent fourth year, by the annual average increase, if any, in the Consumer Price Index for the previous 4 calendar years. The Chief Administrative Officer must calculate the adjustment to the nearest multiple of 10 dollars, and must publish the amount of this adjustment not later than March 1 of each fourth year.

16-26. Applicant and participating candidate restrictions.

An applicant candidate or a participating candidate must not:

* * *

(c) [must not] pay for any campaign expense after filing a notice of intent with the Board to seek public funding with any campaign finance account other than the candidate's publicly funded campaign account;

* * *

19A-17. Who must file a financial disclosure statement.

The following persons must file a public financial disclosure statement under oath:

* * *

(b) the following public employees:

* * *

(10) the <u>Executive Director of the Office of the County</u> Council [Administrator] and the Deputy <u>Director of the Office of the County</u> Council [Administrator], if any;

* * *

19A-32. Removal for failure to file financial disclosure statement.

(a) If a public employee does not file a complete financial disclosure statement when required to under Section 19A-18, the Chief Administrative Officer (for employees in the Executive Branch) or the <u>Executive Director of the Office of the County</u> Council [Administrator] (for employees in the Legislative Branch) may remove the employee from employment with a County agency or from membership on a board, commission or similar body, paid or unpaid. Before an employee is removed for failing to file a financial disclosure statement, the County Attorney must give the employee 30 days notice of the proposed removal. The Chief Administrative Officer and the Executive Director of the Office of the County Council [Administrator] must not remove an employee if the employee files the required financial disclosure statement within the time specified in the notice. This section does not apply to an elected public employee.

* * *

25A-3. Definitions

The following words and phrases, as used in this Chapter, have the following meanings:

* * *

(f) *Consumer Price Index* means the latest published version of the Consumer Price Index for All Urban Consumers (CPI -U) [of the U.S. Department of Labor] for the [Washington metropolitan area] Washington-Arlington-Alexandria Core Based Statistical Area (CBSA), as published by the United States Department of Labor, Bureau of Labor Statistics, or any similar index selected by the County Executive.

* * *

29-19. Licensing procedures.

* * *

(b) Accessory apartment rental license.

(1) An owner of a lot or parcel in a zone that permits accessory apartments may obtain a license to operate an accessory

apartment if:

* * *

(C) the Director finds that:

(i) the accessory apartment satisfies the standards for an accessory apartment in Section [59-A-6.20] 59.3.3.3; or

(ii) the accessory apartment was approved under Article 59-G as a special exception or under 2014 Zoning Ordinance §59.3.3.3 as a conditional use.

29-20. Fees.

The annual license fee per dwelling unit is:

(a) for a Class 1 multi-family rental facility license:

(1) $44.00 per dwelling unit in an apartment complex or an accessory apartment approved by special exception; and

(2) $59.00 per dwelling unit for all others;

* * *

29-53. Voluntary rent guidelines; review of rent increases.

* * *

(b) The guidelines must be based on the increase or decrease in the residential rent component of the Consumer Price Index for [all urban consumers for the Washington- Baltimore metropolitan area] All Urban Consumers (CPI-U) for the Washington-Arlington-Alexandria Core Based Statistical Areas (CBSA) as published by the United States Department of Labor, Bureau of Labor Statistics, or any successor index, for the preceding calendar year, unless an alternative standard better reflecting the costs of rental housing in the County is established by regulation.

* * *

30B-7. Report

The Board of Directors must report annually on the activities and finances of the Corporation and provide an audited financial statement of the Corporation to the Executive and Council by November 1 of each year. The report must also include:

* * *

(b) information on the microlending program including:

* * *

(2) a description of [the] how each loan was used;

* * *

33-4. Salaries of chairman and members of merit system protection board.

(a) In this Section, *Consumer Price Index* means the Consumer Price Index for All Urban Consumers (CPI-U) for the Washington-Arlington-Alexandria Core Based Statistical Area (CBSA), as published by the United States Department of Labor, Bureau of Labor Statistics, or a successor index.

(b) For members of the Merit System Protection Board appointed after December 31, 2000, the annual salary of the chair is $8,000, adjusted as provided for other members under this [section] Section. The annual salary of the other 2 members is $6,500 adjusted each year on the first Monday in December by a percentage which is 50% of the percentage that the [consumer price index for all urban consumers for the Washington-Baltimore metropolitan area, or a successor index,] Consumer Price Index for the previous September has changed from September of the previous year.

