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Montgomery County Code

Chapter 21. Fire and Rescue Services.*

***Editor's note**—Chapter 21 is cited generally in Lofland v. Montgomery County, 319 Md. 265, 572 A.2d 163 (1990); interpreted in Potter v. Bethesda Fire Department, Inc., 309 Md. 347, 524 A.2d 61 (1987); and discussed in Conway v. Takoma Park Volunteer Fire Department, Inc., 666 F.Supp. 786 (D.Md. 1987).

See County Attorney Opinion dated [7/8/02](#) describing the extent to which quasi-judicial officials may engage in political activities. See County Attorney Opinion dated [7/29/98](#) explaining that the Washington Metropolitan Area Transportation Authority, Housing Opportunities Commission, and the fire corporation must comply with County permit requirements and mandatory referral.

[2009 L.M.C., ch. 5](#), § 2, subparagraphs (b) and (c), read as follows:

(b) Any reference in any law, regulation, or Fire and Rescue Service policy to the Fire and Rescue Commission must be treated as referring to the Fire and Emergency Services Commission created under Section 21-2, as amended by Section 1 of this Act, unless the context clearly indicates otherwise.

(c) In initially appointing the Fire and Emergency Services Commission under Section 21-2, the Executive must designate one career and one volunteer appointee to serve one year initial terms, one career appointee to serve a 2 year initial term, and one volunteer appointee to serve a 3 year initial term, and one member of the public to serve a term of one year, one to serve a term of 2 years, and one to serve a term of 3 years.

2004 L.M.C., ch. 5, § 2, subparagraphs (a) and (b), read as follows:

"Transition. (a) Regulations. A regulation issued by the Fire and Rescue Commission before this Act took effect [January 1, 2005] continues in effect unless it is inconsistent with Chapter 21, as amended by this Act, but must be treated as having been issued by the Fire Chief or the County Executive, as provided in Chapter 21, as amended by this Act. This Section does not apply to procedural regulations that the Commission is authorized to issue under Section 21-7(c), as amended by this Act.

(b) Fire Administrator. Any reference in any law, regulation, or procedure to the Fire Administrator must be treated as referring to the Fire Chief appointed under Section 21-3, as amended by this Act."

Chapter 21 is cited generally in Lofland v. Montgomery County, 319 Md. 265, 572 A.2d 163 (1990); interpreted in Potter v. Bethesda Fire Department, Inc., 309 Md. 347, 524 A.2d 61 (1987); and discussed in Conway v. Takoma Park Volunteer Fire Department, Inc., 666 F.Supp. 786 (D.Md. 1987).

1998 L.M.C., ch. 4, §3, reads as follows: "Transition; initial Commission terms. Until the Fire and Rescue Commission created by Section 21-2, as amended by Section 2 of this Act, has been appointed by the Executive and confirmed by the Council, the Fire and Rescue Commission in existence when this Act takes effect continues in office. In initially appointing the Commission under Section 21-2, the Executive must designate one career and one volunteer appointee to serve one year initial terms, one career appointee to serve a 2 year initial term, and one volunteer appointee to serve a 3 year initial term, and one member of the public to serve a term of one year, one to serve a term of 2 years, and one to serve a term of 3 years." 1980 L.M.C., ch 64, §5 also addressed transition provisions.

1998 L.M.C., ch. 4, §4, reads as follows: "Transition; Department organization. On July 1, 1998, the Department of Fire and Rescue Services becomes the Division of Fire and Rescue Services in the Montgomery County Fire and Rescue Service. Subject to appropriation, on or after that date the Fire Administrator may transfer any employee of the Division of Fire and Rescue Services to the Division of Volunteer Fire and Rescue Services, the office of the Administrator, or the office of the Commission. After this Act takes effect, all references in Chapter 22 and any other law, regulation, policy, contract, or other document to the Department of Fire and Rescue Services must be treated as referring to the Montgomery County Fire and Rescue Service, and all references in Chapter 22 and any other law, regulation, policy, contract, or other document to the Director of Fire and Rescue Services must be treated as referring to the Fire Administrator. All personnel or other regulations applicable to employees of the Department of Fire and Rescue Services or any local fire and rescue department on July 1, 1998, remain in force until otherwise amended or repealed, and apply to employees of the Montgomery County Fire and Rescue Service or the local fire and rescue departments respectively."

1992 L.M.C., ch. 8, §1, repealed former Article III, Fire Tax Districts, [§§ 21-13 and 21-14] effective July 1, 1993. 1992 L.M.C., ch. 8, §2, reads as follows: "However, notwithstanding the provisions of Section 21-13(a) (1), the Upper Montgomery County Fire Tax District must be merged into the Consolidated Fire Tax District, as if its tax rate equaled 26¢ per \$100, as of July 1, 1992."

Cross references—Purchase or lease of real property by County, § 11B-46; fire safety code, ch. 22.

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Article I. Comprehensive Fire and Rescue Services.

Sec. 21-1. Statement of policy; definitions.

(a) *Legislative intent.* The County Council, under Section 101 of the County Charter, intends to assure adequate public safety, health and welfare through an integrated fire, rescue, and emergency medical services program that is highly competent, highly trained, efficiently delivered, equitably administered and is provided by County, local fire and rescue department, and volunteer personnel. This program is operated by the County and the local fire and rescue departments. The Council believes that the County government is ultimately responsible for assuring public safety by providing fire, rescue and emergency services. This program should provide maximum cost-effective performance; promote the County-wide public interest; account for service levels and resources like other public programs; fairly communicate and consider all views regarding these services; and consider past and

plan for projected growth and development in the County and its public safety requirements. To achieve these objectives a combined system of public and private resources is essential. The system includes:

(1) Delivery of fire, rescue and emergency medical services through the Montgomery County Fire and Rescue Service (MCFRS), including the local fire and rescue departments, under the authority of the Fire Chief or as otherwise provided by law.

(2) A coordinated policy and regulatory framework for the Montgomery County Fire and Rescue Service, including the local fire and rescue departments.

(3) A Standardized Incident Management System and an Integrated Emergency Command System which allow the integration of County and local fire and rescue department personnel and apparatus into County-wide, regional, State, and national emergency management plans.

The Council supports the delivery of fire, rescue and emergency services through the Montgomery County Fire and Rescue Service, including the local fire and rescue departments, operating under County policies and regulations implemented by the Fire Chief. This partnership ensures that service is delivered within a County-wide context and preserves community-based perspectives of the local fire and rescue departments. County officials, employees, volunteers, and local fire and rescue departments should actively encourage a combined service delivery system provided by local and County resources and promote equal opportunities and fair treatment for all personnel. The Council recognizes and respects the contributions of volunteers over many decades that have protected life and property in the County and provided vital and generous private support for an essential public activity. The Council acknowledges the years of volunteer effort, risk, and sacrifice; the time and money devoted to purchasing equipment, apparatus, and facilities; and the value to our community of opportunities for public service and fellowship. The County vigorously supports the continuation and expansion of volunteer participation to provide fire, rescue, and emergency medical services in the most cost-effective way and to encourage citizen participation in community activities.

(b) *Purpose.* This Chapter is intended to achieve the following goals for fire, rescue, and emergency medical services in the County:

(1) **Maximum Protection for Life and Property.** Provide maximum cost-effective, equitable, and responsive services to all County residents and visitors, including reasonable maximum response times, effective fire and rescue incident supervision, adequate staffing, effective distribution of personnel and apparatus, and timely adaptation to changing service needs. Ensure that all organizations and participants comprising the fire, rescue, and emergency medical services share the responsibility for continuously improving their effectiveness and efficiency.

(2) **Maximum Volunteer Participation.** Maintain and expand volunteer participation in fire, rescue, and emergency medical service operations and in policy-making.

(3) **Optimum Personnel Practices.** Promote equity and harmony among County, local fire and rescue department, and volunteer personnel; continually improve the capabilities of all personnel; effectively manage personnel; and achieve job performance and personal conduct of the highest caliber by County, local fire and rescue department, and volunteer personnel.

(4) **Adequate Accountability.** Account for service delivery, management practices, maintenance of all apparatus and facilities, and the use of public funds.

(5) **Improved Operations and Administration.** Minimize costs, including administrative overhead, apparatus, and other expenses; and effectively manage personnel, purchasing, maintenance, training, and other programs.

(6) **Integration with Local, County-wide, regional, state, and national emergency management plans.** Plan and coordinate County fire, rescue, and emergency services with services provided by other government and private

organizations to provide all needed services while minimizing duplication and conflict.

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

Apparatus and facilities: all buildings and other real property, and all vehicles and vehicle equipment, owned in whole or in part by the County or a local fire and rescue department that are or can be used to provide fire, rescue, or emergency medical services.

Commission: the Fire and Emergency Services Commission.

Emergency medical services: emergency transportation, medical treatment, and related services. Emergency medical services includes standards for and training and certification of care providers.

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

Incident Management System: the regional organizational structure protocol that supports an incident commander and is intended to promote communication, coordination, accountability, and effective action to respond to a natural disaster or other emergency.

LFRD representative: the authorized representative, if any, designated by the Local Fire and Rescue Departments under Section 21-6.

Local Fire and Rescue Department (LFRD): any individual fire or rescue squad corporation authorized under Section 21-5 to provide fire or rescue services.

National Incident Management System: the framework established under Homeland Security Presidential Directive 5, or any successor provision, to enhance the ability of the United States to manage domestic incidents by establishing a single, comprehensive plan for responding to these incidents.

Standardized Incident Management System: The organizational structure protocol implementing the standards under which an incident commander must provide communication, coordination, accountability, and effective action to respond to a natural disaster or other emergency.

Tax funds: any County government revenues, including fire tax revenues.

Volunteer: an individual who, without salary, performs fire, rescue, emergency medical, or related services as provided in this Chapter with the Montgomery County Fire and Rescue Service. (1980 L.M.C., ch. 64, § 3; 1988 L.M.C., ch. 14, § 2; 1998 L.M.C., ch. 4, § 1; [2004 L.M.C., ch. 5](#), § 1; [2009 L.M.C., ch. 5](#), § 1; [2010 L.M.C., ch. 49](#), § 1.)

Editor's note—Section 21-1, formerly § 21-4A, was renumbered, amended and retitled pursuant to 1998 L.M.C., ch. 4, § 1.

Article II. Organization.

Sec. 21-2. Fire and Emergency Services Commission.

(a) Established; membership.

(1) There is a County Fire and Emergency Services Commission, composed of 7 voting members appointed by the County Executive and confirmed by the County Council. Two members must be County career fire/rescue personnel, 2 members must be volunteer local fire and rescue department personnel, and 3 members must have no personal, family, or business connection with the County volunteer or career fire and emergency services. Each member must be a resident of the County. The members should reside in various geographic areas of the county and have a variety of occupational backgrounds.

