

Bill No. 36-03
Concerning: Fire and Rescue Services -
Amendments
Revised: 5-4-04 Draft No. 19
Introduced: October 21, 2003
Enacted: May 4, 2004
Executive: May 12, 2004
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Sunset Date: None
Ch. 5, Laws of Mont. Co. 2004

COUNTY COUNCIL FOR MONTGOMERY COUNTY, MARYLAND

By: Councilmember Knapp, Council President Subin, and Councilmember Leventhal.

AN ACT to:

- (a) clarify and increase the integration of the public and private components of the Montgomery County Fire and Rescue Service to enhance accountability and improve emergency preparedness and services;
- [[(b) reorganize certain functions in the Montgomery County Fire and Rescue Service to distinguish between operational responsibilities and administration;]]
- [[(c) require an agreement between each local fire and rescue department and the County to establish each party's responsibilities;]]
- (b) replace the Fire Administrator with a uniformed Fire Chief to serve as the director of the County Fire and Rescue Service, and [[create two non-merit Deputy Chiefs to replace the previous]] modify the qualifications and duties of, and the process to appoint, the Division Chiefs;
- (c) require the Fire Chief to negotiate with an authorized representative of the local fire and rescue departments regarding certain issues, and create a structure and process for that negotiation, including the binding arbitration of certain issues;
- (d) require that Fire and Rescue Service policies, procedures, and command structure address new or elevated threats to public safety, such as biological, chemical, and radiological emergencies;
- (e) modify the structure, duties, and authority of the Fire and Rescue Commission;
- (f) promote consistency and coordination between emergency planning, incident management, command, and emergency services in the County and other local, regional, and national emergency management plans;
- (g) improve benefits awarded to volunteer fire and rescue workers under the Length of Service Award Program and other benefits;
- (h) encourage individuals to volunteer for fire and rescue service, and recognize [[their]] volunteers' contributions to the community;
- (i) make technical, stylistic, and conforming changes to County law concerning fire and rescue services, and repeal obsolete provisions; and

- (j) generally amend County law regarding fire, rescue, and emergency services and the Montgomery County Fire and Rescue Service, including local fire and rescue departments.

By amending

Montgomery County Code

Chapter 2, Administration

Section 2-39A

Chapter 21, Fire and Rescue Services

[[Sections 21-1 to 21-27]]

And adding

Chapter 21, Fire and Rescue Services

[[Sections 21-7A and]] Section 21-8A

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 **Section 1. Section 2-39A and Sections 21-1 to 21-27 of the Code are**
 2 **amended, and ~~[[Sections 21-7A and]] Section 21-8A [[are]] is~~ added as follows:**

3 **Division 5A. Montgomery County Fire and Rescue ~~[[System]] Service.~~**

4 **2-39A. Structure [of system; roles of Fire and Rescue Commission, County**
 5 **Fire and Rescue Service, and local fire and rescue departments].**

6 (a) Public-private partnership. The Montgomery County fire and rescue
 7 system is a public-private partnership, acting through the Montgomery
 8 County Fire and Rescue Service, with the advice of the Fire and Rescue
 9 Commission [and the Montgomery County Fire and Rescue Service.
 10 The system is governed by County law and regulations, and by policies
 11 set by the Fire and Rescue Commission as authorized in Chapter 21].

12 (b) Department of County government. The Montgomery County Fire and
 13 Rescue Service is a department of County government under the County
 14 Charter. The Fire Chief is Director of the Department. The
 15 [Montgomery County Fire and Rescue Service] Department consists of
 16 ~~[[the office of the Fire Administrator,]]~~ a Division of Volunteer ~~[[Fire~~
 17 ~~and Rescue]]~~ Services, ~~[[which includes the local fire and rescue~~
 18 ~~departments as defined in Chapter 21,]]~~ [and] ~~[[the]]~~ a Division of Fire
 19 and Rescue [Services] Operations, and any other divisions necessary for
 20 effective management and administration of the Department.

21 ~~[[c)]~~ Non-merit positions. The position of Chief of Fire and Rescue
 22 Operations is a non-merit position. The position of Chief of the
 23 Division of Volunteer Fire and Rescue Services is a non-merit position.
 24 Each position must require particular qualifications specified in Chapter
 25 21.]]

26 ~~[[d)]~~ (c) Local Fire and Rescue Departments. The local fire and rescue
 27 departments and their volunteer members are an essential element of the

Montgomery County Fire and Rescue Service because under Chapter 21 they furnish direct fire, rescue, and emergency medical services in conjunction with County employees in the [Division of] Fire and Rescue [Services] Service.

[(d)]

[[~~(e)~~]] (d) Duties. The Montgomery County Fire and Rescue Service [and] [[, including the local fire and rescue departments [have],]] has the duties and responsibilities assigned in Chapter 21 and Chapter 22, in addition to any other duties assigned by law or [to the Service] by the County Executive.

Chapter 21, Fire and Rescue Services.

Article I. Comprehensive Fire and Rescue Services.

21-1. Statement of policy; definitions.

(a) *Legislative intent*. The County Council, under Section 101 of the County Charter [[of Montgomery County]], 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 [Montgomery] County [Fire and Rescue Service] 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

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

- 59 (1) Delivery of fire, rescue and emergency medical services through
 60 the [Division of] Montgomery County Fire and Rescue [Services
 61 and] Service (MCFRS), including the local fire and rescue
 62 departments, under the authority of the [Commission as
 63 implemented by the] Fire [[Administrator]] Chief or as otherwise
 64 provided by law[; and].
- 65 (2) [Provision of the] A coordinated policy and regulatory
 66 framework for the Montgomery County Fire and Rescue Service,
 67 including the local fire and rescue departments[, by a Fire and
 68 Rescue Commission, authorized by and acting for the County
 69 government].
- 70 (3) [[Adoption of a]] A Standardized Incident Management System
 71 and an Integrated Emergency Command System [[that allows]]
 72 which allow the integration of County and local fire and rescue
 73 department personnel and apparatus into County-wide, regional,
 74 State, and national emergency management plans.

75 The Council supports the delivery of fire, rescue and emergency
 76 services through the [Division of] Montgomery County Fire and Rescue
 77 [Services and] Service, including the local fire and rescue departments,
 78 operating under [the] County policies and regulations [of the
 79 Commission as] implemented by the Fire [[Administrator]] Chief. This
 80 partnership ensures that service is delivered within a County-wide
 81 context and preserves community-based perspectives of the local fire

82 and rescue departments. [The Council hereby declares its policy that
 83 all] County officials, employees, volunteers, and local fire and rescue
 84 departments ~~[[must]]~~ should actively encourage a combined service
 85 delivery system provided by local and County resources [which strives
 86 to offer] and promote equal opportunities and fair treatment for all
 87 personnel. The Council recognizes and respects the contributions of
 88 volunteers over many decades [which] that have [resulted not only in
 89 the protection of] protected life and property in the County [but also]
 90 and provided vital and generous private support for an essential public
 91 activity. The Council acknowledges the years of volunteer effort, risk,
 92 and sacrifice; the [provision of] time and money [towards the purchase
 93 of] devoted to purchasing equipment, apparatus, and facilities; and the
 94 [community] value to our community of opportunities for public service
 95 and fellowship. The County vigorously supports the continuation and
 96 expansion of volunteer participation to provide fire, rescue, and
 97 emergency medical services in the most cost-effective way and to
 98 encourage citizen participation in community activities.

99 (b) *Purpose.* This Chapter is intended to [promote the achievement of]
 100 achieve the following goals [regarding the provision of] for fire, rescue,
 101 and emergency medical services in the County:

102 (1) *Maximum Protection for Life and Property.* Provide maximum
 103 cost-effective, equitable, and responsive services to all County
 104 [citizens] residents and visitors, including [adequate] reasonable
 105 maximum response times, effective fire and rescue incident
 106 supervision, adequate staffing, effective distribution of personnel
 107 and apparatus, and timely adaptation to changing service needs.
 108 [All] Ensure that all organizations and participants comprising

109 the fire, rescue, and emergency medical services share the
 110 responsibility for continuously improving their effectiveness and
 111 efficiency [every year].

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

115 (3) *Optimum Personnel Practices.* Promote equity and harmony
 116 among County, local fire and rescue department, and volunteer
 117 personnel; [continual improvement in] continually improve the
 118 capabilities of all personnel; [effective] effectively manage
 119 personnel [administration]; and achieve job performance and
 120 personal conduct of the highest caliber by County, local fire and
 121 rescue department, and volunteer personnel.

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

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

129 (6) *Integration with local, County-wide, regional, State, and national*
 130 *emergency management plans.* Plan and coordinate County fire,
 131 rescue, and emergency services with services provided by other
 132 government and private organizations to provide all needed
 133 services while minimizing duplication and conflict.

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

136 [[Administrator: the Fire Administrator appointed under Section 21-3,
137 who serves as the Director of the Montgomery County Fire and
138 Rescue Service, or the Administrator's designee.]]

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

143 Commission: the Fire and Rescue Commission.

144 Emergency medical services: emergency transportation, medical
145 treatment, and related services. Emergency medical services [also]
146 includes standards for and training and certification of care
147 providers.

148 Fire Chief: the Fire Chief appointed under Section 21-3, who serves as
149 the Director of the Montgomery County Fire and Rescue Service.

150 Incident ~~[[Emergency]] Management System: the regional~~
151 organizational structure protocol that supports an incident
152 commander and is intended to promote communication,
153 coordination, accountability, and effective action to respond to a
154 natural disaster or other emergency.

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

157 Local Fire and Rescue Department (LFRD): any individual fire or
158 rescue squad corporation authorized under Section ~~[[21-6]]~~ 21-5
159 to provide fire or rescue services.

160 National Incident Management System: the framework established
161 under Homeland Security Presidential Directive 5, or any
162 successor provision, to enhance the ability of the United States to

163 manage domestic incidents by establishing a single,
 164 comprehensive plan for responding to these incidents.
 165 Standardized Incident Management System: the organizational structure
 166 protocol implementing the standards under which an incident
 167 commander must provide communication, coordination,
 168 accountability, and effective action to respond to a natural
 169 disaster or other emergency.

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

172 *Volunteer:* an individual who, without salary, performs fire, rescue,
 173 emergency[[,]] medical, or related services as provided in this
 174 Chapter with the Montgomery County Fire and Rescue Service.
 175 Compensation or expense reimbursement for service on the
 176 Commission is not salary for purposes of this definition.

