

Expedited Bill No. 35-16
Concerning: Building Permits –
Amendments
Revised: 11/7/2016 Draft No. 4
Introduced: August 2, 2016
Enacted: November 15, 2016
Executive: November 28, 2016
Effective: February 13, 2017
Sunset Date: None
Ch. 35, Laws of Mont. Co. 2016

COUNTY COUNCIL FOR MONTGOMERY COUNTY, MARYLAND

Lead Sponsor: Planning, Housing, and Economic Development Committee

AN ACT to:

- 1) include the building permit provisions currently in Chapter 50;
- 2) include the building permit provisions currently in Chapter 59; and
- 3) generally amend County law regarding building permits.

By amending

Montgomery County Code
Chapter 8, Building Permits
Sections 8-1, 8-8, 8-13, 8-14, 8-24, and 8-28

| | |
|------------------------------|--|
| Boldface | <i>Heading or defined term.</i> |
| <u>Underlining</u> | <i>Added to existing law by original bill.</i> |
| [Single boldface brackets] | <i>Deleted from existing law by original bill.</i> |
| <u>Double underlining</u> | <i>Added by amendment.</i> |
| [[Double boldface brackets]] | <i>Deleted from existing law or the bill by amendment.</i> |
| * * * | <i>Existing law unaffected by bill.</i> |

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

1 **Sec. 1. Chapter 8 is amended by amending Sections 8-1, 8-8, 8-13, 8-14, 8-**
 2 **24 and 8-28 as follows:**

3 **8-1. Scope and applicability.**

- 4 (a) *Generally.* This [chapter shall be construed to include those] Chapter
 5 includes the rules and regulations adopted [pursuant to] under [section]
 6 Section 8-13[, herein,] which [shall have] have the force [and effect] of
 7 law. It [shall be] is known as the building code of Montgomery County.
 8 It [shall control] controls all matters concerning the construction,
 9 alteration, addition, repair, removal, demolition, use, location[[,closure
 10 of any private road,]]. This Chapter also concerns the creation or
 11 alteration of [[any]] certain ownership [[unit]] units, the occupancy and
 12 maintenance of all buildings and structures, on-site access facilities to
 13 such buildings and structures [and][[,]] and their service equipment [as
 14 herein defined and shall apply]. This Chapter applies to existing or
 15 proposed buildings and structures in the [[county]] County.
- 16 (b) *Intent.* [This chapter shall be construed to secure its expressed intent
 17 which] The intent of this Chapter is to [insure] assure public safety,
 18 health and welfare [insofar] as [they were] it is affected by building
 19 construction, [through] structural strength, [adequate] egress facilities,
 20 sanitary equipment, light, utilities and ventilation, occupancies, and fire
 21 safety [and in]. In general, the intent of this chapter is to secure safety to
 22 life and property from all hazards [incident to] associated with the
 23 design, erection, repair, removal, demolition or use and occupancy of
 24 buildings, structures or premises.
- 25 (c) *Applicability generally.*
- 26 (1) [The provisions of this chapter shall apply] This Chapter
 27 applies to the construction, raising, lowering, moving,

28 demolition or occupancy of all buildings and structures and
 29 their appurtenant construction, including vaults, area and street
 30 projections, on-site access facilities, [and] accessory structures,
 31 and additions [, and shall apply with equal force]. It applies to
 32 public and private buildings, except where such buildings are
 33 otherwise specifically [provided for] excluded by statute. It also
 34 applies to the creation or alteration of any ownership unit, and the
 35 closure of any private road.

36 (2) A building permit may only be issued for a building located on:

37 (A) a lot or parcel shown on a plat recorded in the County
 38 Land Records or on a parcel exempt from recording
 39 requirements under Section 50-3.3; and

40 (B) an area outside of any building restriction line and
 41 outside the area restricted under Section 50-4.3.K.