(2) The Executive should appoint a person from a list of at least 5 volunteer local fire and rescue department personnel submitted by the LFRD representative each time the Executive appoints a member who must be a volunteer local fire and rescue department member. The Executive should appoint a person from a list of at least 5 career firefighters or rescuers submitted by organizations composed of career fire or rescue personnel each time the Executive appoints a member who must be a career firefighter or rescuer. If a list was submitted as provided in this paragraph and the Executive appoints a person whose name was not on that list to a Commission position reserved for a career firefighter or rescuer or volunteer local fire and rescue department member, the Executive must explain to the Council why no person on the list was selected. If the Executive requests a list under this paragraph from the appropriate organizations and does not receive a list of at least 5 candidates within 30 days, the Executive may appoint a qualified person without explaining why no person was selected from a list.

(3) The Fire Chief and any Division Chief are not eligible to serve on the Commission while holding that position.

(4) Each member serves a term of 3 years. A member must not serve more than 2 full terms, not counting any portion of an unexpired term, unless the Executive cites an extraordinary reason to reappoint the member for one or more additional terms. Each term begins August 1. A member serves until the member's successor is confirmed.

(5) The Commission annually must designate one of its public members as chair and another public member as vice-chair. The vice-chair serves as chair in the absence of the chair.

(b) *Vacancy.* Any vacancy on the Commission must be filled as provided in subsection (a). If in the case of an unscheduled vacancy the Executive requests a list under subsection (a) from the appropriate organizations and does not receive a list of at least 5 candidates within 15 days, the Executive may appoint a qualified person without explaining why no person was selected from a list. A replacement member serves for the remainder of the original term.

(c) *Compensation.* A Commission member is not entitled to compensation for service on the Commission. Each Commission member must be reimbursed for reasonable travel and dependent care expenses, as appropriated in the operating budget.

(d) *Duties, responsibilities and authority.*

(1) The Commission must recommend how the County can:

(A) achieve and maintain effective, efficient, and equitable fire, rescue, and emergency medical services County-wide, and

(B) improve the policy, planning, and regulatory framework for all fire, rescue and emergency services operations.

(2) The Commission must meet at least monthly, and may meet at other times at the call of the chair or a majority of its members.

(3) The Commission, in addition to any other functions assigned by law or regulation, may:

(A) advise the Fire Chief, County Executive, and County Council on any matter relating to fire, rescue and emergency medical services, and review the performance of the County Fire and Rescue Service and any action taken or policy adopted by the Service;

(B) advise the Chief, Executive, and Council on County-wide policies, standards, procedures, plans, and programs that should apply to all fire, rescue, and emergency services operations;

(C) review and make recommendations regarding the master plan for fire, rescue, and emergency medical services as provided in Section 21-12;

(D) recommend and comment on legislation, regulations, and policies that apply to or affect the Fire and Rescue Service;

(E) review and recommend any appropriate changes in communications and dispatch procedures for emergency communications centers;

(F) recommend guidelines for curriculum and programs of the Public Safety Training Academy and other training programs for fire and emergency services employees and volunteers;

(G) recommend to the Chief, Executive, and Council a benefits program to provide financial protection for volunteers and their families if a volunteer becomes injured, disabled, or dies in the line of duty;

(H) after consulting the LFRD representative, recommend to the Chief, Executive, and Council policies and programs to recruit and retain volunteers; and

(I) promote coordination with other County-wide, regional, state, and national emergency management agencies and activities.

(4) The Commission must review and may approve or disapprove any generally applicable Fire and Rescue Service policy or regulation proposed by the Fire Chief, including any regulation that may be issued by the Executive under this Chapter. Before taking any action under this paragraph, the Commission must give the Fire Chief, LFRD representative, employee organization, and the public a reasonable opportunity to comment. If the Commission does not approve or disapprove a proposed policy within 60 days after receiving it from the Chief, the policy is automatically approved. If the Commission does not approve or disapprove a proposed regulation within 60 days after receiving it from the Chief, the regulation is automatically transmitted to the Executive for review. This paragraph does not apply to:

(A) any decision expressly assigned to another person or body by this Chapter; or

(B) any individual personnel action.

(e) *Meeting with Executive.* The Commission must meet with the Executive or the Chief Administrative Officer periodically to discuss matters under the Commission's purview.

(f) *Annual report.* The Commission must forward to the Executive and Council an annual report describing Commission recommendations and activities.

(g) *Removal.* The Executive, with the approval of the Council, may remove any Commission member for cause.

(h) *Advocacy.* The Commission must not engage in any advocacy activity at the State or federal levels unless that activity is approved by the Office of Intergovernmental Relations. (1980 L.M.C., ch. 64 § 3; 1982 L.M.C., ch. 43, § 3; 1984 L.M.C., ch. 24, § 22; 1987 L.M.C., ch. 42, § 1; 1988 L.M.C., ch. 14, § 3; 1998 L.M.C., ch. 4, § 1; [2004 L.M.C., ch. 5](#), § 1; [2009 L.M.C., ch. 5](#), § 1; [2016 L.M.C., ch. 15](#), § 1; [2017 L.M.C., ch. 12](#), § 1.)

Editor's note—[2009 L.M.C., ch. 5](#), § 2, subparagraphs (b) and (c), read as follows:

(b) Any reference in any law, regulation, or Fire and Rescue Service policy to the Fire and Rescue Commission must be treated as referring to the Fire and Emergency Services Commission created under Section 21-2, as amended by Section 1 of this Act, unless the context clearly indicates otherwise.

(c) In initially appointing the Fire and Emergency Services Commission under Section 21-2, the Executive must designate one career and one volunteer appointee to serve one year initial terms, one career appointee to serve a 2 year initial term, and one volunteer appointee to serve a 3 year initial term, and one member of the public to serve a term of one year, one to serve a term of 2 years, and one to serve a term of 3 years.

Section 21-2, formerly § 21-4B, was renumbered and amended pursuant to 1998 L.M.C., ch. 4, § 1.

The above section is cited in [Lofland v. Montgomery County, et.al.](#), 319 Md. 265, 572 A.2d 163.

Cross reference—Boards and commissions generally, § 2-141 et seq.

Sec. 21-3. Fire Chief; Division Chiefs.

(a) The Executive must appoint, subject to confirmation by the Council, and may remove the Fire Chief.

(b) The Fire Chief is the uniformed department head of the Montgomery County Fire and Rescue Service, and has all powers of a department director. The Chief has full authority over all fire, rescue, and emergency medical services in the County, including any fire, rescue, and emergency medical services provided by local fire and rescue departments. The Chief must implement County law, regulations, and policies to effectively administer the Fire and Rescue Service.

(c) The Chief of the Division of Fire and Rescue Operations is a merit position. The Division Chief must meet the requirements for chief officer adopted under Section 21-8. The Division Chief has operational authority over fire, rescue, and emergency medical services activities of the Fire and Rescue Service, including the local fire and rescue departments, as assigned by the Fire Chief. The Division Chief must promote the integration of the activities of volunteer and career firefighters and rescuers. The Division Chief, subject to the authority of the Fire Chief, may take disciplinary action, including discharge, against any merit system employee in the Service, subject to applicable merit system regulations and collective bargaining agreements.

(d) The Chief of the Division of Volunteer Services is a non-merit position. The Division Chief must meet the requirements for chief officer adopted under Section 21-8 and must have experience as a chief, or an assistant or deputy chief, in a volunteer fire and rescue organization in the County. The Division Chief must be given the same rank under the IECS as the Chief of the Division of Fire and Rescue Operations. Before the Fire Chief recommends a person to the Executive for appointment as Division Chief for Volunteer Services, the Chief must invite the LFRD representative to submit a list of at least 5 qualified persons for the Executive's consideration. If the LFRD representative submits a list and the Executive appoints a person whose name was not on that list, the Executive must explain to the Council why no person on the list was selected. If the Chief does not receive a list of at least 5 candidates within 30 days after requesting it, the Executive may appoint a qualified person without explaining why no person was selected from a list. The Division Chief has operational authority over fire, rescue, and emergency medical services activities of the Fire and Rescue Service, including the local fire and rescue departments, as assigned by the Fire Chief. The Division Chief, under the direction of the Fire Chief must serve as the highest ranking volunteer officer in the County and coordinate the operations and administration of volunteer personnel and LFRD's. The Division Chief must:

(1) promote the integration of the activities of volunteer and career firefighters and rescuers;

- (2) promote recruitment and retention of volunteers;
- (3) assist LFRD's in training, risk management, use and maintenance of apparatus, budget preparation, and formulating department policy and recommendations to the Chief and Commission;
- (4) monitor legislative and regulatory actions involving volunteer activities and inform affected groups; and
- (5) provide additional opportunities for people to volunteer, including the creation of a mobile volunteer personnel corps.

(e) The Fire Chief must appoint an Internal Affairs Officer after considering any recommendation by the Commission. The Officer must assist the Chief in monitoring compliance with County laws, regulations, policies, and procedures and investigate matters assigned by the Chief.

(f) The Fire Chief must meet regularly with the LFRD representative and senior Service staff to communicate policy, evaluate the effectiveness of the County's integrated fire and rescue services, and receive advice on the development of policies and delivery of services.

(g) In addition to any other authority under this Chapter, the Fire Chief may take disciplinary action against any employee or volunteer in the Service, including those in a local fire and rescue department, for violating any County law, regulation, policy, or procedure, or any lawful order of the Chief or the Chief's designee. Disciplinary action under this subsection may include suspension or discharge of an employee and restriction or prohibition of a volunteer from participation in fire and rescue activities. The Chief must not take any action involving an employee or volunteer of a local department, except when the Chief finds that immediate action is required to protect the safety of the public or any employee or volunteer, unless the Chief finds that the local department has not satisfactorily resolved the problem in a timely and effective manner. Any finding by the Chief under the preceding sentence is not subject to appeal. Each employee or volunteer must give the Chief any information, not otherwise legally privileged, that the Chief reasonably needs to administer this Chapter.

(h) The Chief must provide staff and other support to the Commission, subject to appropriation. (1998 L.M.C., ch. 4, §1; [2004 L.M.C., ch. 5](#), § 1; [2009 L.M.C., ch. 5](#), § 1.)

Editor's note—2004 L.M.C., ch. 5, § 2, subparagraph (b), reads as follows: “(b) Fire Administrator. Any reference in any law, regulation, or procedure to the Fire Administrator must be treated as referring to the Fire Chief appointed under Section 21-3, as amended by this Act.”

Sec. 21-4. Council approval of local fire and rescue departments.

(a) A local fire and rescue department must not engage in any fire, rescue, or other emergency service in the County unless the County Council approves the department. An application for County approval to operate a fire and rescue department must be submitted to the County Executive, who must transmit the application and the Executive's recommendation to the County Council not later than 90 days after the Executive received the completed application.

(b) A local fire and rescue department must not change the location of any facility used to provide fire and rescue services in the County without the Council's approval. The Executive must not include a site for any fire or rescue squad station or other facility used to provide fire or rescue services in a proposed Capital Improvements Program unless the Council has approved the location or relocation of the facility. (Mont. Co. Code 1965, §27-2; 1941, ch. 783, §332A; 1972 L.M.C., ch. 15, §3; 1976 L.M.C., ch. 11, §2; 1998 L.M.C., ch. 4, §1; [2004 L.M.C., ch. 5](#), § 1.)