177 **Article II. Organization.**

178 **21-2. Fire and Rescue Commission.**

179 (a) *Established; membership.*

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

- 190 (2) The Executive should appoint a person from a list of at least 5
191 volunteer local fire and rescue department personnel submitted
192 by the ~~[[Fire Board]]~~ LFRD representative each time the
193 Executive appoints a member who must be a volunteer local fire
194 and rescue department member. The Executive should [also]
195 appoint a person from a list of at least 5 career firefighters or
196 rescuers submitted by organizations composed of career fire or
197 rescue personnel each time the Executive appoints a member who
198 must be a career firefighter or rescuer. If a list was submitted as
199 provided in this paragraph and the Executive appoints a person
200 whose name was not on that list to a Commission position
201 reserved for a career firefighter or rescuer or volunteer local fire
202 and rescue department member, the Executive must explain to the
203 Council why no person on the list was selected. If the Executive
204 requests a list under this paragraph from the appropriate
205 organizations and does not receive a list of at least 5 candidates
206 within 30 days, the Executive may appoint a qualified person
207 without explaining why no person was selected from a list.
- 208 (3) ~~[[In addition to the 7 voting members, the Fire Administrator~~
209 serves as [chair of the Commission] an ex officio, [but has no
210 vote] non-voting member of the Commission.]] The Fire Chief
211 and any ~~[[Deputy]]~~ Division Chief ~~[[of [the] any Division of the~~
212 Montgomery County Fire and Rescue [Services and Chief of the
213 Division of Volunteer Fire and Rescue Services are] Service is]]
214 are not eligible to serve on the Commission while holding [those
215 positions] that position.

- 216 (4) Each [[appointed]] member serves a term of 3 years. A member
217 must not serve more than 2 full terms, not counting any portion of
218 an unexpired term, unless the Executive cites an extraordinary
219 reason to reappoint the member for one or more additional terms.
220 Each term begins August 1. A member serves until the
221 member's successor is confirmed.
- 222 (5) The Commission [must] annually must designate one of its public
223 members as chair and another public member as vice-chair. The
224 vice-chair serves as chair in the absence of the [Administrator]
225 chair.
- 226 (b) *Vacancy*. Any vacancy on the Commission must be filled as provided in
227 subsection (a). If in the case of an unscheduled vacancy the Executive
228 requests a list under subsection (a) from the appropriate organizations
229 and does not receive a list of at least 5 candidates within 15 days, the
230 Executive may appoint a qualified person without explaining why no
231 person was selected from a list. A replacement member serves for the
232 remainder of the original term.
- 233 (c) *Compensation*. Compensation for commission members is established
234 by the County Council in the annual operating budget. A Commission
235 member who is a County employee or employee of a local fire and
236 rescue department is entitled to the same compensation as any other
237 Commissioner, unless required by any federal or state wage and hour
238 law to receive different compensation. Funds for these payments must
239 be included in the budget of the Commission submitted to the Council.
240 The Council must make any changes in compensation when it adopts
241 the annual operating budget. Commission members must be reimbursed

242 for reasonable expenses as [[approved by the Council]] defined in the
 243 operating budget.

244 (d) *Duties, responsibilities and authority.*

245 (1) [On behalf of the County, the] The Commission must [develop]
 246 recommend how the County can:

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

250 (B) [[provide]] improve the policy, planning, and regulatory
 251 framework for all fire, rescue and medical service
 252 operations.

253 (2) The Commission must meet at least monthly, and may meet at
 254 other times at the call of the chair or a majority of the [[voting]]
 255 members.

256 (3) The Commission [has the following functions], in addition to
 257 [those elsewhere] any other functions assigned by law[,] or [by]
 258 Executive regulation, [adopted by the County Executive under
 259 method (2)] [[must]] may:

260 [(1) Advise]

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

266 [(2) Adopt]

267 (B) advise the Chief, Executive, and Council on County-wide
 268 policies, standards, procedures, plans, and programs

269 [applicable] that should apply to all fire, rescue, and
 270 emergency medical service operations;

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

274 [(3) Recommend to the Executive]

275 (D) recommend and comment on legislation, regulations [for
 276 adoption under method (2), except when the Commission
 277 is expressly directed by law to adopt a regulation;], and
 278 policies that apply to or affect the Fire and Rescue Service;

279 [(4) Establish]

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

283 [(5) Establish]

284 (F) recommend guidelines for curriculum and programs of the
 285 [[public service training academy]] Public Safety Training
 286 Academy and other training programs for Fire and Rescue
 287 Service employees and volunteers;

288 [(6) Recommend]

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

293 [(7) After]

294 (H) after consulting [the Fire Administrator and] the [[Fire
 295 Board]] LFRD representative, [adopt] recommend to the

296 [[Fire Administrator]] Chief, Executive, and Council
 297 policies and programs to recruit and retain volunteers[.];
 298 and

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

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

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

317 (B) any individual personnel action.

318 (e) *Meetings with County Executive.* The Commission must meet with the
 319 County Executive or the Chief Administrative Officer periodically to
 320 discuss matters under the Commission's [jurisdiction] [[review]]
 321 purview.

322 (f) *Annual report.* The Commission must ~~[[furnish]]~~ forward to the County
323 Executive and County Council an annual report describing [actions
324 taken by the] Commission recommendations and activities.

325 [(g) *Enforcement.*

326 (1) Regulations recommended by the Commission and adopted by
327 the Executive, and regulations and policies adopted by the
328 Commission, are binding on the Montgomery County Fire and
329 Rescue Service and local fire and rescue departments, and the
330 Fire Administrator must enforce these policies and regulations.

331 (2) To enable the Commission to carry out its duties and to ensure
332 equitable and effective compliance with its policies and
333 regulations, local fire and rescue departments, as a condition of
334 their authority to provide fire and rescue services in the County
335 and to receive County funds, and the Montgomery County Fire
336 and Rescue Service must furnish any information requested by
337 the Commission on operations, administration, volunteer
338 participation, or other aspects of fire, rescue, or emergency
339 medical services.

340 (3) On the request of the Commission or Fire Administrator and
341 approval of the County Executive, the County Attorney may take
342 legal action to assist the Commission and Administrator in
343 enforcing this Chapter and all applicable policies and regulations.

344 (4) The County Executive may impound some or all tax funds
345 designated for a particular local fire and rescue department if the
346 Fire Administrator after receiving the advice of the Commission
347 and giving the local department a reasonable opportunity to
348 respond finds that the local fire and rescue department has failed

349 to comply with this Chapter and County or Commission policies
 350 or regulations. The Administrator is responsible for administering
 351 the local fire and rescue department's fire and rescue service
 352 responsibilities, and the impounded funds must be available for
 353 that purpose. The Administrator must provide the Commission,
 354 County Council and County Executive with an immediate report
 355 about the local fire and rescue department's and a status report 30
 356 days later. After reviewing the status report and consulting with
 357 the Commission, the County Executive must revoke, extend, or
 358 otherwise modify the impoundment of funds consistent with the
 359 Commission's finding of the local fire and rescue department's
 360 compliance or continued.]

361 [(h)]

362 (g) *Automatic membership termination.* Any ~~[[voting]]~~ Commissioner who
 363 is absent from 25 percent or more of the scheduled meetings of the
 364 Commission during any 6-month period has resigned from the
 365 Commission. ~~[Scheduled]~~ In this subsection, "scheduled meetings" [for
 366 this purpose means] ~~[[includes]]~~ means any meeting [for which] that
 367 takes place at least 7 days [advance] after notice [was given] of the
 368 meeting. The effective date of the resignation is 10 days after the Fire
 369 ~~[[Administrator]]~~ Chief notifies the County Executive, County Council,
 370 and Commission. The [County] Executive may waive the resignation
 371 for good cause, such as illness, emergency situations, or other
 372 extenuating circumstances. If the Executive waives a resignation under
 373 this subsection, the Executive must notify the Commission, the Council,
 374 and the member in writing and explain why the resignation was waived.

375 If the Executive does not grant a waiver, the Executive must appoint a
 376 successor to complete the unexpired term as provided in subsection (b).

377 [(i)]

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

380 [(j)]

381 [(i) *Outreach.* The Commission may consult the Fire Board, Montgomery
 382 County Volunteer Fire/Rescue Association, Montgomery County
 383 Career Fire/Rescue Officers Association, Montgomery County Career
 384 Fire Fighters Union, [and] similar organizations, [among others,] and
 385 any other organization or individual in the performance of its duties.]]

386 **21-3. Fire [[Administrator]] Chief; [[Division]] [[Deputy]] Division**
 387 **Chiefs.**

388 (a) The Executive must appoint, subject to confirmation by the Council,
 389 and may remove the Fire [[Administrator]] Chief[[, Deputy Chief]] [[of
 390 the Division of Fire and Rescue]] [Services] [[for Operations, and]]
 391 [[the]] [[Deputy Chief]] [[of the Division of]] [[for Volunteer]] [[Fire
 392 and Rescue]] [[Services]].

393 (b) The Fire [[Administrator]] Chief is the [[non-]] uniformed department
 394 head of the Montgomery County Fire and Rescue Service, and has all
 395 powers of a department director. The Chief has full [[administrative
 396 and operational]] authority over all fire, rescue, and emergency medical
 397 services in the County, including any fire, rescue, and emergency
 398 medical services provided by local fire and rescue departments. The
 399 [[Administrator]] Chief must implement [the] County law, regulations,
 400 and policies [of the Commission and] to effectively administer [[all fire
 401 and rescue services provided in the County]] the Fire and Rescue

402 Service. [The Administrator supervises the Chief of the Division of Fire
 403 and Rescue Services, Chief of the Division of Volunteer Fire and
 404 Rescue Services, and Internal Affairs Officer.]