42 (d) *Exemptions.* [No building] All buildings or structures [shall] must be
 43 constructed, extended, repaired, removed or altered [in violation of
 44 these provisions] under a permit that satisfies this Chapter, except for:

45 (1) ordinary repairs as defined in [section] Section 8-3;

46 (2) a building or structure used exclusively for agricultural
 47 purposes on land used exclusively for agriculture; however, a
 48 permit under this Chapter is required for:

49 (A) a building or structure used for a purpose that is not
 50 exclusively agricultural, including conditional uses, even
 51 though located on otherwise agricultural land;

52 (B) an equestrian facility, building, or structure intended for
 53 use by participants or spectators at an equestrian event;

54 (3) the following public utility equipment:

- 55 (A) any structure and its attached cross arms carrying overhead
 56 electric power and energy transmission and distribution
 57 lines that carry 69,000 volts or less;
- 58 (B) equipment installed and maintained by a public utility
 59 under regulation by the State Public Service Commission;
 60 or
- 61 (D) poles or structures used for street lights, fire alarm boxes,
 62 traffic signals, or similar municipal equipment installed by
 63 the State or a local municipality

64 [and except further, that the raising or lowering or moving of a building
 65 or structure as a unit necessitated by a change in legal grade or widening
 66 of a street shall be permitted; provided that the building is not otherwise
 67 altered or its use or occupancy changed].

68 (e) *Matters not provided for.* Any requirement essential for structural, fire
 69 or sanitary safety of an existing or proposed building or structure or
 70 essential for the safety of the building's occupants [thereof] and which
 71 is not specifically covered by this [[chapter]] Chapter, [shall] must be
 72 determined by the director [in accordance with procedures set forth in]
 73 under [section] Section 8-13.

74 (f) *Zoning restrictions and referrals.*

75 (1) When the provisions specified in this [chapter] Chapter for
 76 structural, fire, and sanitary safety are more restrictive than
 77 those [set forth] in [chapter] Chapter 59 [of this Code], this
 78 [chapter shall control] Chapter controls the erection or
 79 alteration of buildings in respect to location, use, permissible
 80 area and height; but [in any case,] the more rigid requirements

81 of either the building code or the zoning ordinance [shall apply]
 82 applies whenever they [may be] are in conflict.

83 (2) The Director must submit the application to the Planning
 84 Director for review for any building permit that requests:

85 (A) construction of a new principal structure; and

86 (B) construction that increases the gross floor area of an
 87 existing commercial structure.

88 (3) The Planning Director must confirm in writing that the submitted
 89 application [[satisfies]] ~~satisfied~~ Chapter 59 and that the property
 90 has all necessary approvals and satisfied all necessary conditions
 91 required by the Planning Department and Planning Board and
 92 identify for each permit the amount of any school facility
 93 payment, transportation mobility area review payment or other
 94 development payment other than impact taxes that is required to
 95 be paid as a condition of building permit.

96 (4) A building permit application for a child lot in the Agricultural
 97 Reserve Zone may only be approved if the child for whom the lot
 98 is created is the owner of the lot in the County [[land records]]
 99 Land Records. A building permit for a detached house on a child
 100 lot must be issued only to:

101 (A) a child of the property owner;

102 (B) the spouse of a child of the property owner;

103 (C) a contractor for a child of the property owner; or

104 (D) a contractor for the spouse of a child of the property
 105 owner.

106 **8-2. Definitions.**

107 * * *

108 Ownership unit [[:]]. An area of land shown on a record plat created only for the
 109 convenience of the owner under Section 7.1.D of Chapter 50 that reflects a deed,
 110 mortgage, or lease line but does not subdivide the underlying lot.

111 * * *

112 Parent lot [[: a]]. A [subdivided] lot that is further divided by one or more
 113 ownership units.

114 * * *

115 Private Road [[:]]. Any street, highway, avenue, lane, alley, or viaduct, or any
 116 segment of any of them, including any [adjacent] abutting sidewalk that has not
 117 been deeded, dedicated or otherwise permanently appropriated to the public for
 118 public use.

119 * * *

120 **8-8. [Reserved] [Site plan or conditional] Conditional use approval.**

121 [(a) For projects that do not require site plan approval or conditional use
 122 approval and include more than 10 parking spaces, an application for
 123 building permit must include a plan showing:

- 124 (1) the location and design of entrances and exits to public roads;
- 125 (2) the location and size of all buildings and structures;
- 126 (3) the location of parking spaces, directional markings, traffic-
 127 control devices and signs; and
- 128 (4) that it satisfies Division 59-6.2 of Chapter 59.]]

129 [(b)] For a site with a conditional use:

130 [(1)](a) The Department may allow minor adjustments during
 131 construction that the Planning Director has confirmed do not
 132 substantially alter the size, location, or external appearance of any
 133 approved building, structure, or use.

134 ~~[(2)]~~(b) Any change proposed during construction that would
 135 substantially alter the location or external appearance of any approved
 136 building, structure, or use requires an amendment under Article 59-7
 137 of this Code.