Editor's note—Section 21-4, formerly Section 21-5, was renumbered, amended, and retitled pursuant to 2004 L.M.C., ch. 5, § 1. Former Section 21-5, formerly §21-1, was renumbered, amended and retitled pursuant to 1998 L.M.C., ch. 4, §1.

The above section is cited in Utica Mutual Insurance Company v. Gaithersburg-Washington Grove Fire Department, Inc., 53 Md.App. 589, 455 A.2d 987 (1983).

Former Section 21-4, fire board, derived from 1980 L.M.C., ch. 64, § 3, 1981 L.M.C., ch. 8, § 1, 1988 L.M.C., ch. 14, § 4, and 1998 L.M.C., ch. 4, § 1, was repealed by 2004 L.M.C., ch. 5, § 1. Former Section 21-4, formerly §21-4C, was renumbered and amended pursuant to 1998 L.M.C., ch. 4, §1. See also 1980 L.M.C., ch. 64, § 5, and 1987 L.M.C., ch. 42, § 3.

Sec. 21-5. Functions of local fire and rescue departments.

(a) A local fire and rescue department may provide direct fire suppression, rescue, or emergency medical services in the County only while the department:

(1) is approved by the County Council under Section 21-4; and

(2) complies with applicable County laws, regulations, policies, and procedures, and the lawful orders of the Fire Chief.

(b) Each local fire and rescue department must furnish any information requested by the Fire Chief or the Commission regarding operations, administration, volunteer participation, or any other aspect of fire, rescue, or emergency medical services.

(c) If the Fire Chief, after giving a local fire and rescue department a reasonable opportunity to respond, finds that the department has not complied with this Chapter or any other applicable County law, regulation, or policy, the County Executive may impound some or all of the tax funds designated for that local fire and rescue department. The Chief must administer the non-complying local fire and rescue department's fire and rescue services responsibilities, and may use the impounded funds for that purpose. The Chief immediately must report to the Council and Executive about the local fire and rescue department's non-compliance and must provide a status report 30 days later. After reviewing each report, the Executive must revoke, extend, or modify the impoundment of funds, consistent with the Chief's finding of whether the local fire and rescue department has complied with the County law, regulation, or policy.

(d) The County Attorney, with the approval of the County Executive, may take any legal action necessary to assist the Fire Chief in enforcing this Chapter and all other applicable laws, regulations, and policies concerning fire and rescue services in the County.

(e) Nothing in this Chapter precludes, and the Fire Chief must not restrict, any local fire and rescue department from providing services to citizens in the District of Columbia if:

(1) those services had been provided under a mutual aid agreement or similar document that was in force on January 1, 2004; or

(2) those services would be provided under a mutual aid agreement approved at any time by the County Executive and County Council.(1980 L.M.C., ch. 64, § 3; 1998 L.M.C., ch. 4, §1; [2004 L.M.C., ch. 5, § 1](#); [2009 L.M.C., ch. 5, § 1](#).)

Editor's note—See County Attorney Opinion dated [6/19/03](#) discussing the approvals needed to assign operational control of a new fire station to a local fire and rescue department.

Section 21-5, formerly § 21-6, was renumbered and amended pursuant to 2004, L.M.C., ch. 5, § 1. Former Section 21-6, formerly §21-4D, was renumbered, amended and retitled pursuant to 1998 L.M.C., ch. 4, §1.

1980 L.M.C., ch. 64, § 6, states: “This legislation shall be construed to maintain independent volunteer fire departments and rescue squads.”

Sec. 21-6. LFRD representative; direct negotiation process.

(a) The Fire Chief must negotiate in good faith with the authorized LFRD representative on the issues or issue areas specified in subsection (f). While each LFRD and its members retain the right to communicate directly with elected and appointed officials, the LFRD representative is the LFRDs’ exclusive representative for purposes of negotiating with the Fire Chief.

(b) A representative of the LFRD’s becomes authorized to represent their interests when the Fire Chief receives notice that more than 65% of the LFRD’s:

(1) have designated that individual or organization in writing as their authorized representative for negotiating purposes; and

(2) consented to be bound by agreements reached between the LFRD representative and the Fire Chief, subject to any ratification procedure previously adopted by the signatory LFRD’s.

Any action by the Fire Chief under this subsection and subsection (c) to recognize or not recognize an LFRD representative may be appealed to any court with jurisdiction under the Maryland rules for appeals of administrative agency actions. Any decision of a court under this subsection and subsection (c) may be appealed to the Court of Special Appeals.

(c) An LFRD can revoke its designation of an authorized representative and designate another person or organization not more than once every 2 years. If 65% of the LFRD’s vote to revoke the representative’s designation, that representative is no longer authorized to negotiate for the LFRD’s. If 65% of the LFRD’s designate a different representative, that representative is authorized to negotiate for all LFRD’s. If an authorization is revoked but no new representative is designated, further negotiating is suspended.

(d) Formal negotiating is initiated when the LFRD representative notifies the Fire Chief, or the Fire Chief notifies the LFRD representative, that a negotiable issue has arisen. The Fire Chief or LFRD representative must respond, either in writing or by meeting, within 15 days. The number of required meetings between the parties each month cannot exceed 1, but the parties can meet more frequently if both agree. The parties may adopt a negotiating calendar under which issues are reserved for discussion at a certain time. A negotiated agreement takes effect unless the LFRD representative notifies the Fire Chief within 60 days of the date of the agreement that a majority of the LFRD’s have voted to reject the agreement.

(e) The Fire Chief must consult with the LFRD representative on all major policy changes, to the same extent as the employee organization certified under Section 33-151 is required by law or collective bargaining agreement to be consulted.

(f) Issues subject to negotiating under this Section are:

(1) methods and mechanisms for volunteer firefighters’ and rescuers’ participation in MCFRS policy decisions;

(2) representation of volunteer firefighters and rescuers on MCFRS committees and task forces;

- (3) volunteer firefighter and rescuer recruitment, selection, and recognition;
- (4) procedures used to evaluate and discipline volunteer firefighters and rescuers;
- (5) protection of volunteer firefighters and rescuers from harassment and discrimination;
- (6) LOSAP and other benefits for volunteers, and the administration of any volunteer benefit;
- (7) the equitable allocation of appropriated funds and equipment among paid and volunteer personnel; and
- (8) any other issue that pertains only to volunteer firefighters and rescuers.

(g) Issues not subject to negotiating under this Section are:

- (1) budgets and expenditures;
- (2) MCFRS emergency and routine operations; and
- (3) any other issue not specified as subject to negotiating.

(h) The Fire Chief and LFRD representative annually must choose an impasse neutral, either by agreement or through the processes of the American Arbitration Association. The impasse neutral's fees and expenses must be paid by the Service.

(i) During the course of negotiating, either party may declare an impasse and request the services of the impasse neutral, or the parties may jointly request those services before declaring an impasse. Except where specified otherwise in this Section, the timetable and process for impasse resolution, including Council review, must follow the timetable and process in Section 33-153.

(j) When an impasse is reached, the parties must submit the dispute to the impasse neutral. The impasse neutral must attempt mediation by bringing the parties together voluntarily under conditions that will tend to bring about a settlement of the dispute.

(k) If the impasse neutral, in the impasse neutral's sole discretion, finds that the parties are at a bona fide impasse, the impasse neutral must require the parties to jointly submit all items previously agreed on, and each party to submit a final offer consisting of proposals not agreed upon. Neither party may change any proposal after it is submitted to the impasse neutral as a final offer, except to withdraw a proposal on which the parties have agreed.

(l) The impasse neutral may require the parties to submit evidence or present oral or written arguments in support of their proposals. The impasse neutral may hold a hearing at a time, date, and place selected by the impasse neutral. The hearing must not be open to the public.

(m) On or before 60 days after either party has requested the services of the impasse neutral, unless that date is extended by written agreement of the parties, the impasse neutral must select the final offer that, as a whole, the impasse neutral judges to be the more reasonable. Any issue decided by the impasse neutral must not be reopened within 3 years unless both parties agree to do so.

(n) In selecting a final offer under this Section, the impasse neutral must consider only the following factors:

- (1) previous negotiated agreements between the parties, including the past bargaining history that led to the agreements;
- (2) the affordability of all items that will have a significant cost to the Service;
- (3) effectiveness and efficiency of operations;
- (4) safety of the public; and

(5) the interest and welfare of the public.

(o) The final offer selected by the impasse neutral, integrated with any items previously agreed on, is the final agreement between the parties, need not be ratified by any party, and has the force and effect of an agreement voluntarily entered into and ratified. The parties must execute that agreement.

(p) The Executive must submit to the County Council for review any element of an impasse neutral's decision that:

- (1) requires an appropriation of funds;
- (2) is inconsistent with any County law or regulation;
- (3) requires the enactment or adoption of any County law or regulation; or
- (4) has or may have a present or future fiscal impact.

(q) The Council must consider any decision or part of a decision referred to it under subsection (p) and notify the parties within 60 days if it disapproves the decision or part. The Council may extend this time by resolution. ([2004 L.M.C., ch. 5](#), § 1.)

Sec. 21-7. Appeals of certain disciplinary actions.

(a) *Jurisdiction.* Except as provided in subsection (g), the Merit System Protection Board must hear and decide each appeal filed by a volunteer firefighter or rescuer aggrieved by an adverse final action of the Chief or a local fire and rescue department involving the removal, demotion, or suspension of, or other disciplinary action applied specifically to, that individual as if the individual were a County merit system employee.

(b) *Filing Appeals.* Any party covered by this Section may appeal the action within 30 days after the action unless another law or regulation requires that an appeal be filed sooner. An appeal must not stay the disputed action.

(c) *Procedures.* The Executive by regulation must establish procedures for hearing and deciding appeals under this Section. The regulation must specify which categories of appeals may be heard by a hearing examiner or otherwise must be decided on the basis of a written record. The Merit System Protection Board must hear an appeal if it complies with all applicable procedures. If the Board receives more than one appeal involving the same individual personnel action, the Board must consolidate the appeals.

(d) *Subpoenas.* The chair of the Merit System Protection Board or a hearing examiner considering the case may issue a subpoena for the attendance of a witness and the production of any document, and may administer oaths, in any proceeding. The Board or any party to the proceeding may file a petition with any court with jurisdiction to enforce a subpoena as provided by law for the enforcement of subpoenas in a civil action. All provisions of law that compel a person under subpoena to testify apply to proceedings under this Chapter.

(e) *Depositions.* When relevant to any proceeding and for use as evidence, the Merit System Protection Board or a hearing examiner considering the case may allow a party to depose a witness in the manner and on the terms designated by the Board or hearing examiner if

- (1) the witness cannot be subpoenaed; or
- (2) the witness cannot attend a hearing.

(f) *Appeals of Board decisions.* Any aggrieved party may appeal the decision of the Board to any court with jurisdiction under the rules governing appeals from administrative agencies, and may appeal any adverse decision of that court to the Court of Special Appeals.