405 (c) The Deputy Chief of the Division of Fire and Rescue Services
 406 for of the Division of Fire and Rescue Operations is a non- merit
 407 position [under Section 401 of the Charter]. The Division
 408 Deputy Division Chief must meet IECS qualifications the
 409 requirements for chief officer adopted under Section 21-8. The
 410 Division Deputy Division Chief [supervises and has day to day
 411 command of the Division][, under the direction of the Fire
 412 Administrator] [. The Division Chief][,] has full operational
 413 authority over all fire [and], rescue, and emergency medical services
 414 activities of the [Division, which is equivalent to the authority of the fire
 415 and rescue chief of a local fire and rescue department. The Division
 416 shares with] Fire and Rescue Service, including the local fire and rescue
 417 departments, as assigned by the Fire Chief [the responsibility for direct
 418 fire suppression and emergency medical services activities. The
 419 Division is responsible, among other duties, for fire prevention, fire and
 420 rescue and emergency medical services training, emergency planning,
 421 and communications between emergency fire and rescue services
 422 personnel]. The Division Deputy Division Chief must promote
 423 the integration of the activities of volunteer and career firefighters and
 424 rescuers. The Division Deputy Division Chief, subject to the
 425 authority of the Fire Chief, may take disciplinary action, including
 426 discharge, against any merit system employee in the Division
 427 Service, subject to applicable merit system regulations and collective
 428 bargaining agreements.

429 (d) The [[Deputy]] Chief [[of the Division of]] [[for]] of the Division of
430 Volunteer [[Fire and Rescue]] Services is [[a non-merit position]]
431 [under Section 401 of the Charter] [[appointed and removed by the Fire
432 Chief, but is not a County employee]] a non-merit position. The
433 [[Division]] [[Deputy]] Division Chief must meet [IECS qualifications]
434 the requirements for chief officer adopted under Section 21-8 and must
435 have experience as a chief, or an assistant or deputy chief, in a volunteer
436 fire and rescue organization in [[Maryland or any other state]] the
437 County. The [[Deputy]] Division Chief must be given the same rank
438 under the IECS as the [[Deputy]] Chief [[for]] of the Division of Fire
439 and Rescue Operations. [[The Deputy Chief may be paid by or through
440 the LFRD representative.]] Before the Fire Chief recommends
441 [[appoints]] a person to the Executive for appointment as [[Deputy]]
442 Division Chief for Volunteer Services, the Chief must invite the LFRD
443 representative to submit a list of at least 5 qualified persons for the
444 Executive's [[Chief's]] consideration. If the LFRD representative
445 submits a list and the Executive appoints a person whose name was not
446 on that list, the Executive must explain to the Council why no person on
447 the list was selected. If the Chief does not receive a list of at least 5
448 candidates within 30 days after requesting it, the Executive [[Chief]]
449 may appoint a qualified person without explaining why no person was
450 selected from a list. The [[Deputy]] Division Chief has operational
451 authority over fire, rescue, and emergency medical services activities of
452 the Fire and Rescue Service, including the local fire and rescue
453 departments, as assigned by the Fire Chief [[, to the extent a person who
454 is not a County employee may exercise that authority]]. The [Division]]
455 [[Deputy]] Division Chief [supervises all staff in the Volunteer Fire and

456 Rescue Services Division and has day to day administrative duties
 457 relating to volunteers in the County Fire and Rescue Service], under the
 458 direction of the Fire [[Administrator]] [. The Division Chief has
 459 authority over fire and rescue activities of the Division, which is
 460 equivalent to the authority of the fire and rescue chief of a local fire and
 461 rescue department. Among other duties, the Volunteer Fire and Rescue
 462 Services] Chief, must [[administer the agreement between the County
 463 and each local fire and rescue department. The Division Chief is the
 464 County's contract officer with respect to that agreement]] serve as the
 465 highest ranking volunteer officer in the County and coordinate the
 466 operations and administration of volunteer personnel and LFRD's. The
 467 [[Division]] [[Deputy]] Division Chief must:

- 468 (1) promote the integration of the activities of volunteer and career
 469 firefighters and rescuers;
- 470 (2) promote [volunteer] recruitment and retention of volunteers;
- 471 (3) assist [[local fire and rescue departments]] LFRD's in training,
 472 risk management, [apparatus] use and maintenance of apparatus,
 473 budget preparation, and formulating department policy and
 474 recommendations to the Chief and Commission; [and]
- 475 (4) monitor legislative and regulatory actions involving volunteer
 476 activities and inform affected groups; and
- 477 (5) provide additional opportunities for people to volunteer,
 478 including the creation of a mobile volunteer personnel corps.

479 (e) The Fire [[Administrator]] Chief must appoint an Internal Affairs
 480 Officer [is appointed by the Fire Administrator], after [receiving the]
 481 considering any recommendation [of] by the Commission[, and]. The
 482 Officer must assist the [Commission and the] [[Administrator]] Chief in

483 monitoring compliance with [law and] County [and Commission
 484 policies] laws, regulations, policies, and procedures and [investigating]
 485 investigate matters assigned by the [[Administrator]] Chief [or the
 486 Commission].

487 (f) The Fire [[Administrator]] Chief must meet regularly with the [[Fire
 488 Board]] LFRD representative and senior [Division of] [[Montgomery
 489 County Fire and Rescue]] [Services] Service staff to communicate
 490 policy, evaluate the effectiveness of the County's integrated fire and
 491 rescue services, and receive advice on the development of policies and
 492 delivery of services.

493 (g) In addition to any other authority under this Chapter, the Fire
 494 [[Administrator]] Chief may take disciplinary action against any
 495 employee or volunteer in the [[County Fire and Rescue]] Service [or],
 496 including those in a local fire and rescue department, for [violation of
 497 law,] violating any County law, regulation, policy, [Commission policy]
 498 or procedure, or any lawful order of the [[Administrator]] Chief or the
 499 [[Administrator's]] Chief's designee. Disciplinary action under this
 500 subsection may include suspension or discharge of an employee and
 501 restriction or prohibition of a volunteer from participation in fire and
 502 rescue activities. [Each local department must initially administer the
 503 discipline of its employees and volunteers, and the] The
 504 [[Administrator]] Chief must not take any action involving an employee
 505 or volunteer of a local department, except when the Chief finds that
 506 immediate action is required to protect the safety of the public or any
 507 employee or volunteer, unless the [[Administrator]] Chief finds [(under
 508 Commission enforcement policies adopted by regulation)] that the local
 509 department has not satisfactorily resolved [a] the problem in a timely

510 and effective manner. Any finding by the Chief under the preceding
 511 sentence is not subject to appeal. Each employee or volunteer [in the
 512 County Fire and Rescue Service or a local fire and rescue department]
 513 must give the [[Administrator]] Chief any information, not otherwise
 514 legally privileged, that the [[Administrator]] Chief reasonably needs to
 515 [find facts under this subsection] administer this Chapter.

516 (h) The [[Administrator]] Chief must provide staff and other support to the
 517 Commission, subject to appropriation.

518 **[[21-4. Fire [board] Board.]]**

519 **[[a) *Established; membership.*** There is a Fire Board composed of the chief
 520 and president of each local fire and rescue department in the County.
 521 Each local fire and rescue department may appoint one alternate to
 522 serve and act in the absence of the chief or president of that department.
 523 The chiefs and presidents or their alternates must vote as individual
 524 representatives of their respective local fire and rescue departments and
 525 their local fire and rescue department is not bound by any vote which
 526 they cast as members of the Board. Each year at its first meeting in July,
 527 the Board must elect from among its members a [chairperson] chair and
 528 other officers as provided for in its bylaws. The [chairperson] chair
 529 serves until a successor has been elected.]]

530 **[[b) *Duties, responsibilities and authority.*** The Fire Board must:

- 531 (1) Submit to the County Executive a list of candidates
 532 recommended for appointment to the Fire and Rescue
 533 Commission under Section 21-2(a).
 534 (2) Actively support, on a continuing basis in coordination with the
 535 Commission, the maintenance and enhancement of volunteer
 536 participation in fire, rescue and emergency medical service.

- 537 (3) Advise the Commission and the Fire Administrator on any
- 538 matters relating to the fire, rescue, and emergency medical
- 539 services.
- 540 (4) Review and advise the Commission and the Fire Administrator
- 541 on policies and programs relating to the code of personal conduct
- 542 and volunteer recruitment and retention, and recommend benefits
- 543 programs.
- 544 (5) Adopt bylaws detailing its operating rules and regulations and
- 545 establishing a method for amending its bylaws.
- 546 (6) Establish any committees needed to carry out its duties and
- 547 responsibilities. Membership on these committees may include
- 548 Fire Board members, other volunteers, County and local fire and
- 549 rescue department personnel.
- 550 (7) Within [reasonable deadlines] the applicable deadline set by the
- 551 Commission or the Fire Administrator, review and comment on
- 552 any [proposal of the Commission to adopt] proposed laws,
- 553 policies, regulations, requirements, or standards [pertaining to
- 554 the] for fire or rescue services.
- 555 (8) Perform other tasks delegated by the Commission or requested by
- 556 the Fire Administrator.]]

557 [[(c) *Budget and staff support.* Budget and staff support for the Fire Board is

558 provided in the Commission budget.]]

559 **[[21-5]] 21-4. Council approval [for organization and location] of local fire**

560 **and rescue departments.**

- 561 (a) A local fire and rescue department must not [be organized] engage in
- 562 any fire, rescue, or other emergency service in the County unless [that
- 563 department is first approved by] the County Council approves the

564 department. An application for [organization as] County approval to
 565 operate a fire and rescue department must be submitted to the County
 566 Executive [for], who must transmit the application and the Executive's
 567 recommendation [before it is submitted] to the County Council not later
 568 than 90 days after the Executive received the completed application.

- 569 (b) A local fire and rescue department must not change the location of any
 570 facility used to provide fire and rescue services in the County without
 571 [receiving approval of] the [County Council] Council's approval. The
 572 [County] Executive must not [[approve]] include a site for any fire or
 573 rescue squad station or other facility used to provide fire or rescue
 574 services in a proposed Capital Improvements Program unless the
 575 [County] Council has [first] approved the location or relocation of the
 576 facility.

577 **[[21-6]] 21-5. [Functions of] [[Agreements with]] Functions of local fire and**
 578 **rescue departments.**

- 579 (a) [The] A local fire and rescue [departments approved under Section 21-5
 580 may] department may provide direct fire suppression, rescue, [and] or
 581 emergency medical services[. The local departments must comply] in
 582 the County only while the department:

583 (1) is approved by the County Council under Section [[21-5]] 21-4;
 584 and

585 (2) complies with applicable [law and] County [and Commission
 586 policies and] laws, regulations [as provided in Section 21-2(g)],
 587 policies, and procedures, and the lawful orders of the Fire
 588 [[Administrator]] Chief [[: and]]

589 [[3]] has a current written agreement with the County to provide these
 590 services]].