138 * * *

139 **8-13. Regulations.**

- 140 (a) The [director] Director may recommend [written] regulations for the
 141 administration [of the provisions] of this chapter including a schedule of
 142 fees and may, at [his] the Director's discretion, hold public hearings as
 143 part of this regulation-making process. [Such regulations and]
 144 Regulations [amendments thereto shall], as amended, must not conflict
 145 with [nor] or waive any provisions of this chapter [nor be less restrictive
 146 than its provisions]. Such regulations must be at least as restrictive as
 147 the requirements of this Chapter. [and shall] All regulations must be
 148 adopted by the [county executive] County Executive under method (2)
 149 of [section] Section 2A-15 [of this Code]. [In the case of fees, the] The
 150 [county executive shall] County Executive must promptly forward to
 151 the [county council] County Council a copy of [the] any new fee
 152 schedule for use in budgetary planning activities. Such fees [shall be in
 153 accordance with formulas based upon criteria to include area or] may be
 154 based on area, estimated cost of construction, or a minimal set fee per
 155 category[, not to exceed], The budget estimate of all fees must be equal
 156 to the cost of administering [and enforcing] this Code.
- 157 (b) The Director must hold at least one public hearing, after adequate public
 158 notice, before recommending to the Executive any regulations adopted
 159 under this Chapter [adopting standards and requirements for the
 160 construction, alteration, addition, repair, removal, demolition, use,

161 location, occupancy, and maintenance of all buildings and structures or
 162 parts of either, on-site access facilities to buildings and structures, and
 163 their service equipment]. [Those] All regulations [, adopted under
 164 method (2)], related to the construction or demolition must be based on
 165 the latest edition of the ICC International Building Code and any local
 166 amendments to that Code.

167 **8-14. Standards applicable.**

168 (a) The edition of the ICC International Building Code designated under
 169 Section 8-13 is the basic County building code. The construction,
 170 alteration, addition, repair, removal, demolition, use, location,
 171 occupancy, and maintenance of all buildings and structures or parts
 172 thereof, on-site access facilities to buildings and structures, and their
 173 service equipment must meet the standards and requirements [set
 174 forth] in that Code, or as amended under Section 8-13.

175 (b) The closure of any private road must meet the standards and
 176 requirements of Chapter 22 and Chapter 49.

177 * * *

178 **8-24. Application for permit.**

179 (a) *When required.* It [shall be] is unlawful to construct, enlarge, alter,
 180 remove or demolish a building or change the occupancy of a building
 181 from one use group to another requiring greater strength, exitway or
 182 sanitary provisions; or to change to a prohibited use; or create or alter
 183 any ownership unit when a use under an occupancy certificate or a
 184 structure exists on the parent lot; or to install or alter any equipment
 185 for which provision is made or the installation of which is regulated
 186 by this chapter, without first filing an application with the department
 187 in writing and obtaining the required permit therefor; except, that

188 ordinary repairs as defined in [section] Section 8-3 which do not
 189 involve any violation of this [chapter shall be] Chapter are exempt
 190 from this provision.

191 * * *

192 (d) *Description of work.* The application [shall] must contain a general
 193 description of the proposed work, its location, the use and occupancy of
 194 all parts of the building or structure and of all portions of the site or lot
 195 not covered by the building, the location of any ownership units on the
 196 lot, and such additional information as may be and such additional
 197 information as may be required by the director.

198 (e) For projects that do not require site plan approval or conditional use
 199 approval and include more than 10 parking spaces, an application for
 200 building permit must include a plan showing:

- 201 (1) the location and design of entrances and exits to public roads;
 202 (2) the location and size of all buildings and structures;
 203 (3) the location of parking spaces, directional markings, traffic-
 204 control devices and signs; and
 205 (4) that it satisfies Division 59-6.2 of Chapter 59.

206 * * *

207 **8-28. Certificate of use and occupancy.**

208 (a) *Applicability.*

209 (1) A use-and-occupancy permit is required before any building,
 210 structure, or land can be used or can be converted, wholly or in
 211 part, from one use to another.

212 (2) Exemptions from use-and-occupancy permit requirement:

213 (A) land or buildings used exclusively for agricultural
 214 purposes;

215 (B) a use for which a valid occupancy permit was issued and
 216 not revoked before June 1, 1958; and

217 (C) a Transitory Use.