(g) *Exceptions.* This Section does not apply to, and the Board must not consider an appeal of, a personnel matter subject to an employee grievance procedure under a collective bargaining agreement. (1998 L.M.C., ch. 4, § 1; [2004 L.M.C., ch. 5](#), § 1; [2009 L.M.C., ch. 5](#), § 1.)

Editor’s note—2004 L.M.C., ch. 5, § 2, subparagraph (a), reads as follows:

“Transition. (a) Regulations. A regulation issued by the Fire and Rescue Commission before this Act took effect [January 1, 2005] continues in effect unless it is inconsistent with Chapter 21, as amended by this Act, but must be treated as having been issued by the Fire Chief or the County Executive, as provided in Chapter 21, as amended by this Act. This Section does not apply to procedural regulations that the Commission is authorized to issue under Section 21-7(c), as amended by this Act.

Section 21-7(g) is interpreted and quoted in [Kensington Volunteer Fire Department v. Montgomery County](#), 163 Md. App. 279, 878 A.2d 662 (2005), where the Court held that a volunteer firefighter who seeks review before the Merit System Protection Board of a decision of the Fire and Rescue Commission is entitled to attorney’s fees as if he were a merit system employee.

Article III. Operations.

Sec. 21-8. Integrated Emergency Command Structure.

(a) The County Executive, after receiving Commission approval under Section 21-2(d)(4), must adopt by regulation an Integrated Emergency Command Structure (IECS) that is consistent with the National Incident Management System and applies to all IECS certified providers of fire, rescue and emergency medical services, on all emergency incidents. The Chief regularly must review the IECS regulation and propose amendments as necessary.

(b) The IECS must retain and actively encourage volunteer participation at all levels of the chain of command under the Fire Chief. Volunteers who meet the requirements and standards of experience and training must be eligible to advance to all levels of the chain of command and must not be treated differently from employees of equal rank under the IECS. (1980 L.M.C., ch. 64, § 3; 1988 L.M.C., ch. 14, § 5; 1998 L.M.C., ch. 4, § 1; [2004 L.M.C., ch. 5](#), § 1; [2009 L.M.C., ch. 5](#), § 1.)

Editor’s note—Section 21-8, formerly § 21-4E, was renumbered and amended pursuant to 1998 L.M.C., ch. 4, § 1.

Sec. 21-8A. Standardized Incident Management System.

(a) The County Executive must establish by regulation, after receiving Commission approval under Section 21-2(d)(4), a Standardized Incident Management System that is:

- (1) based on nationally recognized incident management systems for fire and rescue operations; and
- (2) compatible with the National Incident Management System.

(b) The Standardized Incident Management System must apply throughout the Fire and Rescue Service, including the local fire and rescue departments. ([2004 L.M.C., ch. 5](#), § 1; [2009 L.M.C., ch. 5](#), § 1.)

Sec. 21-9. Disaster plan.

The County Executive, by regulation issued after receiving Commission approval under Section 21-2(d)(4), must establish and maintain a fire and rescue disaster plan that provides an integrated chain of command compatible with the Standardized Incident Management System and the Integrated Emergency Command Structure. (1980 L.M.C., ch. 64, § 3; 1998 L.M.C., ch. 4, § 1; [2004 L.M.C., ch. 5](#), § 1; [2009 L.M.C., ch. 5](#), § 1.)

Editor's note—Section 21-9, formerly § 21-4F, was renumbered and amended pursuant to 1998 L.M.C., ch. 4, § 1.

Sec. 21-10. Response areas.

The Fire Chief, after receiving Commission approval under Section 21-2(d)(4), must establish response areas served by each fire or rescue station that collectively cover the entire County. The boundaries of a response area are generally the mid-points in road distances between that station and the nearest fire or rescue stations. However, the response area boundaries must consider geographic or other features that affect dispatch operations. (1980 L.M.C., ch. 64, § 3; 1992 L.M.C., ch. 8, § 1; 1998 L.M.C., ch. 4, § 1; [2004 L.M.C., ch. 5](#), § 1; [2009 L.M.C., ch. 5](#), § 1.)

Editor's note—See County Attorney Opinion dated [3/4/04](#) explaining that County-owned fire stations may be assigned through the master plan process. See County Attorney Opinion dated [6/19/03](#) discussing the approvals needed to assign operational control of a new fire station to a local fire and rescue department.

Section 21-10, formerly § 21-4G, was renumbered and amended pursuant to 1998 L.M.C., ch. 4, § 1.

Sec. 21-11. Communications procedures and dispatch times.

The Fire Chief, after receiving Commission approval under Section 21-2(d)(4), must establish comprehensive and consistent communications and dispatch procedures that maintain appropriate allowable dispatch times for all fire and rescue units and promote public safety. (1980 L.M.C., ch. 64, § 3; 1998 L.M.C., ch. 4, § 1; [2004 L.M.C., ch. 5](#), § 1; [2009 L.M.C., ch. 5](#), § 1.)

Editor's note—Section 21-11, formerly § 21-4H, was renumbered and amended pursuant to 1998 L.M.C., ch. 4, § 1.

Sec. 21-12. Master fire, rescue, and emergency medical services plan.

(a) The Fire Chief must draft a master fire, rescue, and emergency medical services plan and must propose any appropriate amendments to the Executive and Council. The master plan must include at least:

(1) a survey of the resources and personnel of existing fire, rescue, and emergency medical services, and an analysis of the effectiveness of the fire and building codes;

- (2) an analysis of short- and long-term fire prevention and control needs and emergency medical services needs;
- (3) a plan to meet the fire prevention and control and emergency medical services needs;
- (4) an estimate of cost and realistic plans for financing the implementation and operation of the plan on a continuing basis, and a summary of problems anticipated in implementing the plan;
- (5) a definition of the current and future fire protection and emergency medical environment by establishing and maintaining a comprehensive data base;
- (6) a definition of goals and objectives for service levels;
- (7) identification and justification of the resources and technology necessary to develop and operate the fire protection and emergency medical system as recommended by the plan;
- (8) a detailed program of action to implement and maintain the system as recommended by the plan; and
- (9) a program of action to coordinate with the Office of Emergency Management and Homeland Security, the County's fire prevention and control and emergency services resources into County-wide, regional, State, and national emergency management plans.

(b) The Fire Chief must draft the master plan and any amendments in coordination with the Commission, the local fire and rescue departments, the Maryland-National Capital Park and Planning Commission, the health systems planning agency, the Washington Suburban Sanitary Commission, other County departments, the Metropolitan Washington Council of Governments, the U.S. Department of Homeland Security, and any other interested parties. The County Council, the Commission, and any local fire and rescue department may ask the Fire Chief to consider an amendment to the plan at any time. The Fire Chief must conduct at least one public hearing before proposing any significant amendment. The County Executive must forward the master plan or any amendment proposed by the Fire Chief, along with any comments, to the County Council, which may approve the master plan as proposed or with amendments.

(c) The master plan must serve as a guideline for the Executive, Council, and Fire Chief in making decisions regarding delivery of fire and rescue services, does not have the force of law, and does not impose any legal obligation on any party. (1980 L.M.C., ch. 64, § 3; 1998 L.M.C., ch. 4, § 1; [2004 L.M.C., ch. 5](#), § 1; [2004 L.M.C., ch. 25](#), § 1; [2008 L.M.C., ch. 5](#), § 1; [2009 L.M.C., ch. 5](#), § 1.)

Editor's note—[2008 L.M.C., ch. 5](#), § 3, states: Sec. 3. Any regulation in effect when this Act takes effect that implements a function transferred to another Department or Office under Section 1 of this Act continues in effect, but any reference in any regulation to the Department from which the function was transferred must be treated as referring to the Department 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.

Section 21-12, formerly § 21-4I, was renumbered, amended and retitled pursuant to 1998 L.M.C., ch. 4, § 1.

Sec. 21-13. Temporary transfer of apparatus.

The County Executive, after receiving Commission approval under Section 21-2(d)(4), must adopt a regulation establishing policies for the long- or short-term transfer of apparatus. The Fire Chief, when authorized by regulation, may transfer any apparatus purchased in whole or in part with tax funds, including any apparatus titled to a local fire and rescue department. The Chief must provide as much advance notice as possible before transferring apparatus. The regulation must not require the transfer of any apparatus that was not purchased with any County

tax funds, except in an emergency. (1980 L.M.C., ch. 64, § 3; 1998 L.M.C., ch. 4, § 1; [2004 L.M.C., ch. 5](#), § 1; [2009 L.M.C., ch. 5](#), § 1.)

Editor's note—Section 21-13, formerly §21-4J, was renumbered, amended and retitled pursuant to 1998 L.M.C., ch. 4, § 1.

Sec. 21-14. Assumption of command by County government.

The County Executive or a designee may assume operational and administrative command of any facility or apparatus of a local fire and rescue department that provides fire, rescue, or emergency medical services under Section 21-5 if the Executive finds that the local department is unable or refuses to provide fire, rescue, or emergency medical services in accordance with this Chapter. Except during a public emergency, the Executive must give the local department a reasonable opportunity to respond before assuming command. This assumption of command may continue until the County Council by resolution, after consulting the Fire Chief and Commission, directs otherwise. (1980 L.M.C., ch. 64, § 3; 1998 L.M.C., ch. 4, § 1; 2005 L.M.C., ch. 5, § 1; [2009 L.M.C., ch. 5](#), § 1.)

Editor's note—Section 21-14, formerly § 21-4K, was renumbered and amended pursuant to 1998 L.M.C., ch. 4, § 1.

Sec. 21-15. Performance auditing.

The County Executive, the County Council, the Commission, the Chief Administrative Officer, and the Fire Chief, or their designees, may conduct performance audits of any local fire and rescue department to make budget, management, or legislative recommendations. An audit must be conducted in a reasonable manner with as much advance notice as feasible. Officers, members, and employees of each local fire and rescue department must cooperate fully and provide any data requested by the auditor. (1980 L.M.C., ch. 64, § 3; 1998 L.M.C., ch. 4, § 1; [2004 L.M.C., ch. 5](#), § 1; [2009 L.M.C., ch. 5](#), § 1.)

Editor's note—Section 21-15, formerly § 21-4L, was renumbered and amended pursuant to 1998 L.M.C., ch. 4, §1.

Article IV. Personnel.

Sec. 21-16. Personnel administration for local fire and rescue departments.

(a) *Applicability of County Regulations.* Employees of local fire and rescue departments who are paid with tax funds are not County employees. They are members of a separate merit system governed by generally applicable County personnel regulations except as expressly modified by regulations that the County Executive, after receiving Commission approval under Section 21-2(d)(4), adopts under method (2).

(b) *Personnel services.* The Office of Human Resources must provide the following services to the local fire and rescue departments:

- (1) Uniform administration and application of personnel regulations and policies.

(2) Consistent administration and application of a uniform pay plan and benefit program, which must be substantially equivalent to that of the County government.

(3) Disbursement of salaries and wages, including withholding for taxes and fringe benefits through the County's payroll system.

(4) Review for consistency with applicable personnel regulations all personnel transactions involving employees of local fire and rescue departments paid with tax funds.

(5) Use of the Merit System Protection Board.