33-37. Membership requirements and membership groups.

*   *   *

(f) *Membership groups and eligibility.* Any full-time or part-time employee is eligible for membership in the appropriate membership group if the employee meets all of the requirements for the group:

*   *   *

(4) Group E: The Chief Administrative Officer, the Executive Director of the Office of the County Council [Administrator], the hearing examiners, the County Attorney and each head of a principal department or office of the County government, if appointed to that position before July 30, 1978, or a member having held that position on or before October 1, 1972. Any sworn deputy sheriff or uniformed County correctional officer in the position of Correctional Officer I, Correctional Officer II, Correctional Officer III, Correctional Dietary Officer I, Correctional Dietary Officer II, Correctional Supervisor-Sergeant, Correctional Dietary Supervisor, Correctional Shift Commander-Lieutenant, Correctional Unit Commander-Captain, Deputy Warden, or Warden. Any group E member who has reached elective early retirement date may retain membership in group E if the member transfers from the position which qualified the member for group E. Any group E member who is temporarily transferred from the position which qualified the member for group E may retain membership in group E as long as the temporary transfer from the group E position does not exceed 3 years. Notwithstanding the foregoing provisions in group E, any employee who is eligible for membership in group E must participate in the guaranteed

retirement income plan or the retirement savings plan under Article VIII if the employee:

* * *

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

* * *

(i) *Retirement incentive Program*.

* * *

(5) *Approval*. The Chief Administrative Officer must approve a request to participate in the program from a member employed in the Executive Branch. The Executive Director of the Office of the County Council [Administrator] must approve a request to participate in the program from a member employed in the Legislative Branch. If more than 20% of members eligible to participate in the Executive Branch, either Countywide or by department, apply to participate in the program, the Chief Administrative Officer may limit the number of participants, either on a Countywide or department basis. If more than 20% of members eligible to participate in the Legislative Branch apply to participate in the program, the Executive Director of the Office of the County Council [Administrator] may limit the number of participants. The Chief Administrative Officer and the Executive Director of the Office of the County Council [Administrator] must base any limits on the number of participants on years of service with the County. Years of service with the County must not include service with a participating agency, purchased service, or sick leave.

* * *

33-42A. 2010 Retirement Incentive Program.

* * *

(g) *Approval.* The Chief Administrative Officer must approve a request to participate in the program from a member employed in the Executive Branch. The Executive Director of the Office of the County Council [Administrator] must approve a request to participate from a member employed in the Legislative Branch. The Chief Administrative Officer and the Executive Director of the Office of the County Council [Administrator] must not approve more applications from an affected class than the number of positions that are abolished in the affected class. The Chief Administrative Officer and the Executive Director of the Office of the County Council [Administrator] may disapprove an application if a vacancy created by a member participating in the program cannot be filled by a member of an affected class. If more members apply to participate in the program than the number of positions abolished, the participants must be approved in order of County seniority calculated under the RIF personnel regulation in the following order:

* * *

33-44. Pension payment options and cost-of-living adjustments.

* * *

(c) *Cost-of-living adjustment.* A retired member or beneficiary, including the surviving spouse or domestic partner of a group D member or other beneficiary who survives the member under a pension option or who is otherwise eligible to receive benefits, must receive an annual cost-of-living adjustment in pension benefits.

* * *

(4) For the purpose of this section, "Consumer Price Index" means, beginning January 1, 1978, the Consumer Price Index for All Urban Consumers (CPI-U) [issued] for the [Washington, D.C. Metropolitan Area (all items)] Washington-Arlington-Alexandria Core Based Statistical Area (CBSA), as published by the United States Department of Labor, Bureau of Labor Statistics (for months before 1978, the Consumer Price Index published previously for urban wage earners and clerical workers for such months must be applicable.)

* * *

33-59. Board of investment trustees.

* * *

(b) *Membership.*

* * *

(2) The County Executive must appoint 4 voting, ex officio members of the Board, subject to County Council confirmation as members, who serve indefinitely while each holds the respective office. These ex officio trustees should be:

* * *

(D) the Executive Director of the Office of the County Council [Administrator].

* * *

33-74. Cost-of-living adjustment.