- 591 [(b) The agreement required by subsection (a) must:
- 592 (1) specify the nature of the services to be performed, the types of
- 593 equipment to be maintained, the minimum number and
- 594 qualifications of staff who must be available to provide services
- 595 and maintain the equipment, and how services will comply with
- 596 the Integrated Emergency Command System;
- 597 (2) specify the financial, personnel, equipment, and other support
- 598 that the County will provide to the department, subject to
- 599 appropriations;
- 600 (3) state that the agreement is subject to County law, regulations, and
- 601 policies, including any amendments enacted or adopted after the
- 602 agreement takes effect; and
- 603 (4) require each local fire and rescue department to furnish any
- 604 information requested by the Fire Administrator or the
- 605 Commission regarding operations, administration, volunteer
- 606 participation, or any other aspect of fire, rescue, or emergency
- 607 medical services.]]
- 608 (b) Each local fire and rescue department must furnish any information
- 609 requested by the Fire Chief or the Commission regarding operations,
- 610 administration, volunteer participation, or any other aspect of fire,
- 611 rescue, or emergency medical services.
- 612 (c) If the Fire [[Administrator]] Chief, after giving a local fire and rescue
- 613 department a reasonable opportunity to respond, finds that the
- 614 department has not complied with this Chapter or any other applicable
- 615 County law, regulation, or policy, the County Executive may impound
- 616 some or all of the tax funds designated for that local fire and rescue
- 617 department. The [[Administrator]] Chief must administer the non-

618 complying local fire and rescue department's fire and rescue service
 619 responsibilities, and may use the impounded funds for that purpose.
 620 The [[Administrator]] Chief immediately must report to the
 621 Commission, Council, and Executive about the local fire and rescue
 622 department's non-compliance and must provide a status report 30 days
 623 later. After reviewing each report, the Executive must revoke, extend,
 624 or modify the impoundment of funds, consistent with the
 625 [[Administrator's]] Chief's finding of whether the local fire and rescue
 626 department has complied with the County law, regulation, or policy.

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

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

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

637 (2) those services would be provided under a mutual aid agreement
 638 approved at any time by the County Executive and County
 639 Council.

640 **21-6. LFRD representative; direct negotiation process.**

641 (a) The Fire Chief must negotiate in good faith with the authorized LFRD
 642 representative on [[certain listed]] the issues or issue areas specified in
 643 subsection (f). While each LFRD and its members retain the right to
 644 communicate directly with elected and appointed officials, the LFRD

645 representative is the LFRDs' exclusive representative for purposes of
646 negotiating with the Fire Chief.

647 (b) A representative of the LFRD's becomes authorized to represent their
648 interests when the Fire Chief [[finds]] receives notice that more than
649 65% of the LFRD's:

- 650 (1) have designated that individual or organization in writing as their
651 authorized representative for negotiating purposes; and
652 (2) consented to be bound by agreements reached between the LFRD
653 representative and the Fire Chief, subject to any ratification
654 procedure previously adopted by the signatory LFRD's.

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

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

669 (d) Formal negotiating is initiated when the LFRD representative notifies
670 the Fire Chief, or the Fire Chief notifies the LFRD representative, that a
671 negotiable issue has arisen. The Fire Chief or LFRD representative

672 must respond, either in writing or by meeting, within 15 days. The
 673 number of required meetings between the parties each month cannot
 674 exceed 1, but the parties can meet more frequently if both agree. The
 675 parties may adopt a negotiating calendar under which issues are
 676 reserved for discussion at a certain time. A negotiated agreement takes
 677 effect unless the LFRD representative notifies the Fire Chief within 60
 678 days of the date of the agreement that a majority of the LFRD's have
 679 voted to reject the agreement.

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

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

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

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

689 (3) volunteer firefighter and rescuer recruitment, selection, and
 690 recognition;

691 (4) procedures used to evaluate and discipline volunteer firefighters
 692 and rescuers;

693 (5) protection of volunteer firefighters and rescuers from harassment
 694 and discrimination;

695 (6) LOSAP and other benefits for volunteers, and the administration
 696 of any volunteer benefit;

697 (7) the equitable allocation of appropriated funds and equipment
 698 among paid and volunteer personnel; and

- 699 (8) any other issue that pertains only to volunteer firefighters and
700 rescuers.
- 701 (g) Issues not subject to negotiating under this Section are:
- 702 (1) budgets and expenditures[[, but the equitable allocation of
703 appropriated funds and equipment among paid and volunteer
704 personnel may be negotiated]];
- 705 (2) MCFRS emergency and routine operations; and
- 706 (3) any other issue not specified as subject to negotiating.
- 707 (h) The Fire Chief and LFRD representative annually must choose an
708 impasse neutral, either by agreement or through the processes of the
709 American Arbitration Association. The impasse neutral's fees and
710 expenses must be [[shared equally by the parties]] paid by the Service.
- 711 (i) During the course of negotiating, either party may declare an impasse
712 and request the services of the impasse neutral, or the parties may
713 jointly request those services before declaring an impasse. Except
714 where specified otherwise in this Section, the timetable and process for
715 impasse resolution, including Council review, must follow the timetable
716 and process in Section 33-153.
- 717 (j) When an impasse is reached, the parties must submit the dispute to the
718 impasse neutral. The impasse neutral must attempt mediation by
719 bringing the parties together voluntarily under conditions that will tend
720 to bring about a settlement of the dispute.
- 721 (k) If the impasse neutral, in the impasse neutral's sole discretion, finds that
722 the parties are at a bona fide impasse, the impasse neutral must require
723 the parties to jointly submit all items previously agreed on, and each
724 party to submit a final offer consisting of proposals not agreed upon.
725 Neither party may change any proposal after it is submitted to the

726 impasse neutral as a final offer, except to withdraw a proposal on which
 727 the parties have agreed.

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

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

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

740 (1) previous negotiated agreements between the parties, including the
 741 past bargaining history that led to the agreements;

742 (2) the affordability of all items that will have a significant cost to the
 743 Service;

744 (3) effectiveness and efficiency of operations;

745 (4) safety of the public; and

746 (5) the interest and welfare of the public.

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

752 (p) The [[Fire Chief]] Executive must submit to the County Council for

- 753 review any element of an impasse neutral’s decision that:
 754 (1) requires an appropriation of funds;
 755 (2) is inconsistent with any County law or regulation;
 756 (3) requires the enactment or adoption of any County law or
 757 regulation; or
 758 (4) has or may have a present or future fiscal impact.

759 (q) The Council must consider any decision or part of a decision referred to
 760 it under subsection (p) and notify the parties within 60 days if it
 761 disapproves the decision or part. The Council may extend this time by
 762 resolution.

763 **21-7. Appeals [to and from Commission] of certain disciplinary actions.**

764 (a) *Jurisdiction.* [The] Except as provided in subsection [(h)] (g), the
 765 Commission must hear and decide each appeal filed by[:]
 766 [(1) a local fire and rescue department concerning [any] an action [of]
 767 by the Fire Administrator [in carrying out a County law or
 768 regulation or Commission policy]; and]]
 769 [(2) [any] an employee of the Fire and Rescue Service [or] , including
 770 an employee of a local fire and rescue department[,];] a
 771 volunteer firefighter or rescuer[,] [; or any other person]]
 772 aggrieved [person concerning any] by an adverse final action of
 773 the [[Administrator]] Chief or a local fire and rescue department
 774 [[in carrying out a County law [or], regulation, [Commission]
 775 policy, or lawful order, which applies]] involving the removal,
 776 demotion, or suspension of, or other disciplinary action applied
 777 specifically to, that individual [[of the Administrator]].
 778 [However, the Commission must not hear an appeal under this
 779 Section if the appellant has a right to appeal the action to an

780 employee grievance process or the Merit System Protection
 781 Board under any other law, regulation, or collective bargaining
 782 agreement].

783 (b) *Filing Appeals.* [A] [Except as provided in subsection (h), a local fire
 784 and rescue department may appeal an order or decision of the Fire
 785 Administrator to the Commission within 30 days after the order or
 786 decision is issued. A local department may also appeal the application
 787 of a County regulation or [Commission] policy [to that department]
 788 within 30 days after the regulation or policy affecting that department is
 789 issued. If a department [can show] proves that an order, policy, or
 790 decision was not communicated promptly, the department may appeal
 791 the order, policy, or decision within 30 days after [it] the department
 792 knew or reasonably should have known [of its issuance] about the
 793 action.]] Any [[other]] [aggrieved] party [[aggrieved by an action]]
 794 covered by this Section may appeal [an] the action within 30 days after
 795 the action [is taken] unless another law or regulation requires that an
 796 appeal be filed sooner. [Unless the Commission orders otherwise, the
 797 filing of an] An appeal [stays] must not stay the disputed action
 798 [appealed from] [[unless the Commission issues a written order that
 799 finds a compelling reason to enjoin the action]]].

800 (c) *Procedures.* The Commission by regulation must establish procedures
 801 for hearing and deciding appeals under this Section. The regulation
 802 must specify which categories of appeals may be heard by a hearing
 803 examiner or otherwise must be decided on the basis of a written record.
 804 The Commission must hear an appeal if it complies with all applicable
 805 Commission procedures. [Any party may appeal the chair's decision on
 806 any procedural matter to the Commission under procedures adopted by

807 the Commission.] If the Commission receives more than one appeal
 808 involving the same individual personnel action, the Commission must
 809 consolidate the appeals.

810 (d) *Subpoenas.* The [Fire Administrator, as] chair of the Commission[,] or a
 811 hearing examiner considering the case may issue a subpoena for the
 812 attendance of a witness and the production of any document, and may
 813 administer oaths, in any proceeding [which must be decided on the basis
 814 of a written record]. The [Administrator] Commission or any party to
 815 the proceeding may file a petition with any court with jurisdiction to
 816 enforce a subpoena as provided by law for the enforcement of
 817 subpoenas in a civil action. All provisions of law [which] that compel a
 818 person under subpoena to testify apply to proceedings under this
 819 Chapter.