(c) *Limitations.* Nothing in this Chapter means that employees of the local fire and rescue departments are County employees, either on a de jure or de facto basis. Nothing in this Chapter abrogates the authority of each local fire and rescue department over such functions as hiring, promotion, discipline, and discharge of employees of that department; the assignment of administrative staff, and day-to-day assignments of volunteer personnel at that department. This Section does not diminish the authority of County government to act under Sections 21-13 and 21-14 or the authority of the Fire Chief to discipline an employee or volunteer of a local fire and rescue department as provided in Section 21-3(g)..

(d) *Judicial review.* An aggrieved employee of a local fire and rescue department, the Chief Administrative Officer on behalf of the County, or any local fire and rescue department or other person aggrieved by any order or decision of the Merit System Protection Board, may obtain judicial review of the order or decision as described in the Maryland Rules of Procedure that apply to appeals of administrative actions. Any party may appeal a decision of a court under this subsection to the Court of Special Appeals or seek review by the Court of Appeals.

(e) *Local department head.* For purposes of this Chapter, a local fire and rescue department must designate a person as a department head under the County personnel regulations and must notify the Office of Human Resources of its selection. The designee may take any personnel action on behalf of the local department that a department head may take under the County personnel regulations, to the extent that those regulations apply to the local department. (1980 L.M.C., ch. 64, § 3; 1982 L.M.C., ch. 40, § 3; 1982 L.M.C., ch. 43, § 1; 1984 L.M.C., ch. 29, § 1; 1985 L.M.C., ch. 14, § 1; 1987 L.M.C., ch. 25, § 1; 1987 L.M.C., ch. 38, § 1; 1988 L.M.C., ch. 3; 1988 L.M.C., ch. 14, § 6; 1989 L.M.C., ch. 2, § 1; 1998 L.M.C., ch 4, § 1; [2004 L.M.C., ch. 5, § 1](#); [2009 L.M.C., ch. 5, § 1](#).)

Editor's note-Section 21-16, formerly § 21-4M, was renumbered, amended and retitled pursuant to 1998 L.M.C., ch. 4, § 1.

In Lofland v. Montgomery County, 319 Md. 265, 572 A.2d 163 (1990), the court held that an employee who filed a grievance as provided by personnel regulations adopted pursuant to this section was entitled to an evidentiary hearing before the merit system protection board to address the dispute as to when the time period in which to file the grievance began to run. The above section is cited in Conway v. Takoma Park Volunteer Fire Department, Inc., 666 F.Supp. 786 (D.Md. 1987).

Sec. 21-17. Encouraging volunteers.

(a) As long as the service being provided is not the same service which the County employee is paid to provide, the County must not prohibit or discourage any County employee from providing volunteer services for a local fire and rescue department, except:

(1) a local fire and rescue department to which the employee is assigned,

(2) to the extent the services are prohibited by the conflict-of-interest provisions of Chapter 19A, or

(3) to the extent volunteer service creates additional financial liability to the County.

(b) Employees in the firefighter/rescuer occupational series may be prohibited or restricted from providing volunteer fire, rescue or emergency medical services to local fire and rescue departments in the County under regulations adopted by the County Executive under method (2). (1980 L.M.C., ch. 64, § 3; 1988 L.M.C., ch. 14, § 7; 1993 L.M.C., ch. 23, § 1; 1998 L.M.C., ch. 4, § 1; [2004 L.M.C., ch. 5](#), § 1.)

Editor's note-Section 21-5, formerly §21-1, was renumbered, amended and retitled pursuant to 1998 L.M.C., ch. 4, §1.

Sec. 21-18. Training requirements and certification standards.

(a) The County Executive, after receiving Commission approval under Section 21-2(d)(4), must issue regulations establishing training requirements for all active fire, rescue, and emergency medical services personnel in the Fire and Rescue Service, including the local fire and rescue departments, consistent with the Integrated Emergency Command Structure.

(b) The training requirements must include core standards for eligibility for each rank. The core standards must apply similarly to all personnel engaging in similar duties.

(c) However, the Chief Administrative Officer, in administering the County merit system under Chapter 33, must adopt requirements for advancement and promotion for those fire, rescue, and emergency medical services personnel who are members of the merit system. The requirements adopted by the Chief Administrative Officer for merit system members may include further requirements for advancement and promotion in addition to the core standards that apply to all Fire and Rescue Service personnel.

(d) The Chief must ensure that all feasible opportunities are available for volunteers to meet the standards for advancement. The Chief must report annually to the Commission, Executive, and Council on the availability and implementation of County training programs for volunteer firefighters and rescuers. (1980 L.M.C., ch. 64, § 3; 1988 L.M.C., ch. 14, § 8; 1998 L.M.C., ch. 4, §1; [2004 L.M.C., ch. 5](#), § 1; [2006 L.M.C., ch. 10](#), § 1; [2009 L.M.C., ch. 5](#), § 1.)

Editor's note-Section 21-18, formerly § 21-4O, was renumbered and amended pursuant to 1998 L.M.C., ch. 4, § 1.

Sec. 21-19. Code of ethics and personal conduct.

The County Executive, after receiving Commission approval under Section 21-2(d)(4), must issue regulations establishing a code of ethics and on-duty personal conduct that is consistent with applicable law, including Chapters 19A and 27. The code must apply to all fire, rescue, and emergency medical services personnel, including administrative personnel. The code must specify prohibited conduct and the procedures and actions available to address any violation. The Fire Chief may refer a matter to the County Ethics Commission or Human Rights Commission. (1980 L.M.C., ch. 64, § 3.; 1990 L.M.C., ch. 21, § 3; 1998 L.M.C., ch. 4, §1; [2004 L.M.C., ch. 5](#), § 1; [2009 L.M.C., ch. 5](#), § 1.)

Editor's note-Section 21-19, formerly §21-4P, was renumbered and amended pursuant to 1998 L.M.C., ch. 4, § 1.

Cross reference-Ethics generally, ch. 19A.

Sec. 21-20. Disability and death benefits for members of local fire and rescue departments.

The Council should provide for the payment of disability benefits for members of local fire and rescue departments operating in the County, and for the payment of death benefits for members injured or killed in the line of duty, for the source and funds from which benefits are paid, and for rights of subrogation in the County. (Mont. Co. Code 1965, §27-3; 1969 L.M.C., ch. 45, §4; 1972 L.M.C., ch. 15, § 4; 1998 L.M.C., ch. 4, § 1.)

Editor's note-Section 21-20, formerly § 21-2, was renumbered, amended and retitled pursuant to 1998 L.M.C., ch. 4, § 1.

Sec. 21-21. Length of service award program for volunteers.

There is a length of service award program for local fire and rescue department volunteers.

(a) *Definitions.* In this Section, the following words and phrases have the following meanings:

Active volunteer means a local fire and rescue department volunteer who accumulates at least 50 points in a calendar year under the point system in subsection (k).

Domestic partner means a person who was registered as a domestic partner of an active volunteer with the Fire Chief on or before June 27, 2016 in a domestic partnership that did not end before the active volunteer's death.

(b) *Eligibility.* Any local fire and rescue department volunteer is eligible for the length of service award program if the volunteer is at least 16 years old, and:

- (1) (A) was an active volunteer on or after August 15, 1965; or
- (B) on August 15, 1965 had completed 25 years as an active volunteer; and

(2) if less than 18 years old, meets any additional requirements established by Executive regulation under method (3).

(c) *Length of service benefits.*

(1) **Volunteers Who Qualified Before 1985.** Effective January 1, 1985, any volunteer who qualified for a monthly award payment before January 1, 1985, must receive monthly award payments equal to 150 percent of the pre-1985 monthly award payment.

(2) **Volunteers Who Qualify in 1985 or Later — 25 Years of Service.**

(A) Effective January 1, 1985, a volunteer qualifies for a 25-year award payment when the volunteer:

- (ii) (a) is at least age 55, if the volunteer completed 25 years as an active volunteer before 1996, or
- (b) is any age, if the volunteer completed 25 years as an active volunteer on or after January 1, 2004.

(B) A volunteer who qualifies under this paragraph must receive an award payment of:

- (i) \$233 per month for life; and
- (ii) \$11.70 per month for life for each year of service as an active volunteer over 25 years (up to \$117 per month). The maximum total benefit is \$350 per month.

(3) **Volunteers Who Qualify in 1985 or Later — 15 years of Service.**

(A) Effective January 1, 1985, a volunteer qualifies for a 15-year award payment when the volunteer:

- (i) has served 15 years as an active volunteer after January 1, 1955; and
- (ii) is at least age 60.

(B) A volunteer who qualifies under this paragraph must receive an award payment of \$9.32 per month for life for each year of service as an active volunteer.

(4) Volunteers Who Qualify in 1985 or Later — 10 Years of Service

(A) Effective January 1, 1985, a volunteer qualifies for a 10-year award payment when the volunteer:

- (i) has served 10 years as an active volunteer; and
- (ii) is at least age 65.

(B) A volunteer who qualifies under this paragraph must receive an award payment of \$9.32 per month for life for each year of service as an active volunteer.

(5) All years of service, including past years of service, must be included.

(6) A volunteer must receive a 3.5% increase, for a maximum total benefit of no more than \$362.00 per month, to his or her LOSAP benefit payment if he or she:

(A) received LOSAP benefit payments as of December 31, 2015; and

(B) qualified for the higher nominal fee, as described in Article 12 of the fire and rescue volunteers collective bargaining agreement, for calendar year 2015 by:

- (i) being on the Integrated Emergency Command Structure (IECS) certified list;
- (ii) receiving 30 LOSAP points for department or station responses; and
- (iii) receiving 20 LOSAP points for sleep-in or stand-by service.

(d) *Disability benefit.*

(1) A volunteer qualifies for a disability benefit if:

(A) the volunteer becomes disabled as the direct result of active participation as a local fire and rescue department volunteer;

(B) the disability prevents the volunteer from pursuing the volunteer's normal occupation; and

(C) a state worker's compensation commission finds that the disability is total and permanent, and is a direct result of active participation as a local fire and rescue department volunteer.

(2) A volunteer who qualifies under this subsection must receive an award payment of \$345 per month for life.

(3) Length of service benefits under subsection (c) must not be paid to volunteers who are receiving award payments under this subsection.

(e) *Survivor's benefit.*

(1) A local fire and rescue department volunteer's surviving spouse or domestic partner qualifies for a survivor's benefit on the volunteer's death if:

(A) the surviving spouse or partner submits an application for the benefit; and

(B) the volunteer met the:

- (i) years-of-service requirement for a length of service benefit under subsection (c); or
- (ii) requirements for a disability benefit under subsection (d).

(2) The volunteer's surviving spouse or domestic partner must receive a monthly award payment until the spouse's death or remarriage, or partner's death, equal to 50 percent of the:

- (A) length of service benefit for which the volunteer met the years-of-service requirement; or
- (B) volunteer's disability benefit.