218 (b) Application Requirements. Each application for a use-and-occupancy
 219 permit must be accompanied by 2 copies of a plan drawn to scale
 220 showing:

221 (1) the lot on which a use is proposed, lot dimensions, lot and block
 222 numbers and subdivision name, if any;

223 (2) the location, extent, and layout for the proposed use and any other
 224 pertinent information; and

225 (3) north point, date and scale of plan.

226 [(a)] (c) New buildings. It [shall be] is unlawful for any person to use or
 227 occupy a building hereafter erected in whole or in part until the
 228 certificate of use and occupancy [as provided in chapter 59 of this Code
 229 shall have been] is issued by the [director] Director in [accordance with
 230 the requirements] satisfaction of this [chapter] Chapter.

231 [(b)] (d) Buildings hereafter altered. It [shall be] is unlawful for any person to
 232 use or occupy a building hereafter enlarged, extended or altered to
 233 change from one use group to another, in whole or in part until a
 234 certificate of use and occupancy [shall have been] is issued by the
 235 director certifying that the work [has been] was completed in
 236 [accordance with the provisions of] satisfaction of the approved permit[;
 237 except, that any]. Any use or occupancy[, which] that was [not
 238 discontinued] continued during the work of alteration, [shall] must be
 239 discontinued within [thirty (30)] 30 days after the completion of the
 240 alteration unless the required certificate is secured from the [[director]]
 241 Director.

242 [(c)] (e) *Existing buildings*. Upon written request from the owner of an existing
 243 building, the [director shall] Director must issue a certificate of use and
 244 occupancy[; provided, that] if there are no violations of law or orders of
 245 the [[director]] Director pending [and it is established after inspection
 246 and investigation]. In addition, the [[director]] Director must establish
 247 that the alleged use of the building has heretofore existed. Nothing in
 248 this [[chapter]] [shall require] Chapter requires the removal, alteration,
 249 or abandonment of [or prevent the continuance of] the use and
 250 occupancy of a lawfully existing building, unless such use is deemed to
 251 endanger public safety and welfare.

252 [(d)] (f) *Changes in use and occupancy*. After a change of use [has been] is
 253 made in a building, [it shall be unlawful for] a person [to reestablish] is
 254 prohibited from reestablishing a prior use that is not lawful for a new
 255 building of the same type of construction unless the owner complies
 256 with all the applicable provisions of this [chapter are complied with]
 257 Chapter.

258 [(e)] (g) *Temporary occupancy*. Upon the request of the holder of a permit, the
 259 [director] Director may issue a temporary certificate of occupancy for a
 260 building or structure or part thereof before the entire work covered by
 261 the permit shall have been completed [; provided,] if that such portion or
 262 portions may be occupied safely [prior to] before full completion of the
 263 building without endangering life or public welfare.

264 (h) *Necessary Findings*.

265 (1) The Department must find the building complies with Chapter
 266 59.

267 (2) Any building, structure, or land on a site with any previous
 268 development approval must satisfy the requirements.

269 representations, plans, and conditions contained in the decision or
270 resolution of the deciding body.

271 (3) The Department must inspect construction or alteration for
272 completion under the applicable decision or resolution.

273 [(f)] (i) *Contents of certificate.* When a building or structure is entitled
274 [thereto] to a certificate of use and occupancy, the [director shall]
275 Director must issue a certificate [of use and occupancy within ten (10)]
276 10 days after written applications. The certificate [shall certify] certifies
277 compliance with [the provisions of] this [chapter] Chapter and the
278 purpose for which the building or structure may be used [in its several
279 parts]. The certificate of use and occupancy [shall] must specify the use
280 group, the fire grading, the [maximum] allowable live load on all floors,
281 the occupancy load in the building and all parts [thereof] of the building
282 and any special stipulations and conditions of the building permit.

283 **Sec. 2. Expedited Effective Date.**

284 The Council declares that this legislation is necessary for the immediate
285 protection of the public interest. This Act takes effect on February 13, 2017.

286

287

288 *Approved:*

289 *Nancy Floreen*
Nancy Floreen, President, County Council

November 16, 2016
Date

290 *Approved:*

291 *Isiah Leggett*
Isiah Leggett, County Executive

November 28, 2016
Date

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

293 *Linda M. Lauer*
Linda M. Lauer, Clerk of the Council

Nov. 28, 2016
Date