820 (e) *Depositions.* When relevant to any proceeding and for use as evidence,
 821 the [Administrator] Commission or a hearing examiner considering the
 822 case may [permit] allow a [deposition to be taken] party to depose a
 823 witness in the manner and on the terms designated by the
 824 [Administrator] Commission or hearing examiner if:

825 (1) [a] the witness cannot be subpoenaed; or

826 (2) [a] the witness cannot attend a hearing.

827 [(f) *Temporary Chair.* If an appeal involves an action of the Fire
 828 Administrator, the Administrator must not participate as a Commission
 829 member in hearing and deciding the appeal.]] [The vice-chair or
 830 another public member appointed by the vice-chair as temporary chair
 831 must conduct any meeting involving the appeal, and may issue
 832 subpoenas and permit depositions.]

833 [(g)] (f) Appeals of Commission decisions. [Any] Except as provided in
 834 subsection [(h)] (g), [[an employee of or] a volunteer at a local fire
 835 and rescue department [[or any other aggrieved person]] may appeal a
 836 decision of the Commission [involving] concerning a specific personnel
 837 action, or the failure to take any such action, to the Merit System
 838 Protection Board as if the [[aggrieved person]] appellant were a County
 839 merit system employee. Any aggrieved party may appeal [[any other
 840 Commission]] the decision [[made under this Section]] of the Board to
 841 any court with jurisdiction under the rules governing appeals from
 842 administrative agencies, and may appeal any adverse decision of that
 843 court to the Court of Special Appeals.

844 [(h)] (g) Exceptions. This Section does not apply to, and the Commission
 845 must not consider an appeal of,[:]]
 846 [(1)] a personnel matter subject to an employee grievance procedure:
 847 [(A)] (1) under a collective bargaining agreement [[with the
 848 County]];
 849 [(B)] (2) under County personnel laws and regulations; or
 850 [(C)] (3) otherwise subject to a complaint or appeal to the Merit
 851 System Protection Board[; or
 852 (2) a dispute concerning the agreement between the County and a
 853 local fire and rescue department, which must be resolved through
 854 County contract administration procedures]].

855 **[[21-7A. Legal Representation.]]**

856 [[The County Attorney, with the approval of the County Executive, may take
 857 legal action to assist the Fire Administrator and the Fire and Rescue Commission in
 858 enforcing this Chapter and all other applicable laws, regulations, and policies
 859 concerning fire and rescue services in the County.]]

Article III. Operations.

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21-8. Integrated [emergency command structure] Emergency Command Structure.

- (a) The [Commission] [[Fire Administrator]] County Executive, after [[consulting the]] receiving Commission approval under Section 21-2(d)(4), must adopt by regulation an [integrated emergency command structure] Integrated Emergency Command Structure (IECS)[, applicable] 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 [Commission] [[Administrator]] Chief regularly must review the [integrated emergency command structure] IECS [regulations] regulation and[, if at least 5 members vote in favor of any change that will improve public safety, amend them] propose amendments as necessary.
- (b) The [integrated emergency command structure] IECS must retain and actively encourage volunteer participation at all levels of the chain of command under the [[Administrator and the]] Fire Chief [[of the Division of Fire and Rescue Operations]]. 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 [in] under the [integrated emergency command structure] IECS.

21-8A. Standardized Incident Management System.

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

887 (1) based on nationally recognized incident management systems for
888 fire and rescue operations; and

889 (2) compatible with the National Incident Management System.

890 (b) The Standardized Incident Management System must apply throughout
891 the [[Montgomery County]] Fire and Rescue Service, including the
892 local fire and rescue departments.

893 **21-9. Disaster plan.**

894 The [[Fire Administrator]] County Executive, by regulation issued after
895 [[Commission [must] review]] receiving Commission approval under Section 21-
896 2(d)(4) [and recommend changes in the], must establish and maintain a fire and
897 rescue disaster plan[, including establishing] that provides an integrated chain of
898 command[, to improve it and to make it] compatible with the Standardized Incident
899 Management System [[described in Section 21-7A,]] and the [integrated emergency
900 command structure] Integrated Emergency Command Structure [[described in
901 [subsection] Section 21-8]] [(a), subject to the approval of the Chief Administrative
902 Officer].

903 **21-10. Response areas.**

904 The [Commission] Fire [[Administrator]] Chief, after [[considering any
905 recommendations by the Commission]] receiving Commission approval under
906 Section 21-2(d)(4), must establish response areas [which together cover the entire
907 County. A response area is the geographic area] served by [a] each fire or rescue
908 station that collectively cover the entire County. The boundaries of a response area
909 are generally the mid-points in road distances between that station and the nearest fire
910 or rescue stations. However, the [Commission in setting] response area boundaries
911 must consider geographic or other features that affect dispatch operations. [[The
912 Commission must at least annually review each response area and [adopt]
913 recommend amendments as necessary.]]

914 **21-11. Communications procedures and dispatch times.**

915 ~~[(a)]~~ The Fire ~~[[Administrator]]~~ Chief, after ~~[[considering the advice and~~
 916 ~~recommendations of the]]~~ receiving Commission approval under
 917 Section 21-2(d)(4), must ~~[maintain]~~ establish comprehensive and
 918 consistent communications and dispatch procedures~~].~~ The Commission
 919 must] that maintain appropriate allowable dispatch times for all fire and
 920 rescue units]. All procedures and dispatch times must] and promote
 921 public safety.

922 ~~[(b)]~~ ~~[These]~~ The ~~[[Administrator and the]]~~ Commission must review these
 923 procedures and dispatch times [must be reviewed] at least annually.]

924 **21-12. Master fire, rescue, and emergency medical services plan.**

925 (a) The Commission must review the master fire, rescue, and emergency
 926 medical services plan on an ongoing basis, and must propose any
 927 appropriate amendments to the Fire ~~[[Administrator]]~~ Chief, Executive,
 928 and Council [as appropriate]. ~~[This]~~ The master plan [includes, but is
 929 not limited to] must include at least:

- 930 (1) ~~[A]~~ a survey of the resources and personnel of existing fire,
 931 rescue, and emergency medical services, and an analysis of the
 932 effectiveness of the fire and building codes;
- 933 (2) ~~[An]~~ an analysis of short- and long-term fire prevention and
 934 control needs [as well as] and emergency medical services needs;
- 935 (3) ~~[A]~~ a plan to meet the fire prevention and control and emergency
 936 medical services needs;
- 937 (4) ~~[An]~~ an estimate of cost and realistic plans for financing the
 938 implementation and operation of the plan on a continuing basis,
 939 and a summary of problems anticipated in implementing the plan;

- 940 (5) [A] a definition of the current and future fire protection and
 941 emergency medical environment by establishing and maintaining
 942 a comprehensive data base;
- 943 (6) [A] a definition of goals and objectives for service levels;
- 944 (7) [Identification] identification and justification of the resources
 945 and technology necessary to develop and operate the fire
 946 protection and emergency medical system as recommended by
 947 the plan; [and]
- 948 (8) [A] a detailed program of action to implement and maintain the
 949 system as recommended by the plan; and
- 950 (9) a detailed program of action to integrate the County's fire
 951 prevention and control and emergency services resources into
 952 County-wide, regional, State, and national emergency
 953 management plans.
- 954 (b) The [master plan must be developed by the] [[Commission]] Fire Chief
 955 must draft the master plan and any amendments in coordination with the
 956 [[Administrator]] Commission, the local fire and rescue departments,
 957 the Maryland-National Capital Park and Planning Commission, the
 958 health systems planning agency, the Washington Suburban Sanitary
 959 Commission, other County departments, the Metropolitan Washington
 960 Council of Governments, the U.S. Department of Homeland Security,
 961 and any other interested parties. The County Council, the
 962 [[Administrator, the Fire Board]] Commission, and any local fire and
 963 rescue department may ask the [[Commission]] Fire Chief to consider
 964 an amendment to the plan at any time. The [[Commission]] Fire Chief
 965 must conduct at least one public hearing before proposing any
 966 significant amendment. The County Executive must forward the master

967 plan or any amendment proposed by the ~~[[Commission]]~~ Fire Chief,
 968 along with any comments, to the County Council, [who] which may
 969 approve the master plan as proposed or with [further] amendments.

970 (c) The master plan must serve as a guideline for the Executive, Council,
 971 and Fire Chief in making decisions regarding delivery of fire and rescue
 972 services, does not have the force of law, and does not impose any legal
 973 obligation on any party.

974 **21-13. Temporary transfer of apparatus.**

975 The [Commission] ~~[[Fire Administrator]]~~ County Executive, after ~~[[consulting~~
 976 the]] receiving Commission approval under Section 21-2(d)(4), must adopt [and the
 977 Chief Administrative Officer must approve policies concerning] a regulation
 978 establishing policies for the long- or short-term transfer of apparatus. [In an
 979 emergency not covered by the Commission policy, the County Executive] The Fire
 980 [[Administrator]] Chief, when authorized by regulation, may transfer any apparatus
 981 purchased in whole or in part with tax funds, including any apparatus titled to a local
 982 fire and rescue department. The [County Executive] ~~[[Administrator]]~~ Chief must
 983 provide as much advance notice as possible before transferring apparatus ~~[[described~~
 984 in the agreement between the County and the local fire and rescue department]]. The
 985 regulation must not require the transfer of any apparatus that was not purchased with
 986 any County tax funds, except in an emergency.

987 **21-14. Assumption of command by County government.**

988 The County Executive or a designee may assume operational and
 989 administrative command of any facility or apparatus of a local fire and rescue
 990 department[,] [[supported in whole or in part with tax funds]] that provides fire,
 991 rescue, or emergency medical services under Section 21-5 if the [County] Executive
 992 finds that the local department is ~~[[unwilling or]]~~ unable or refuses to provide fire,
 993 rescue, or emergency medical services in accordance with this Chapter. Except

994 during a public emergency, the Executive must give the local department a
 995 reasonable opportunity to respond before assuming command. This assumption of
 996 command may continue until the County Council by resolution, after consulting the
 997 Fire Chief and Commission, directs otherwise.

998 **21-15. Performance auditing.**

999 ~~[[a]]~~ The County Executive, the County Council, the Commission, ~~the Chief~~
 1000 Administrative Officer, and the Fire Chief, or their designees, may
 1001 conduct performance audits of any local fire and rescue department [for
 1002 the purpose of making] to make budget, management, or legislative
 1003 recommendations. [These audits] An audit must be conducted in a
 1004 reasonable manner with as much advance notice as feasible. Officers,
 1005 members, and employees of each local fire and rescue department must
 1006 cooperate fully and provide any data [required] requested by the auditor.