(f) *Death benefit.*

(1) A local fire and rescue department volunteer may designate a beneficiary to receive on the volunteers' death a \$5,000 death benefit. If the volunteer does not designate a beneficiary or if the designated beneficiary does not survive the volunteer, the death benefit must be paid to the volunteer's surviving spouse or domestic partner or the volunteer's estate if no spouse or partner survives. The designated beneficiary or the volunteer's surviving spouse or domestic partner or estate, whichever applies, qualifies on the volunteer's death for a \$5,000 death benefit if

(A) the designated beneficiary or the surviving spouse or partner or estate, whichever applies, submits an application for the benefit within one year after the volunteer's death; and

(B) the volunteer met the:

- (i) years-of-service requirement for a length of service benefit under subsection (c); or
- (ii) requirements for a disability benefit under subsection (d).

(g) *Other benefits.* An active volunteer may participate in the County's tuition assistance program to the extent federal tax laws permit volunteers to do so, and receive discounts at County transit and recreational facilities as if the volunteer were a County employee.

(h) *Funding.* The County must pay benefits to a volunteer under this section from fire tax funds.

(i) *Administration.*

(1) The County Executive or the Executive's designee must administer this Section under Executive Regulations adopted under method (3).

(2) The County must pay benefits under this section from the first day of the first month after the volunteer, surviving spouse or domestic partner, or volunteer's estate qualifies for the benefit, except that benefits must not be paid for any period before the application for the benefit is filed.

(3) The Executive or the Executive's designee may audit the records of participating local fire and rescue departments regarding volunteer participation.

(4) The Executive or the Executive's designee may correct clerical errors in volunteers' service records made by County staff in the administration of this Section.

(5) All LOSAP payments must be made by direct deposit.

(j) *Certification of volunteers.*

(1) Local fire and rescue departments. Each participating local fire and rescue department must:

(A) maintain a detailed and accurate record for each local fire and rescue department volunteer, in a form established by the County Executive, of any activity that qualifies for credit toward active volunteer status;

(B) by March 31 each year, submit a record of all local fire and rescue department volunteers, certified by the secretary under oath, that identifies each active volunteer for the previous year; and

(C) post any list from the Executive or the Executive's designee of active volunteers for at least 30 days after receipt for review by members.

(2) Appeal. A volunteer may appeal a finding that the volunteer was not an active volunteer within 30 days after a written notice of the finding is mailed to the volunteer. The appeal must satisfy requirements established in regulations issued by the Executive under method (3). The decision of the Executive or the Executive's designee on the appeal is final.

(k) *Point system.* To qualify as an active volunteer under subsection (a), a volunteer accumulates points under this subsection during each calendar year that are not transferable to another year. An individual must not receive points for any activity performed as a County employee.

(1) Training Courses — 25 points maximum.

(A) Courses lasting less than 20 hours, such as a one-day course, seminar, or basic first-aid class, earn 5 points per course.

(B) Courses lasting 20 to 45 hours, such as a short course or regional fire school, earn 10 points per course.

(C) Courses lasting more than 45 hours, such as the basic, advanced, section III, and emergency care courses offered by the University of Maryland, or a fire science course offered by Montgomery College or Prince George's Community College, earn 15 points per course.

(2) Drills — 20 points maximum: Each drill lasting at least 2 hours earns 1 point.

(3) Stand-by — 20 points maximum. Integrated Emergency Command Structure (IECS) certified personnel may earn stand-by LOSAP points for performing on-duty activity at the rate of:

(A) one quarter point for every hour of stand-by service a volunteer is assigned to a unit available for response; and

(B) one point for every 4 hours of stand-by service the volunteer is available for response in the station, but is not assigned to a specific unit.

Stand-by service must be recorded in the data system provided by the County. A volunteer must not earn more than 3 points for stand-by service during any 24-hour period.

(4) (A) Elected and Appointed Position — 25 points maximum per calendar year for any combination of service in eligible and appointed positions as follows:

(1) 25 points for completing a one-year term in an eligible elected or appointed position; and

(2) 2 points for each full month of service in any eligible elected or appointed position during a term of less than one year.

(B) The Fire Chief annually must designate a list of the elected and appointed positions eligible to earn points. The list must include:

(i) local fire and rescue department (LFRD) officer at the rank of lieutenant or higher;

- (ii) director, trustee, trial board member, or auxiliary member of an LFRD;
- (iii) chair of fund raising or membership for an LFRD;
- (iv) chaplain of an LFRD;
- (v) delegate, alternate, or officer for the Fire Board, the Montgomery County Volunteer Fire-Rescue Association, the LFRD representative, or any similar organization;
- (vi) member of a committee of the Commission or the Maryland State Firemen's Association (MSFA);
- (vii) officer of the MSFA auxiliary; or
- (viii) officer of an LFRD auxiliary.

(5) Attendance at Meetings — 20 points maximum per year: Attendance earns 1 point for each official meeting of an organization listed in Executive regulations issued under method (3) as affiliated with the Fire and Rescue Service.

(6) Participation in Department or Station Responses — 30 points maximum for responding on at least the number of calls indicated in the appropriate column below:

Total department/station call responses per year	000 to 999	1000 to 7499	7500 or more
Responses required to earn 1 point, if not qualified for maximum 30 points	2	4	5
Responses per year required to receive maximum 30 points	50	100	120

The Chief annually must determine for each LFRD whether the total annual calls must be computed by department or by station.

(7) Military Service — 50 points maximum per year, prorated for a partial year of service, for qualified military service that interrupts voluntary fire service. Qualified service means full-time extended obligatory military service or a single voluntary enlistment, not to exceed 4 years in the armed forces of the United States.

(8) Collateral Duties — 25 points maximum: Each qualified activity for the LFRD that lasts at least 4 hours earns 1 point. The Chief annually must designate a list of the collateral duties under which a volunteer may perform qualified activities, such as apparatus and building maintenance; fire prevention and education activities; fund raising activities; and administrative or auxiliary duties.

(1973 L.M.C., ch. 30, § 1; 1975 L.M.C., ch. 28, §1; 1976 L.M.C., ch. 30, §§ 1, 2; 1980 L.M.C., ch. 64, §2; 1985 L.M.C., ch. 30, § 1; 1992 L.M.C., ch. 12, § 1; 1998 L.M.C., ch. 4, § 1; 1998 L.M.C., ch. 4, § 1; [2001 L.M.C., ch. 3](#), § 1; [2004 L.M.C., ch. 5](#), § 1; [2008 L.M.C., ch. 20](#), § 1; [2009 L.M.C., ch. 5](#), § 1; [2017 L.M.C., ch. 16](#), §1; 2017 L.M.C., ch. 29, §1.)

Editor's note—[2017 L.M.C., ch. 16](#), § 2, states: The Council declares that this legislation is necessary for the immediate protection of the public interest. The amendments in Section 1, except for the amendments to subsection (k), take effect on July 1, 2017. The amendments to subsection (k) in Section 1 take effect on January 1, 2018.

2001 L.M.C., ch. 3, § 2, reads:

Sec. 2. Emergency Effective Date, Transition, and Retroactivity.

(a) The Council declares that an emergency exists and that this legislation is necessary for the immediate protection of the public health and safety. This Act takes effect on the date on which it becomes law [April 5, 2001] and applies retroactively to January 1, 2001.

(b) Any amendment made by this Act that allows credit toward the Length of Service Awards Program for an activity that did not qualify for credit before the amendment applies for those activities conducted on or after January 1, 2001.

(c) Within 60 days after this Act takes effect [April 5, 2001], the Director of Finance must pay to each eligible beneficiary any retroactive length-of-service, disability, survivor's, and death benefit to which the beneficiary is entitled as a result of this Act.

Section 21-21, formerly § 21-3, was renumbered, amended and retitled pursuant to 1998 L.M.C., ch. 4, § 1.

Article V. Fiscal Matters.

Sec. 21-22. Budget preparation.

(a) Each local fire and rescue department supported in whole or in part with tax funds must prepare an annual budget recommendation that describes its requirements with appropriate justification in a format prescribed by the County Executive. Each department's budget recommendation must be submitted to the Fire Chief by the deadline set by the Chief.

(b) The Fire Chief must prepare and submit to the Commission for its review and comment a unified Fire and Rescue Service budget, including the proposed budgets for local fire and rescue departments and the staff and compensation proposed for the LFRD representative.

(c) The Chief must forward the Commission's comments and recommendations on the Chief's proposed budget, together with a summary and an analysis of County-wide implications and relationships to applicable provisions of the fire service master plan, to the County Executive for review and submission to the County Council as required by the County Charter. The Chief must transmit the proposed budget to the Executive by the deadline established by the Executive.

(d) The County Council must appropriate funds for fire, rescue, and emergency medical services for the ensuing fiscal year as prescribed by the Charter. A person must not encumber or spend funds in excess of appropriations. All distributions of appropriations to a local fire and rescue department are conditional on the local fire and rescue department's complying with applicable law, County regulations and policies, and lawful orders of the Fire Chief. (1980 L.M.C., ch. 64, § 3; 1988 L.M.C., ch. 14, § 9; 1998 L.M.C., ch. 4, § 1; [2004 L.M.C., ch. 5, § 1](#); [2009 L.M.C., ch. 5, § 1](#).)

Editor's note—Section 21-22, formerly § 21-4Q, was renumbered and amended pursuant to 1998 L.M.C., ch. 4, § 1.

Sec. 21-23. Taxation.

(a) *Fire Tax District.* A fire tax district, comprising the entire County, includes all real and personal property assessed for County tax purposes.

(b) *Tax levy and collection.* The County Council may levy a tax on each \$100 of the assessed value of taxable property in the fire tax district at a rate to yield an amount that the Council finds sufficient to fund:

- (1) the management, operation, and maintenance of all fire and rescue services;
- (2) the purchase (including debt service), construction, maintenance, and operation of real and personal property necessary or incidental to fire and rescue services;
- (3) the operation of the Fire and Rescue Service;
- (4) all tax-supported expenditures of the local fire and rescue departments; and
- (5) awards for the Length of Service Awards Program.

The fire tax must be levied and collected in the manner that other county real property taxes are levied and collected and have the same priority rights, bear the same interest and penalties, and in every respect be treated the same as other county real property taxes. (1980 L.M.C., ch. 64, § 3; 1988 L.M.C., ch. 14, § 10; 1992 L.M.C., ch. 7, § 1; 1992 L.M.C., ch. 8, § 1; 1998 L.M.C., ch. 4, § 1; [2009 L.M.C., ch. 5](#), § 1.)

Editor's note-Section 21-23, formerly § 21-4R, was renumbered and amended pursuant to 1998 L.M.C., ch. 4, § 1.

Sec. 21-23A. Emergency Medical Services Transport Insurance Reimbursement Program.

(a) *Obligation to Transport.*

(1) The Fire and Rescue Service must provide emergency medical services transport under applicable medical protocols to each individual without regard to the individual's ability to pay.

(2) Any personnel of the Fire and Rescue Service who respond to a request for an emergency medical services transport must not ask for any information relating to an individual's insurance coverage.

(b) *Definitions.* In this Section the following terms have the meanings indicated:

(1) *Emergency medical services transport* means transportation by the Fire and Rescue Service of an individual by ambulance or other Fire and Rescue Service vehicle used for a similar purpose. *Emergency medical services transport* does not include transportation of an individual under an agreement between the County and a health care facility.