(a) The county executive shall provide as a part of the annual recommended operating budget for the county government sufficient funds to implement the cost-of-living adjustment required by this section. The council shall accord one of the highest priorities to the full funding of the cost-of-living adjustment, shall fund fully the seventy-five (75) percent of Consumer Price Index cost-of-living adjustment unless reasons are given for not doing so, and shall make a finding in the budget resolution as to the extent to which full funding is achieved. Unless otherwise provided in the approved budget resolution which includes a finding that implementation of the full amount of the adjustment would necessitate substantial layoffs of personnel or result in other widespread hardship to county government employees, the chief administrative officer shall adjust the uniform salary plan for all classified employees of the county government beginning the first pay period on or after July 1 of each year by an amount not less than seventy-five (75) percent of the change in the Consumer Price Index for All Urban Consumers <u>(CPI-U)</u> [in the Washington, D.C. Area] <u>for the Washington-Arlington-Alexandria Core Based Statistical Area (CBSA), as published by the United States Department of Labor, Bureau of Labor Statistics</u>, although pay grades 1 through 4 of the uniform salary plan to which minimum wage and certain seasonal employees are assigned will be adjusted by changes in the minimum wage rates and salary surveys to determine the competitiveness of such salaries. The percentage change shall be based on the latest published index for the calendar year preceding the fiscal year in which the adjustment is to be paid.

* * *

44-3. Interagency Coordinating Board.

* * *

(b) *Membership*. The Board consists of voting members and nonvoting, ex officio members.

(1) The voting members are:

* * *

(E) a Councilmember, [or] the Executive Director of the Office of the County Council [Administrator], or a senior staff member of the County Council, who represents the Council;

* * *

52-55. Tax Rates.

* * *

[(d)]

(d) The County Council by resolution, after a public hearing advertised at least 15 days in advance, may increase or decrease the rates established under this Section.

* * *

60-1. Special taxing areas continued; areas defined.

* * *

(b) *Bethesda Parking Lot District*. The Bethesda Parking Lot District consists of all land within the area described as follows:

Commencing at a point on the east right-of-way line of Wisconsin Avenue at the northwest corner of Lot 47, Block [']1, in the resubdivision of Lots 1, 2, 3 of Rosedale Park, as recorded January 9, 1939, in Plat Book 16, Plat 1038, among the land records of Montgomery County, Maryland;

* * *

There must also be included in the aforegoing described area any lot partially within and partially without the described area.

* * *

60-16. Purpose of parking lot funds.

*　　*　　*

(e) Notwithstanding the limits in subsection (a) or (b) or any other provision of this Chapter, the County Council may transfer revenue from the Silver Spring Parking Lot District parking tax:

(1) to fund activities of the Silver Spring Regional Services Center in the Montgomery Hills commercial area described in Section 60-1(a)(2), an amount in Fiscal Year 2005 that does not exceed $15,000, and in each succeeding fiscal year does not exceed the maximum amount for the previous fiscal year increased by the annual average increase, if any, in the Consumer Price Index for [all urban consumers in the Washington-Baltimore metropolitan area] <u>All Urban Consumers (CPI-U) in the Washington-Arlington-Alexandria Core Based Statistical Area (CBSA) as published by the United States Department of Labor, Bureau of Labor Statistics</u>, or any successor index, for the previous calendar year, to:

*　　*　　*

LEGISLATIVE REQUEST REPORT

Bill 3-18, *Technical Corrections*

DESCRIPTION:	Makes technical, typographical, grammatical, and other non-substantive corrections to County law.
PROBLEM:	Codifying several new laws revealed several technical and other non-substantive errors that could confuse a person trying to follow or enforce County law.
GOALS AND OBJECTIVES:	To correct technical and other non-substantive errors in the County Code.
COORDINATION:	Council legal staff and County Attorney's Office.
FISCAL IMPACT:	To be requested.
ECONOMIC IMPACT:	To be requested.
EVALUATION:	Not applicable.
EXPERIENCE ELSEWHERE:	Not applicable.
SOURCE OF INFORMATION:	Amanda Mihill, Council Staff (240) 777-7815 Tammy Seymour, Office of the County Attorney (240) 777-6789
APPLICATION WITHIN MUNICIPALITIES:	The applicability of other provisions in municipalities follows the applicability of the underlying provision of the County Code.
PENALTIES:	Not applicable.