1007 ~~[[b)]~~ The Executive, with the approval of the Council, may cancel the
 1008 County's agreement, under Section 21-6, with a local fire and rescue
 1009 department if that department does not correct deficiencies identified in
 1010 an audit under subsection (a) before the deadline set by the Fire
 1011 Administrator. If the agreement is canceled, the department does not
 1012 meet the requirement of Section 21-6(a)(3) and must not provide fire
 1013 suppression, rescue, or emergency medical services in the County.]]

1014 **Article IV. Personnel.**

1015 **21-16. Personnel administration for local fire and rescue departments.**

1016 (a) *Applicability of County Regulations.* Employees of local fire and rescue
 1017 departments who are paid with tax funds are not County employees.
 1018 They are members of a separate merit system [which is] governed by
 1019 generally applicable County personnel regulations except as expressly
 1020 modified by regulations that the County Executive, after [[consulting

1021 ~~the]] receiving Commission approval under Section 21-2(d)(4),~~ adopts
 1022 under method (2).

1023 (b) *Personnel services.* The Office of Human Resources must provide
 1024 [these] the following services to the local fire and rescue departments:

1025 (1) Uniform administration and application of personnel regulations
 1026 and policies.

1027 (2) Consistent administration and application of a uniform pay plan
 1028 and benefit program, which must be substantially equivalent to
 1029 that of the County government.

1030 (3) Disbursement of salaries and wages, including withholding for
 1031 taxes and fringe benefits through the County's payroll system.

1032 (4) Review for consistency with applicable personnel regulations all
 1033 personnel transactions involving employees of local fire and
 1034 rescue departments paid with tax funds.

1035 (5) Use of the Merit System Protection Board.

1036 (c) *Limitations.* Nothing in this Chapter means that employees of the local
 1037 fire and rescue departments are County employees, either on a de jure or
 1038 de facto basis. Nothing in this Chapter abrogates the authority of each
 1039 local fire and rescue department over such functions as hiring,
 1040 promotion, discipline, and discharge of employees of that department;
 1041 the assignment of administrative staff; and day-to-day assignments of
 1042 volunteer personnel at that department. This Section does not diminish
 1043 the authority of County government to act under Sections 21-13 and 21-
 1044 14 or the authority of the Fire Chief to discipline an employee or
 1045 volunteer of a local fire and rescue department as provided in Section
 1046 21-3(g).

1047 (d) *Judicial review.* An aggrieved employee of a local fire and rescue
 1048 department, the Chief Administrative Officer on behalf of the County,
 1049 or any local fire and rescue department or other person aggrieved by any
 1050 order or decision of the Merit System Protection Board, may obtain
 1051 judicial review of the order or decision as described in the Maryland
 1052 Rules of Procedure that apply to appeals of administrative actions. Any
 1053 party may appeal a decision of a court under this subsection. [[may be
 1054 appealed]] to the Court of Special Appeals or seek review by the Court
 1055 of Appeals.

1056 (e) *Local department head.* For purposes of this Chapter, a local fire and
 1057 rescue department must designate a person as a department head under
 1058 the County personnel regulations and must notify the Office of Human
 1059 Resources of its selection. The designee may take any personnel action
 1060 on behalf of the local department that a department head may take under
 1061 the County personnel regulations, to the extent that those regulations
 1062 apply to the local department.

1063 **21-17. Encouraging volunteers.**

1064 (a) As long as the service being provided is not the same service which the
 1065 County employee is paid to provide, the County must not prohibit or
 1066 discourage any County employee from providing volunteer services for
 1067 a local fire and rescue department, except:

- 1068 (1) a local fire and rescue department to which the employee is
 1069 assigned,
- 1070 (2) to the extent the services are prohibited by the conflict-of-interest
 1071 provisions of Chapter 19A, or
- 1072 (3) to the extent volunteer service creates additional financial liability
 1073 to the County.

1074 (b) Employees in the firefighter/rescuer occupational series may be
 1075 prohibited or restricted from providing volunteer fire, rescue or
 1076 emergency medical services to local fire and rescue departments in the
 1077 County under regulations adopted by the County Executive under
 1078 method (2).

1079 **21-18. Training requirements and certification standards.**

1080 [After permitting a 60-day period for review and comment, the Commission]
 1081 The [[Fire Administrator]] County Executive, after [[consulting the]] receiving
 1082 Commission approval under Section 21-2(d)(4), must [adopt] issue regulations
 1083 establishing training requirements [to be met by] for all active fire, rescue, and
 1084 emergency medical services personnel in the [[Montgomery County]] Fire and
 1085 Rescue Service, including the local fire and rescue departments, consistent with the
 1086 Integrated Emergency Command Structure. [Standards] The training requirements
 1087 must include standards for eligibility [to the] for [[various ranks]] each rank. [must
 1088 be included in the training requirements. These standards and training requirements
 1089 must be applied] [[that]] The standards must apply similarly to all personnel
 1090 engaging in similar duties. The [[Administrator]] Chief must ensure that
 1091 [[reasonable]] all feasible opportunities are available for volunteers to meet the
 1092 standards for advancement. The Chief must report annually to the Commission,
 1093 Executive, and Council on the availability and implementation of County training
 1094 programs for volunteer firefighters and rescuers.

1095 **21-19. Code of ethics and personal conduct.**

1096 The [[Fire Administrator]] County Executive, after [[considering the advice
 1097 and recommendations of]] [[consulting the]] receiving Commission approval under
 1098 Section 21-2(d)(4), must [adopt] issue regulations establishing a code of ethics and
 1099 on-duty personal conduct [as a Commission regulation. The code must be] that is
 1100 consistent with applicable law, including Chapters 19A and 27. The code [applies]

1101 must apply to all fire, rescue, and emergency medical services personnel, including
 1102 administrative personnel. The code must specify [actions that may be taken and]
 1103 prohibited conduct and the procedures [that must be followed if] and actions
 1104 available to address any [provision is violated] violation. The [Commission]
 1105 ~~[[Administrator]]~~ Fire Chief may refer [any] a matter to the County Ethics
 1106 Commission or Human ~~[[Relations]]~~ Rights Commission [as needed].

1107 **21-20. Disability and death benefits for members of local fire and rescue**
 1108 **departments.**

1109 The Council should provide for the payment of disability benefits for members
 1110 of local fire and rescue departments operating in the County, and for the payment of
 1111 death benefits for members injured or killed in the line of duty, for the source and
 1112 funds from which benefits are paid, and for rights of subrogation in the County.

1113 **21-21. Length of service award program for volunteers.**

1114 There is a length of service award program for local fire and rescue department
 1115 volunteers.

1116 (a) *Definition.* In this Section, active volunteer means a local fire and rescue
 1117 department volunteer who accumulates at least 50 points in a calendar
 1118 year under the point system in subsection ~~[(j)]~~ (k).

1119 (b) *Eligibility.* Any local fire and rescue department volunteer is eligible for
 1120 the length of service award program if the volunteer is at least 16 years
 1121 old, and:

1122 (1) (A) ~~[[is]]~~ was an active volunteer on or after August 15, 1965;
 1123 or

1124 (B) on August 15, 1965 had completed 25 years as an active
 1125 volunteer; and

1126 (2) if less than 18 years old, meets any additional requirements
 1127 established by Executive regulation under method (3).

- 1128 (c) *Length of service benefits.*
- 1129 (1) *Volunteers Who Qualified Before 1985.* Effective January 1,
- 1130 1985, any volunteer who qualified for a monthly award payment
- 1131 before January 1, 1985, must receive monthly award payments
- 1132 equal to 150 percent of the pre-1985 monthly award payment.
- 1133 (2) *Volunteers Who Qualify in 1985 or Later- 25 Years of Service.*
- 1134 (A) Effective January 1, 1985, a volunteer qualifies for a 25-
- 1135 year award payment when the volunteer:
- 1136 (i) has served 25 years as an active volunteer; and
- 1137 (ii) (a) is at least age [60] 55, if the volunteer
- 1138 completed 25 years as an active volunteer
- 1139 before 1996, or
- 1140 (b) is any age, if the volunteer completed 25
- 1141 years as an active volunteer on or after
- 1142 January 1, 2004.
- 1143 (B) A volunteer who qualifies under this paragraph must
- 1144 receive an award payment of:
- 1145 (i) \$230 per month for life; and
- 1146 (ii) \$11.50 per month for life for each year of service as
- 1147 an active volunteer over 25 years (up to \$115 per
- 1148 month). The maximum total benefit is \$345 per
- 1149 month.
- 1150 (3) *Volunteers Who Qualify in 1985 or Later - 15 years of Service.*
- 1151 (A) Effective January 1, 1985, a volunteer qualifies for a 15-
- 1152 year award payment when the volunteer:
- 1153 (i) has served 15 years as an active volunteer after
- 1154 January 1, 1955; and

- 1155 (ii) is at least age [65] 60.
- 1156 (B) A volunteer who qualifies under this paragraph must
 1157 receive an award payment of \$9.20 per month for life for
 1158 each year of service as an active volunteer.
- 1159 (4) *Volunteers Who Qualify in 1985 or Later - 10 Years of Service*
- 1160 (A) Effective January 1, 1985, a volunteer qualifies for a 10-
 1161 year award payment when the volunteer:
- 1162 (i) has served 10 years as an active volunteer; and
 1163 (ii) is at least age [70] 65.
- 1164 (B) A volunteer who qualifies under this paragraph must
 1165 receive an award payment of \$9.20 per month for life for
 1166 each year of service as an active volunteer.
- 1167 (d) *Disability benefit.*
- 1168 (1) A volunteer qualifies for a disability benefit if:
- 1169 (A) the volunteer becomes disabled as the direct result of
 1170 active participation as a local fire and rescue department
 1171 volunteer;
- 1172 (B) the disability prevents the volunteer from pursuing the
 1173 volunteer's normal occupation; and
- 1174 (C) a state worker's compensation commission finds that the
 1175 disability is total and permanent, and is a direct result of
 1176 active participation as a local fire and rescue department
 1177 volunteer.
- 1178 (2) A volunteer who qualifies under this subsection must receive an
 1179 award payment of \$345 per month for life.