(2) *Federal poverty guidelines* means the applicable health care poverty guidelines published in the Federal Register or otherwise issued by the federal Department of Health and Human Services.

(3) *Fire and Rescue Service* means the Montgomery County Fire and Rescue Service and includes each local fire and rescue department.

(4) *Program* means the Emergency Medical Services Transport Insurance Reimbursement Program.

(c) *Imposition of reimbursement.* The County must impose a reimbursement charge for any emergency medical services transport provided in the County, and, unless prohibited by other law, outside the County under a mutual aid agreement.

(d) *Liability for Reimbursement.* Subject to paragraph (e), each individual who receives an emergency medical services transport is responsible for paying the emergency medical services transport reimbursement.

(e) *Hardship Waiver.*

(1) The Fire Chief must waive the emergency medical services transport reimbursement for any individual whose household income is at or below 300 percent of the federal poverty guidelines. An individual must request a waiver on a form approved by the Fire Chief.

(2) The Fire Chief may deny a request for a waiver if the individual who claims financial hardship under this Section does not furnish all information required by the Fire Chief.

(f) *County Residents - Payment of Uninsured Portion of the Emergency Medical Services Transport Reimbursement.*

(1) County residents must not be required to pay any out-of-pocket expense relating to any emergency medical services transport because residents are deemed to have paid any co-payment, deductible, or uninsured portion of the cost of each emergency medical services transport through taxes paid to the County.

(2) Tax revenues the County receives must be treated as payment, on behalf of County residents, of the balance of each resident's portion of the emergency medical services transport reimbursement charge that is not covered by the resident's insurance.

(3) The County Council must annually transfer from the General Fund to the Consolidated Fire Tax District Fund an amount that the Council estimates will not be covered by residents' insurance as payment of all residents' uninsured portion of the emergency medical services transport reimbursement charge.

(g) *Restriction on Local Fire and Rescue Departments.* A local fire and rescue department must not impose a separate charge for an emergency medical transport.

(h) *Use of Revenue.*

(1) Except for the transfer received from the General Fund under subsection (f), the revenues collected from the emergency medical services transport reimbursement must be used to supplement, and must not supplant, Fiscal Year 2013 expenditures appropriated in the annual operating budget resolution (not including any expenditures of revenue collected under this program in Fiscal Year 2013) for emergency medical services and other related fire and rescue services provided by the Fire and Rescue Service.

(2) The Fire Chief must create a dedicated account in the fire fund for the revenues collected from reimbursements under this Program. This amount must only be used for increased or enhanced fire and rescue services above the level appropriated in Fiscal Year 2013, as provided in paragraph (1), including new field service positions related to expansion of 4 person staffing or opening of new fire stations; increased training classes or capacity; facility maintenance and repair; new or replacement apparatus, gear, or equipment. Not more than 30% of this account may be spent for personnel costs.

(3) (A) 15% of the net Emergency Medical Services Transport Insurance Reimbursement Program revenue must be allocated under a procedure specified in the annual operating budget resolution for the benefit of local fire and rescue departments for:

- (i) replacement or augmentation of apparatus owned by a local fire and rescue department;
- (ii) facilities owned by a local fire and rescue department;
- (iii) training for volunteers;

- (iv) gear and equipment for volunteers;
- (v) administrative staff to support a local fire and rescue department;
- (vi) volunteer recruitment and retention; and
- (vii) volunteer stand-by support.

(B) Any administrative staff hired or retained by a local fire and rescue department using revenue allocated under this Section is not a County employee or a member of the separate merit system referred to in Section 21-16(a).

(i) *Regulations; Reimbursement Schedule.* The County Executive must adopt a regulation under method (2) to implement the emergency medical services transport reimbursement program. The regulation must establish a reimbursement schedule based on the cost of providing emergency medical services transport. The reimbursement schedule may include an annual automatic adjustment based on inflation, as measured by an index reasonably related to the cost of providing emergency medical services transports. The regulation may require each individual who receives an emergency medical services transport to provide financial information, including the individual's insurance coverage, and to assign insurance benefits to the County.

(j) *Reporting.* The Fire Chief must submit a report to the County Executive and County Council not later than January 1 and July 1 of each year regarding implementation of the Program. The report should include:

- (1) the number of calls for emergency medical services during the reporting period;
- (2) the number and type of emergency medical services provided during the reporting period; and
- (3) any other information relating to implementation of the Program that the County Executive or County Council request.

(k) *Patient Advocate.* The Office of Consumer Protection must employ a Patient Advocate to:

- (1) develop and implement a program for customer service as a part of the Program;
- (2) develop and staff a help desk for questions regarding the Program; and
- (3) serve as a liaison with any vendor retained by the County to implement the Program to assure high quality customer service and prompt resolution of questions and concerns.

(l) *Outreach and Education Campaign.* The County Executive must implement a public outreach and education campaign before and during implementation of the Program. This campaign should include:

- (1) informational mailers to County households;
- (2) distribution of information through County internet and web-based resources;
- (3) radio and television public service announcements;
- (4) news releases and news events;
- (5) information translated into Spanish, French, Chinese, Korean, Vietnamese, and other languages, as needed;
- (6) extensive use of County Cable Montgomery and other Public, Educational, and Government channels funded by the County;

(7) posters and brochures made available at County events, on Ride-On buses and through Regional Service Centers, libraries, recreation facilities, senior centers, public schools, Montgomery College, health care providers, hospitals, clinics, and other venues; and

(8) special outreach to senior and “New American” communities. ([2012 L.M.C., ch. 14, § 1](#); [2013 L.M.C., ch. 13, § 1](#).)

Editor’s note—See County Attorney Opinion dated [9/12/08](#) analyzing legislation imposing an ambulance fee on insured individuals who use ambulance services.

2012 L.M.C., ch. 14, §§ 3 and 4, state:

Sec. 3. Implementation. The County may collect the emergency medical services transport reimbursement authorized by County Code Section 21-23A, enacted by Section 1 of this Act, for any emergency medical services transport that occurs on or after July 1, 2012. The reimbursement may be collected retroactively to July 1, 2012, or any later date during the first fiscal year the emergency medical services transport reimbursement is implemented.

Sec. 4. Fire and Rescue Service Enhancements in Fiscal Year 2013. Subject to appropriation, the Council intends that, to the extent sufficient revenue is achieved, revenue generated by the Emergency Medical Services Transport Insurance Reimbursement Program authorized in County Code Section 21-23A, enacted in Section 1 of this Act, in Fiscal Year 2013 should be used to fund the following enhancements to the County Fire and Rescue Service in Fiscal Year 2013:

(a) *Service Restoration*: Place one ladder truck in the first battalion back into service with dedicated 24- hour staffing.

(b) *Apparatus Replacement Funding*: Buy one tractor drawn ladder truck, one Engine Company, and 5 EMS units for system unit response improvements.

(c) *Facility Maintenance and Improvements*: Conduct a strategic facility assessment, develop a maintenance and improvement plan for all LFRD- and County-owned fire and rescue facilities and, to the extent possible based on available funding, begin initial maintenance and repairs to these facilities.

(d) *Training*: Provide system training for career and volunteer personnel, including core fire, rescue, EMS, technical rescue, and driver training classes.

(e) *Fire and Rescue Equipment*: Buy personal protective equipment, portable fire, rescue, technical rescue, and EMS equipment for career and volunteer personnel, the training academy, and operational units.

Sec. 21-24. Fire tax funds.

(a) *Distribution*. The County must pay all appropriated funds budgeted for use by a local fire and rescue department at least on a monthly basis to the department in accordance with a projected monthly schedule or approved budget submitted by that department before the start of the fiscal year. At the request of a local fire and rescue department, the County, as a service to that department, may retain, disburse, and account for any fire tax funds budgeted for use by that department.

(b) *Expenditures and investments*. The treasurers, as authorized by the local fire and rescue department, must pay all proper costs, expenses, claims and demands necessary for the maintenance, equipment, and operation of the local fire and rescue department. Any money which the County retains on behalf of the local fire and rescue department must be invested in the County’s investment fund. The proceeds from those investments must be credited to each local fire and rescue department for the next fiscal year after the funds were invested. Proceeds

must be credited to each local fire and rescue department in proportion to the amount of funds retained and invested by the County.

(c) *Treasurer's bond.* Each local fire and rescue department must provide a corporate bond to the County approved by the Director of Finance conditioned on the faithful discharge of the duties of the treasurer. The Director may approve a blanket corporate bond covering one or more local fire and rescue departments.

(d) *Audit.* Financial transactions involving County fire tax funds must be included in the annual audit required by the Charter. Copies of the annual audit must be provided to the County Council, the Commission, and each local fire and rescue department. (1980 L.M.C., ch. 64, § 3; 1988 L.M.C., ch. 14, § 11; 1992 L.M.C., ch. 7, § 1; 1992 L.M.C., ch. 8, § 1; 1998 L.M.C., ch. 4, § 1; [2004 L.M.C., ch. 5](#), § 1; [2009 L.M.C., ch. 5](#), § 1.)

Editor's note—Section 21-24, formerly §21-4S, was renumbered and amended pursuant to 1998 L.M.C., ch. 4, §1.

Sec. 21-25. Debt.

The annual budget must include an appropriation sufficient to pay the principal and interest obligation for the ensuing fiscal year of any county bonds issued and outstanding for fire service purposes. (1980 L.M.C., ch. 64, § 3; 1992 L.M.C., ch. 8, § 1; 1998 L.M.C., ch. 4, § 1; [2004 L.M.C., ch. 5](#), § 1.)

Editor's note—Section 21-25, formerly § 21-4T, was renumbered and amended pursuant to 1998 L.M.C., ch. 4, § 1.

Sec. 21-26. Title to assets; sale or disposition.

(a) Title to fire, rescue, and emergency medical service apparatus and facilities, purchased in whole or in part with any tax funds before July 30, 1980, may be retained by the local fire and rescue department unless the appropriation resolution that funded the purchase specified otherwise.

(b) All apparatus and facilities purchased with tax funds after July 30, 1980, must be titled to the County and must be assigned in accordance with the adopted master fire, rescue, and emergency services plan. A newly constructed fire station, purchased with tax funds after July 1, 1999, may be held under a title reflecting concurrent ownership by the County and a local fire and rescue department if:

(1) the station complies with the adopted master fire, rescue, and emergency medical services plan;

(2) the local fire and rescue department has contributed, or is legally committed to contribute, at least 50 percent of the on-site cost of the station, including any land cost, and of the station's proportionate share of off-site costs directly attributable to the project; and

(3) the Chief Administrative Officer has signed a contract with the local fire and rescue department that assures, to the fullest extent legally possible, that the station will be available for fire and rescue purposes until the station is disposed of under subsection (c), and that the station will be operated according to County law, regulations, and policies.

