

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

COUNTY COUNCIL FOR MONTGOMERY COUNTY, MARYLAND

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

AN EXPEDITED ACT to:

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

By amending

Montgomery County Code

Chapter 2. In General

Section 2-42B

Chapter 22. Fire Safety Code

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

Boldface

Underlining

[Single boldface brackets]

Double underlining

[[Double boldface brackets]]

* * *

Heading or defined term.

Added to existing law by original bill.

Deleted from existing law by original bill.

Added by amendment.

Deleted from existing law or the bill by amendment.

Existing law unaffected by bill.

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

Sec. 1. Sections 2-42B, 22-2, 22-3, 22-4A, 22-5, 22-6, 22-7, 22-9, 22-10, 22-13, 22-14, 22-15, 22-15A, 22-16, 22-18, 22-23, 22-31, 22-33, 22-37, 22-39, 22-41, 22-44, 22-45, 22-46, 22-50, 22-75, 22-79, 22-88 and 22-96 are amended as follows:

2-42B. Functions; Advisory Committee.

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

(1) reviewing building plans and specifications, building permits, occupancy permits, and licensing facilities for compliance with fire prevention law. In exercising these functions, the Director of Permitting Services [must] may consult with the Director of Fire and Rescue Services in all matters involving the interpretation, application, or revision of fire prevention laws and codes.

(2) code enforcement, inspection, and licenses (except where those functions are assigned by law to another department or agency), including:

* * *

(C) issuing building, electrical, fire alarm, fire protection system, mechanical, stormwater discharge, and on-site water supply and sewage disposal permits;

(D) administering and enforcing agricultural preservation and historic resources laws and regulations[.]; and

(E) administering and enforcing the fire safety code, pursuant to
§ 22-6(d).

* * *

22-2. Purpose; intent.

* * *

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

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

* * *

22-3. Construction and scope of chapter.

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

* * *

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

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

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

* * *

22-4A. Certification procedure.

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

* * *

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

* * *

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

* * *

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

* * *

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

* * *

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

22-5. Definitions.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

206 *Director* means the Director of Permitting Services.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

415 **22-6. Administration.**

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

* * *

- (c) *Enforcement assistance.* Police and any other authorized agency must provide necessary assistance to enforce this Chapter when the Fire Chief or the Director of Permitting Services so requests.
- (d) *Fire Code Compliance [Section].* [To assist the Fire Chief, the Chief may organize and supervise a Fire Code Compliance Section in the Fire and Rescue Service. Members of this Section] The Department of Permitting Services may enforce all County laws and regulations on:

* * *

- (5) maintenance of fire protection and elimination of fire hazards on land and in buildings, structures, and other property, including those under construction; and
- (6) adequacy of each fire exit from any building[; and].
- [(7) investigation of the cause of any fire.]
- (e) *Authorization for requirement changes.* A fire safety requirement proposed for imposition during the course of building construction that would change or substitute a material, feature, construction method, or any other aspect of construction different from the original or amended subdivision, site, or construction plans and specifications, as approved by the [Fire and Rescue Service] Director must only be imposed [if the Fire Chief] if the Director finds that the change or substitution is necessary to avoid a specific and demonstrable threat to public safety. The [Chief] Director must provide a copy of the finding to the affected person and to the public on request.
- (f) *[Administrative appeals.* When petitioned by an aggrieved person, the Fire Chief must promptly review any ruling or interpretation of law or regulations made by Fire and Rescue Service staff while enforcing this

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

* * *

22-7. Right of entry.

(a) Generally.

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

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

* * *

22-9. Investigation of fires.

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

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

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

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

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

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

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

* * *

22-10. Permits and certificates.

* * *

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

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

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

* * *

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

* * *

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

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

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

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

569 * * *

570 **22-13. Regulations.**

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

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

* * *

22-14. National standards.

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

Sec. 22-15. Special hazards.

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

22-15A. Compilation of requirements.

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

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

* * *

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

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

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

* * *

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

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

22-18. Compliance.

* * *

(b) *Orders or notices.*

* * *

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

668 * * *

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

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

673 * * *

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

676 * * *

677 **22-23. Inspection.**

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

687 * * *

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

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

* * *

22-33. Fire lanes.

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

* * *

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

* * *

22-37. Regulating fire extinguisher service.

The [Fire Chief] Director must:

* * *

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

720 * * *

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

724 * * *

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

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

731 Not more than _____ persons permitted in _____

732 _____

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

736 * * *

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

738 * * *

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

745 * * *

22-45. Aboveground tank storage of flammable liquids.

* * *

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

* * *

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

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

* * *

22-50. Application of flammable finishes.

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

* * *

22-75. Procedures in case of fire.

* * *

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

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

* * *

22-79. Dangerous buildings.

* * *

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

DO NOT ENTER

UNSAFE TO OCCUPY

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

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

* * *

22-88. Open fires generally.

* * *

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

* * *

22-96. Smoke detectors.

* * *

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

* * *

Sec. 2. Transition.

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

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

833

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

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

838

839 *Approved:*

840

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

842 *Approved:*

843

Isiah Leggett, County Executive Date

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

845

Linda M. Lauer, Clerk of the Council Date

846