1180 (3) Length of service benefits under subsection (c) must not be paid
 1181 to volunteers who are receiving award payments under this
 1182 subsection.

1183 (e) *Survivor's benefit.*

1184 (1) A local fire and rescue department volunteer's surviving spouse
 1185 or domestic partner qualifies for a survivor's benefit on the
 1186 volunteer's death if:

1187 (A) the surviving spouse or partner submits an application for
 1188 the benefit; and

1189 (B) the volunteer met the:

1190 (i) years-of-service requirement for a length of service
 1191 benefit under subsection (c); or

1192 (ii) requirements for a disability benefit under
 1193 subsection (d).

1194 (2) The volunteer's surviving spouse or domestic partner must
 1195 receive a monthly award payment until the spouse's death or
 1196 remarriage, or partner's death or establishment of another
 1197 domestic partnership, equal to 50 percent of the:

1198 (A) length of service benefit for which the volunteer met the
 1199 years-of-service requirement; or

1200 (B) volunteer's disability benefit.

1201 (f) *Death benefit.*

1202 (1) A local fire and rescue department volunteer's surviving spouse
 1203 or domestic partner (or estate if no spouse or partner survives)
 1204 qualifies on the volunteer's death for a [\$2,500] \$5,000 death
 1205 benefit if:

- 1206 (A) the surviving spouse or partner (or estate) submits an
 1207 application for the benefit within one year of the
 1208 volunteer's death; and
- 1209 (B) the volunteer met the:
- 1210 (i) years-of-service requirement for a length of service
 1211 benefit under subsection (c); or
- 1212 (ii) requirements for a disability benefit under
 1213 subsection (d).
- 1214 (g) Other benefits. An active volunteer may participate in the County's
 1215 tuition assistance program to the extent federal tax laws permit
 1216 volunteers to do so, and receive discounts at County transit and
 1217 recreational facilities as if the volunteer were a County employee.
- 1218 (h) *Funding.* The County must pay benefits to a volunteer under this
 1219 section from ~~[[the]]~~ fire tax funds.
- 1220 ~~[(h)]~~
- 1221 (i) *Administration.*
- 1222 (1) The County Executive or the Executive's designee must
 1223 administer this Section under Executive Regulations adopted
 1224 under method (3).
- 1225 (2) The County must pay benefits under this section from the first
 1226 day of the first month after the volunteer, surviving spouse or
 1227 domestic partner, or volunteer's estate qualifies for the benefit,
 1228 except that benefits must not be paid for any period before the
 1229 application for the benefit is filed.
- 1230 (3) The ~~[[County]]~~ Executive or the Executive's designee may audit
 1231 the records of participating local fire and rescue departments
 1232 regarding volunteer participation.

1233 (4) The [[County]] Executive or the Executive's designee may
 1234 correct clerical errors in volunteers' service records made by
 1235 County staff in the administration of this Section.

1236 [(i)]

1237 (i) *Certification of volunteers.*

1238 (1) *Local fire and rescue departments.* Each participating local fire
 1239 and rescue department must:

1240 (A) maintain a detailed and accurate record for each local fire
 1241 and rescue department volunteer, in a form established by
 1242 the [[County]] Executive, of any activity that qualifies for
 1243 credit toward active volunteer status;

1244 (B) by March 31 each year, submit a record of all local fire and
 1245 rescue department volunteers, certified by the secretary
 1246 under oath, that identifies each active volunteer for the
 1247 previous year; and

1248 (C) post any list from the [[County]] Executive or the
 1249 Executive's designee of active volunteers for at least 30
 1250 days after receipt for review by members.

1251 (2) *Appeal.* A volunteer may appeal a finding that the volunteer was
 1252 not an active volunteer within 30 days after a written notice of the
 1253 finding is mailed to the volunteer. The appeal must satisfy
 1254 requirements established in regulations issued by the [[County]]
 1255 Executive under method (3). The decision of the [[County]]
 1256 Executive or the Executive's designee on the appeal is final.

1257 [(j)]

1258 (k) *Point system.* To qualify as an active volunteer under subsection (a), a
 1259 volunteer accumulates points under this subsection during each calendar

1260 year that are not transferable to another year. An individual must not
 1261 receive points for any activity performed as a County employee.

1262 (1) *Training Courses* - 25 points maximum.

1263 (A) Courses lasting less than 20 hours, such as a one-day
 1264 course, seminar, or basic first-aid class, earn 5 points per
 1265 course.

1266 (B) Courses lasting 20 to 45 hours, such as a short course or
 1267 regional fire school, earn 10 points per course.

1268 (C) Courses lasting more than 45 hours, such as the basic,
 1269 advanced, section III, and emergency care courses offered
 1270 by the University of Maryland, or a fire science course
 1271 offered by Montgomery College or Prince George's
 1272 Community College, earn 15 points per course.

1273 (2) *Drills* - 20 points maximum: Each drill lasting at least 2 hours
 1274 earns 1 point.

1275 (3) *Sleep-in or Stand-by* - 20 points maximum. Sleep-in service
 1276 earns 1 point for each full night. Stand-by service earns 1 point
 1277 for each period of on-duty activity of the fire department or
 1278 rescue squad that lasts for at least 4 hours and does not fall under
 1279 ~~[[one of the other categories]]~~ another category in this subsection.

1280 (4) (A) *Elected and Appointed Position* - 25 points maximum per
 1281 calendar year for any combination of service in eligible
 1282 and appointed positions as follows:

1283 (1) 25 points ~~[[or]]~~ for completing a one-year term in an
 1284 eligible elected or appointed position; and

- 1285 (2) 2 points for each full month of service in any
 1286 eligible elected or appointed position during a term
 1287 of less than one year.
- 1288 (B) The Fire and Rescue Commission annually must approve a
 1289 list of the elected and appointed positions eligible to earn
 1290 points. The list must include:
- 1291 (i) local fire and rescue department (LFRD) officer at
 1292 the rank of lieutenant or higher;
- 1293 (ii) director, trustee, trial board member, or auxiliary
 1294 member of an LFRD;
- 1295 (iii) chair of fund raising or membership for an LFRD;
- 1296 (iv) chaplain of an LFRD;
- 1297 (v) delegate, alternate, or officer for the [[Montgomery
 1298 County]] Fire Board, [[or]] the Montgomery County
 1299 Volunteer Fire-Rescue Association, the LFRD
 1300 representative, or any similar organization;
- 1301 (vi) member of a committee of the [[Montgomery
 1302 County Fire and Rescue]] Commission, the Fire
 1303 Board, or the Maryland State Firemen’s Association
 1304 (MSFA);
- 1305 (vii) officer of the MSFA auxiliary; or
- 1306 (viii) officer of an LFRD auxiliary.
- 1307 (5) *Attendance at Meetings* - 20 points maximum per year:
 1308 Attendance earns 1 point for each official meeting of an
 1309 organization listed in Executive regulations issued under method
 1310 (3) as affiliated with [[Montgomery County]] the Fire and Rescue
 1311 Service.

1312 (6) *Participation in Department or Station Responses*- 30 points
 1313 maximum for responding on at least the number of calls indicated
 1314 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

1315 The [[fire and rescue]] Commission annually must determine for
 1316 each [[department]] LFRD whether the total annual calls [[will]]
 1317 must be computed by department or by station.

1318 (7) *Military Service* - 50 points maximum per year, prorated for a
 1319 partial year of service, for qualified military service that
 1320 interrupts voluntary fire service. Qualified service means full-
 1321 time extended obligatory military service or a single voluntary
 1322 enlistment, not to exceed [four] 4 years in the armed forces of the
 1323 United States.

1324 (8) *Collateral Duties*- 25 points maximum: Each qualified activity
 1325 for the [[volunteer's fire department or rescue squad]] LFRD that
 1326 lasts at least 4 hours earns 1 point. The [[Fire and Rescue]]
 1327 Commission annually must approve a list of the collateral duties
 1328 under which a volunteer may perform qualified activities, such as
 1329 apparatus and building maintenance; fire prevention and
 1330 education activities; fund raising activities; and administrative or
 1331 auxiliary duties.

1332 [(k)]

1333 (D) *Definition.* In this Section, “domestic partner” or “partner” means a
 1334 person whose relationship with the volunteer would meet the
 1335 requirements for a domestic partner under Section 33-22 if the volunteer
 1336 were a County employee.

1337 **Article V. Fiscal Matters.**

1338 **21-22. Budget preparation.**

1339 (a) Each local fire and rescue department supported in whole or in part with
 1340 tax funds must prepare an annual budget recommendation that
 1341 [includes] describes its requirements with appropriate justification in a
 1342 format prescribed by the County Executive [[and consistent with its
 1343 agreement with the County]]. [All budgets] Each department’s budget
 1344 recommendation must be submitted to the Fire [[Administrator]] Chief
 1345 [at the time required by the Commission] by the deadline set by the
 1346 [[Administrator]] Chief.

1347 (b) The Fire [[Administrator]] Chief must prepare and submit to the
 1348 Commission for its review and comment a unified [[Montgomery
 1349 County]] Fire and Rescue Service budget [which includes the],
 1350 including the proposed budgets [of the] for local fire and rescue
 1351 departments[, the Divisions of Fire and Rescue Services and Volunteer
 1352 Fire and Rescue Services,] and the staff and compensation proposed for
 1353 the Commission and the LFRD representative.

1354 (c) The Commission must forward the [[Administrator’s]] Commission’s
 1355 comments on the Fire Chief’s proposed budget, together with a
 1356 summary, an analysis of County-wide implications and relationships to
 1357 applicable provisions of the fire service master [plans] plan, and [its] the
 1358 Commission’s recommendations on the proposed budget, to the County
 1359 Executive for review and submission to the County Council as required

1360 by the County Charter. The Commission must transmit [[the budget]]
 1361 its comments [must be transmitted according] to the [schedule]
 1362 Executive by the deadline established by the [County] Executive.

1363 (d) The County Council must appropriate funds for fire, rescue, and
 1364 emergency medical services for the ensuing fiscal year as prescribed by
 1365 the Charter. [No tax] A person must not encumber or spend funds [can
 1366 be encumbered or expended] in excess of appropriations. All
 1367 distributions of appropriations to a local fire and rescue department are
 1368 conditional on the local fire and rescue department's complying with
 1369 applicable law, County [and Commission] regulations and policies, and
 1370 lawful orders of the Fire [[Administrator]] Chief.