(c) The Chief Administrative Officer must approve each sale or other disposition of any apparatus or facilities to ensure that the sale or other disposition does not adversely affect the public interest. If the Chief Administrative Officer does not approve a sale or other disposition, the County Council may by resolution approve the proposed sale or disposition. The proportionate share of the proceeds of any such disposition attributable to fire tax funds

must be used by the local fire and rescue department for fire, rescue or emergency medical services, or be returned to the fire tax district. In a dispute over the source and amount of original financing, or over the value of the apparatus or facilities, the County agrees to binding arbitration under the Maryland Uniform Arbitration Act to resolve the dispute.

(d) The County acknowledges that it has no ownership claim to any equipment, apparatus, facilities, or property acquired without any use of tax funds. This Chapter does not authorize the County to require the transfer of ownership of any such equipment, apparatus, facilities, or property to the County.

(e) The County may accept title and all encumbrances to any fire, rescue, or emergency medical service apparatus, equipment, facility or property from any local fire and rescue department that requests the transfer of title, even if the item is subject to an existing debt. The Chief Administrative Officer must approve or reject the transfer after considering any recommendations by the Commission. The Chief Administrative Officer, after considering the Commission's advice and recommendations, must develop procedures for the orderly disposition of assets of any local fire and rescue department that is unable to provide fire, rescue, or emergency medical services so that the assets continue to be used to provide fire, rescue, and emergency medical services in that community.

(f) Any funds accruing to the County from the sale or other disposition of any apparatus, equipment, facility or property must be applied to the funding of fire and rescue appropriations approved by the County Council.

(g) For purposes of operation, the Chief Administrative Officer, after considering the Commission's advice and recommendations, must assign fire stations when built or acquired to a local fire and rescue department or, with the concurrence of the County Executive and County Council, to the Fire and Rescue Service. This Section does not preclude the Fire and Rescue Service from operating a fire station as otherwise provided by law. (1980 L.M.C., ch. 64, § 3; 1998 L.M.C., ch. 4, § 1; 1999 L.M.C., ch. 12, § 1; [2004 L.M.C., ch. 5](#), § 1; [2009 L.M.C., ch. 5](#), § 1.)

Editor's note—See County Attorney Opinion dated [3/4/04](#) explaining that County-owned fire stations may be assigned through the master plan process. See County Attorney Opinion dated [6/19/03](#) discussing the approvals needed to assign operational control of a new fire station to a local fire and rescue department.

Section 21-26, formerly §21-4U, was renumbered and amended pursuant to 1998 L.M.C., ch. 4, §1.

Sec. 21-27. Purchasing and contracting.

The Fire Chief, after receiving Commission approval under Section 21-2(d)(4), must establish procedures, by regulation, that govern any purchase or contract by any department that will be financed in whole or in part with tax funds. (1980 L.M.C., ch. 64, § 3; 1998 L.M.C., ch. 4, § 1; [2004 L.M.C., ch. 5](#), § 1; [2009 L.M.C., ch. 5](#), § 1.)

Editor's note—Section 21-27, formerly § 21-4V, was renumbered and amended pursuant to 1998 L.M.C., ch. 4, § 1.

Article VI. Fire Corporation Boards.

Sec. 21-28. Conduit Road.

(a) The citizens of a certain area in the County, more particularly defined in this Section, for the purpose of enabling the citizens to enjoy protection from fire and other dangers, hereby are created a body corporate known

as the Conduit Road Fire Board, Incorporated. The corporation has all the powers and privileges of a body politic and corporate, and by the corporate name may have perpetual succession, sue and be sued, plead and be impleaded, in any court of law or equity, and may have and use a common seal. The affairs of the corporation must be managed by a board of Directors, which may exercise all the powers granted to the corporation except the power to nominate and elect the members of the board of Directors, but the board of Directors may fill a vacancy on the board. The board of Directors must be elected as prescribed in this Section. The corporation also has power subject to the limits of this Chapter to cause to be organized one or more volunteer fire fighting companies, auxiliary to the corporation, to approve or disapprove the officers thereof, and to make rules to govern them and to maintain discipline therein. The Board may make, alter and amend bylaws, rules and regulations for the corporation; take title to real estate, and alienate same; borrow money and secure the payment thereof; build, alter and improve one or more fire houses; acquire by purchase or otherwise fire fighting apparatus and equipment; install fire alarms, telephones, radios, telegraph instruments and other means of communication; acquire equipment for the purpose of saving human life from loss by fire, drowning or other accident; report its financial condition annually to the Council; make contracts for necessary supplies of all kinds; employ firemen; insure the corporation, and its property against loss by reason of accident or actions at law for damages, and insure also the members of the auxiliary organization and the widows or the dependent next of kin of such members against loss by reason of accidental injury or death; accept gifts or bequests of money or property; build up a capital fund. The board of Directors must organize by electing from the members thereof a president, 2 vice-presidents, a secretary, a treasurer and an Executive committee. The persons so selected must be officers of the corporation.

(b) The board must fill any vacancy in any office or any vacancy on the board, showing due regard to the geographical distribution of the board members. The board of Directors must be made up of 3 members elected from candidates at large in the area, and one member from each of the several communities in the area: The Town of Glen Echo, Incorporated; Mohican Hills, situate in the northwestern portion of Glen Echo Heights, and comprising the lots bordering on Mohican Road, Wiscassatt Road, Dehlonga Road and Scioto Road as per plat of Glen Echo Heights recorded in Plat Book Number 1, Folio Number 44 and Folio Number 45 of the land records of Montgomery County; Glen Echo Heights, other than the portion covered by Mohican Hills; as per plats of Glen Echo Heights; Brookmont, as per plat of Brookmont recorded in Plat Book 4, Page 305, of the land records of the County; Crest View, as per plat of Crest View recorded in Plat Book Number 3 on Page 31, of the land records of the County; and American University Park, as per plat of the American University Park recorded in Plat Book Number 1, Page 31, of the land records of the County; who must be elected from a group who may be nominated as candidates for the several communities. A candidate at large must be a qualified voter in the area, and must be nominated by petition in writing, of 40 or more qualified voters in the area. A candidate from any one of the listed communities must be a qualified voter resident in the community, and must be nominated by petition in writing, of 20 or more qualified voters resident in the community. Each person so nominated for membership on the board must be certified in writing to the mayor of the Town of Glen Echo. The mayor must provide printed blanks for petitioning and certifying the nominations. The mayor must call a special election to be held in the Town of Glen Echo, for the purpose of electing members of the board of Directors.

(c) The mayor must provide printed ballots for elections and must appoint an election board to hold such election. The election board must consist of one member from each community, who must be a qualified voter in the area and who must reside in the community, and must serve without pay and must select 2 clerks who must be qualified voters in the area and who must serve without pay. The mayor must give notice of the election by advertisement, one time, in a newspaper published in the County, and the newspaper must have a general circulation in the area and the notice must be given at least 2 full weeks before the day designated for such election. The election must be held on the second Tuesday in May, every fourth year and the ballot must contain all the names of the candidates nominated as provided in this Section which may be certified to the mayor.

(d) All of the candidates from a given community must be grouped on such ballot under a headline indicating that they are candidates from that particular community, and the voter may vote for any one of the group. The voters

who participate in the election may vote for one candidate in each group and not otherwise; and the candidate from each community who receives the highest number of votes cast must be certified by the election board in writing, in triplicate, to the mayor, and the candidates so elected must be members of the board of Directors for 4 years and until their successors are duly elected and qualified.

(e) All candidates at large must be grouped on the ballot under a headline indicating that they are candidates at large and that the voter may vote for any 3 of the group. The voters who participate in the election may vote for not more than 3 of the candidates in the group and not otherwise. The 3 candidates of the group who receive the highest number of votes cast must be certified by the election board in writing to the mayor, and the candidates so elected must be also members of the board of Directors for 4 years and until their successors are elected and qualified.

(f) Each community that arises in the area, other than those provided for, must have a member on the board of Directors, after its candidates have met the same qualifications as those that have been already admitted by the other communities. The president of the corporation, or one of the vice-presidents, shall perform all duties herein devolved upon the mayor of Glen Echo, after the first election. (Mont. Co. Code 1965, § 32-1; 1933, ch. 183, § 1; 1945, ch. 314; 1998 L.M.C., ch. 4, § 1.)

Editor's note-Section 21-28, formerly § 21-7, was renumbered and amended pursuant to 1998 L.M.C., ch. 4, § 1.

Sec. 21-29. Gaithersburg-Washington Grove Commission.

There is hereby created a Commission to manage the finances of the Gaithersburg-Washington Grove Volunteer Fire Department, consisting of 7 members, all of whom must be taxpayers, each appointed for a term of one year in the following manner:

- (a) 2 members by the Mayor and Council of Gaithersburg;
- (b) 2 members by the Mayor and Council of Washington Grove;
- (c) 2 members by the members of the Gaithersburg-Washington Grove Volunteer Fire Department, Inc., from its active membership; and
- (d) one by the 6 remaining members who must be a taxpayer of Gaithersburg-Washington Grove. (Mont. Co. Code 1965, § 34-4; 1933, Sp. Sess., ch. 55, § 2; 1939, ch. 440; 1972 L.M.C., ch. 15, § 9; 1998 L.M.C., ch. 4, §1.)

Editor's note-Section 21-29, formerly §21-8, was renumbered and amended pursuant to 1998 L.M.C., ch. 4, §1.

The above Section and Section 71-19(20) of the County Code do not make Gaithersburg-Washington Grove Fire Department, Inc., (a volunteer fire department) a governmental agency so as to entitle it to governmental immunity. Utica Mutual Ins. Co. v. Gaithersburg-Washington Grove Fire Department, Inc., 53 Md. App. 589, 455 A.2d 987 (1983).

Sec. 21-30. Hillandale.

(a) There is hereby created a Fire Board of the Hillandale Volunteer Fire Department, Inc., which is subject to this Chapter, the regulations and policies of the County, and the direction of the Fire Chief. The board of trustees of

the Hillandale Volunteer Fire Department, Inc., constitute the Fire Board.

(b) The Hillandale Volunteer Fire Department, Inc., may borrow money from time to time to buy land and build a fire department building to house the equipment of the fire department, buy additional equipment from time to time as needed, and mortgage and pledge all or part of any property for money owed. (Mont. Co. Code 1965, §§ 35-1, 35-2; 1943, ch. 570, § 1; 1945, ch. 422, § 1; 1972 L.M.C., ch. 15, § 10; 1998 L.M.C., ch. 4, § 1; [2009 L.M.C., ch. 5](#), § 1.)

Editor's note-Section 21-30, formerly § 21-9, was renumbered and amended pursuant to 1998 L.M.C., ch. 4, § 1.

Sec. 21-31. Upper Montgomery County.

There is hereby created a Fire Board to manage the finances of the Upper Montgomery County Volunteer Fire Department, Inc., and to exercise such other authority as is vested in it by law. The board of trustees of the Upper Montgomery County Volunteer Fire Department, Inc., constitute the Fire Board. (Mont. Co. Code 1965, § 43-4; 1947, ch. 20, § 335D; 1972 L.M.C., ch. 15, § 13; 1998 L.M.C., ch. 4, §1.)

Editor's note-Section 21-31, formerly §21-12, was renumbered and amended pursuant to 1998 L.M.C., ch. 4, §1.