1371 **21-23. Taxation.**

1372 (a) *Fire Tax District.* A fire tax district, comprising the entire County,
 1373 includes all real and personal property assessed for County tax
 1374 purposes.

1375 (b) *Tax levy and collection.* The County Council may levy a tax on each
 1376 \$100 of the assessed value of taxable property in the fire tax district at a
 1377 rate to yield an amount that the Council finds sufficient to fund:

1378 (1) the management, operation, and maintenance of all fire and
 1379 rescue services;

1380 (2) the purchase (including debt service), construction, maintenance,
 1381 and operation of real and personal property necessary or
 1382 incidental to fire and rescue services;

1383 (3) the operation of the Commission and the Fire and Rescue
 1384 Service;

1385 (4) all tax-supported expenditures of the local fire and rescue
 1386 departments; and

1387 (5) awards for the Length of Service Awards Program.

1388 The fire tax must be levied and collected in the manner that other
 1389 county real property taxes are levied and collected and have the same
 1390 priority rights, bear the same interest and penalties, and in every respect
 1391 be treated the same as other county real property taxes.

1392 **21-24. Fire tax funds.**

1393 (a) *Distribution.* [All] The County must pay all appropriated funds
 1394 budgeted for use by a local fire and rescue department [must be paid at
 1395 least on a monthly basis by the County to the department in accordance
 1396 with a projected monthly schedule or approved budget submitted by
 1397 each department before the start of the fiscal year] [according to the
 1398 provisions of the agreement between the County and that department]
 1399 at least on a monthly basis to the department in accordance with a
 400 projected monthly schedule or approved budget submitted by that
 1401 department before the start of the fiscal year. At the request of a local
 1402 fire and rescue department, the County, as a service to that department,
 1403 may retain, disburse, and account for any fire tax funds budgeted for use
 1404 by that department.

1405 (b) *Expenditures and [Investments] investments.* The treasurers, as
 1406 authorized by the local fire and rescue department, must pay all proper
 1407 costs, expenses, claims and demands necessary for the maintenance,
 1408 equipment, and operation of the local fire and rescue department. Any
 1409 money which the County retains on behalf of the local fire and rescue
 1410 department must be invested in the County's investment fund. The
 1411 proceeds from those investments must be credited to each local fire and
 1412 rescue department for the next fiscal year after the funds were invested.

1413 Proceeds must be credited to each local fire and rescue department in
 1414 proportion to the amount of funds retained and invested by the County.

1415 (c) *Treasurer's [Bond] bond.* Each local fire and rescue department must
 1416 provide a corporate bond to the County approved by the Director of
 1417 Finance conditioned on the faithful discharge of the duties of the
 1418 treasurer. The Director may approve a blanket corporate bond covering
 1419 one or more local fire and rescue departments.

1420 (d) *Audit.* Financial transactions involving County fire tax funds must be
 1421 included in the annual audit required by the Charter. Copies of the
 1422 annual audit must be provided to the County Council, each local fire
 1423 and rescue department, and the Commission.

1424 ~~[(e) *Impoundment.* The County Executive may impound fire tax funds as~~
 1425 ~~provided in Section 21-6(c).]]~~

1426 **21-25. Debt.**

1427 The annual budget [[for the Fire and Rescue Service]] must include an
 1428 appropriation sufficient to pay the principal and interest obligation for the ensuing
 1429 fiscal year of any County bonds issued and outstanding for fire service purposes.

1430 **21-26. Title to assets; sale or disposition.**

1431 (a) Title to fire, rescue, and emergency medical service apparatus and
 1432 facilities, purchased in whole or in part with any tax funds before July
 1433 30, 1980, may be retained by the local fire and rescue department unless
 1434 the appropriation resolution that funded the purchase specified
 1435 otherwise.

1436 (b) All apparatus and facilities purchased with tax funds after July 30, 1980,
 1437 must be titled to the County and must be assigned in accordance with
 1438 the adopted master fire, rescue, and emergency services plan. A newly
 1439 constructed fire station, purchased with tax funds after July 1, 1999,

1440 may be held under a title reflecting concurrent ownership by the County
 1441 and a local fire and rescue department if:

- 1442 (1) the station complies with the adopted master fire, rescue, and
 1443 emergency medical services plan;
- 1444 (2) the local fire and rescue department has contributed, or is legally
 1445 committed to contribute, at least 50 percent of the on-site cost of
 1446 the station, including any land cost, and of the station's
 1447 proportionate share of off-site costs directly attributable to the
 1448 project; and
- 1449 (3) the Chief Administrative Officer has signed a contract with the
 1450 local fire and rescue department that assures, to the fullest extent
 1451 legally possible, that the station will be available for fire and
 1452 rescue purposes until the station is disposed of under subsection
 453 (c), and that the station will be operated according to
 1454 [Commission] County law, regulations, and policies.

1455 (c) The [Commission and the] Chief Administrative Officer must approve
 1456 each sale or other disposition of any apparatus or facilities to ensure that
 1457 [such] the sale or other disposition does not adversely affect the public
 1458 interest. If [either the Commission or] the Chief Administrative Officer
 1459 does not approve a sale or other disposition, the County Council may by
 1460 resolution approve the proposed sale or disposition. The proportionate
 1461 share of the proceeds of any such disposition attributable to fire tax
 1462 funds must be used by the local fire and rescue department for fire,
 1463 rescue or emergency medical services, or be returned to the fire tax
 1464 district. In a dispute over the source and amount of original financing,
 1465 or over the value of the apparatus or facilities, the County agrees to
 1466 binding arbitration under the Maryland Uniform Arbitration Act to

1467 resolve the dispute. [The arbitrator must be chosen by the Commission
 1468 with the concurrence of the local fire and rescue department and the
 1469 County.]

1470 (d) The County acknowledges that it has no ownership claim to any
 1471 equipment, apparatus, facilities, or property acquired [solely] without
 1472 any use of tax funds. [This] [[Except as provided in the County's
 1473 agreement with a local fire and rescue department, this]] This Chapter
 1474 does not authorize the County to require the transfer of ownership of
 1475 any such equipment, apparatus, facilities, or property to the County.

1476 (e) The County may accept title and all encumbrances to any fire, rescue
 1477 [and], or emergency medical service apparatus, equipment, facility or
 1478 property from any local fire and rescue department [wishing to no
 1479 longer hold such] that requests the transfer of title, even if [there] the
 1480 item is subject to an existing debt. [Any such title] The Chief
 1481 Administrative Officer must approve or reject the transfer [must be
 1482 approved by the Chief Administrative Officer] after [receiving the
 1483 recommendation of] considering any recommendations by the
 1484 Commission. The [Commission, in consultation with the] Chief
 1485 Administrative Officer, after considering the advice and
 1486 recommendations of the Commission, must develop procedures [to
 1487 provide] for the orderly disposition of assets of any local fire and rescue
 1488 department [which] that is unable to provide fire, rescue, or emergency
 1489 medical services so that the assets continue to be used to provide fire,
 1490 rescue, and emergency medical services in that community.

1491 (f) Any funds accruing to the County from the sale or other disposition of
 1492 any apparatus, equipment, facility or property must be applied to the

1493 funding of fire and rescue appropriations approved by the County
 1494 Council.

1495 (g) For purposes of operation, the [Commission] Chief Administrative
 1496 Officer, after considering the advice and recommendations of the
 1497 Commission, must assign fire stations when built or acquired to a local
 1498 fire and rescue department or, with the concurrence of the County
 1499 Executive and County Council, to the Fire and Rescue Service. This
 1500 Section does not preclude the Fire and Rescue Service from operating a
 1501 fire station as otherwise provided by law.

1502 **21-27. Purchasing and contracting.**

1503 [All purchases and contracts made by the local fire and rescue departments
 1504 and] The Fire [[Administrator]] Chief, after [[consulting the]] receiving Commission
 1505 approval under Section 21-2(d)(4), must establish procedures, by regulation [[or in
 1506 agreements with local fire and rescue departments]], that govern any purchase or
 1507 contract by any department that will be financed in whole or in part with tax funds
 1508 [must be made in accordance with Commission procedures governing purchasing and
 1509 contracting].

1510 **Article VI. Fire Corporation Boards.**

1511 * * *

1512 **Sec. 2. Transition.**

1513 (a) *Regulations.* A regulation issued by the Fire and Rescue Commission
 1514 before this Act took effect continues in effect unless it is inconsistent
 1515 with Chapter 21, as amended by this Act, but must be [[considered to
 1516 have]] treated as having been issued by the Fire [[Administrator]] Chief
 1517 or the County Executive, as provided in Chapter 21 [[of the Code]], as
 1518 amended by this Act. This Section does not apply to procedural

1519 regulations that the Commission is authorized to issue under Section 21-
 1520 7(c) ~~[[of the Code]]~~, as amended by this Act.

1521 ~~[[~~(b) *Agreements with local departments.*

1522 (1) The requirement in Section 21-6(a)(3) of the Code, as amended
 1523 by this Act, for a written agreement between a local fire and
 1524 rescue department and the County does not apply until 180 days
 1525 after this Act becomes law, unless the Fire Administrator finds
 1526 that a department has failed to maintain the level or readiness of
 1527 any fire, rescue, or emergency medical services it was providing.


1528 (2) The Administrator may recommend that the County Executive
 1529 extend the 180-day exemption by not more than an additional 60
 1530 days if a department shows good cause for the extension. The
 1531 County Council may further extend the exemption by resolution.
 1532 Within 10 days after the 180-day deadline expires, the Fire
 1533 Administrator must report to the Executive and the Council the
 1534 status of the agreement or proposed agreement with each local
 1535 fire and rescue department.]]

1536 (b) Fire Administrator Any reference in any law, regulation, or procedure
 1537 to the Fire Administrator must be treated as referring to the Fire Chief
 1538 appointed under Section 21-3, as amended by this Act.

1539 (c) Effective date This Act takes effect on January 1, 2005.

1540 *Approved:*

1541

1542 
 Steven A. Silverman, President, County Council

MAY 6, 2004
 Date

1543 *Approved:*

544

1545

Douglas M. Duncan

Douglas M. Duncan, County Executive

May 12, 2004

Date

1546 *This is a correct copy of Council action.*

1547

1548

Mary A. Edgar

Mary A. Edgar, CMC, Clerk of the Council

May 14, 2004

Date