

Bill No. 35-01
Concerning: Technical Corrections
Revised: Nov. 16, 2001 Draft No. 5
Introduced: October 30, 2001
Enacted: November 20, 2001
Executive: November 28, 2001
Effective: February 27, 2002 (but see §16
Sunset Date: None
Ch. 28, Laws of Mont. Co. 2001

COUNTY COUNCIL FOR MONTGOMERY COUNTY, MARYLAND

By: Council President

AN ACT to correct technical, typographical, grammatical, and codification errors in, and make stylistic and conforming amendments to, County law regarding:

- (1) animal control;
- (2) arts and humanities and the Public Arts Trust;
- (3) cable communications franchise procedures;
- (4) County employee benefits and personnel laws;
- (5) road construction;
- (6) taxes and tax credits;
- (7) the Office of the Inspector General; and
- (8) other subjects of laws enacted after the 1994 codification of County laws.

By amending

Montgomery County Code

Chapter 5A, Arts and Humanities

Sections 5A-1 and 5A-6

Chapter 8, Buildings

Section 8-44

Chapter 8A, Cable Communications

Section 8A-9(I)

Chapter 33, Personnel

Sections 33-35, 33-38A, 33-42, 33-43, 33-46, 33-47, and 33-116

Chapter 49, Streets and Roads

Sections 49-37 and 49-57

Chapter 52, Taxation

Section 52-74 and Article XI

Chapter 21, Laws of Montgomery County 1998
Chapter 23, Laws of Montgomery County 1998
Chapter 5, Laws of Montgomery County 2000
Chapter 15, Laws of Montgomery County 2000

Boldface

Underlining

[Single boldface brackets]

Double underlining

[[Double boldface brackets]]

* * *

Heading or defined term.

Added to existing law by original bill.

Deleted from existing law by original bill.

Added by amendment.

Deleted from existing law or the bill by amendment.

Existing law unaffected by bill.

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

1 **Section 1. Chapter 21 of the Laws of Montgomery County 1998 is**
2 **amended to repeal former Sections 5-19A, 5-20, and 5-21 of the Code entirely,**
3 **including any amendments to those sections made by a law enacted before**
4 **Chapter 21 of L.M.C. 1998 took effect.**

5 **Sec. 2. Sections 5A-1 and 5A-6 of the Code, as amended by Chapter 24**
6 **of the Laws of Montgomery County 1999, and Section 8-44(b) of the Code are**
7 **amended as follows:**

8 **5A-1. Declaration of purpose.**

9 The County Council finds that:

10 * * *

11 (b) In addition to the dedication and devotion of individuals and groups
12 practicing and studying the arts and humanities, the advancement of
13 these subjects requires assistance and support not only through an
14 atmosphere within the community favoring the free flow of thought,
15 imagination and inquiry, but also through the coordination and
16 availability of material, conditions, and resources facilitating [[and]]
17 the exchange of meaningful ideas [and] and the expression of creative
18 thought.

19 * * *

20 **5A-6. Council Authority.**

21 The Arts and Humanities Council, in cooperation with the County government
22 and other local public agencies, should:

23 [The Arts and Humanities Council, in cooperation with the County
24 government and other local public agencies, should:]

25 (a) Support, encourage, and promote the arts and humanities in the County,
26 including projects, performance, research, education, information

27 exchange, historic preservation, and other activities that advance the
28 artistic, cultural, and intellectual environment in the County.

29 * * *

30 **8-44. Public arts trust.**

31 * * *

32 (b) The Chief Administrative Officer or a designee must administer the
33 trust in consultation with:

34 (1) Arts and Humanities Council [of Montgomery County];

35 * * *

36 **Sec. 3. Section 8A-9(ℓ), as amended by Chapter 18 of the Laws of**
37 **Montgomery County 1998, is amended as follows:**

38 (l) Every franchise grant is subject to a franchise acceptance fee in an
39 amount that does not exceed the County's costs to consider the
40 application, less the amount of the filing fee. * * *

41 **Sec. 4. Section 33-35, as amended by Chapter 27 of the Laws of**
42 **Montgomery County 1998, is amended as follows:**

43 **33-35. Definitions.**

44 In this Article, the following words and phrases have the following
45 meanings:

46 * * *

47 **Fiduciary:** A person who:

48 * * *

49 (3) renders investment advice for a fee or other compensation about
50 assets of a retirement system or has authority or responsibility
51 to render that advice; or

52 * * *

53 **Sec. 5. Section 33-38A of the Code, as amended by Chapter 26 of the**
54 **Laws of Montgomery County 1999, is amended as follows:**

55 **33-38A. Deferred Retirement Option Plans.**

56 (a) *DROP Plan for Group F members.* * * *

57 (8) *Death benefit.* If an employee dies during the employee's
58 participation in the program, the employee's beneficiary will
59 receive:

60 (A) the death benefit that the beneficiary would have
61 received if the employee had retired on the date on which
62 the employee began to participate in the program,
63 adjusted under subsection [(6)(C)] (6)(D); and

64 (B) the balance of the employee's DRSP account.

65 * * *

66 **Sec. 6. Sections 33-42, 33-43, 33-46, and 33-47, as amended by Chapter**
67 **31 of the Laws of Montgomery County 1998, are amended as follows:**

68 **33-42. Amount of pension at normal retirement date or early retirement**
69 **date.**

70 * * *

71 (i) *Maximum annual benefit.* Despite any other provision governing the
72 retirement system, the annual benefit of a member must not exceed the
73 limits of Internal Revenue Code Section 415 that apply to the plan. The
74 Chief Administrative Officer must freeze or reduce a member's annual
75 benefit to comply with this subsection.

76 [Internal Revenue Code]

77 * * *

78 **33-43. Disability retirement.**

79 * * *

80 (d) *Non-service-connected disability retirement.* A member may be
 81 retired on a non-service-connected disability retirement if:

82 (1) The member has 5 years of credited service [and is not eligible
 83 for normal retirement];

84 * * *

85 **33-46. Death benefits and designation of beneficiaries.**

86 (a) *Beneficiary death benefits of an active member whose death is not*
 87 *service connected.* Upon the death of a member under circumstances not
 88 covered by subsection (b), the designated beneficiary must receive a
 89 death benefit payment equal to:

- 90 (1) member contributions, including ~~picked-up contributions~~, with
 91 credited interest, or a spouse's, or domestic partner's, and
 92 children's benefit as provided in subsection (e); plus
 93 (2) 50 percent of average final earnings if the member was a member
 94 of the employees' retirement system of the state of Maryland as
 95 of August 15, 1965, and became a member of the employees'
 96 retirement system of the County on or before December 31, 1966,
 97 or such later agency entrance date without a break in service, and
 98 who is not on leave without pay except for authorized leave
 99 without pay for illness.

100 * * *

101 (e) *Spouse's, or domestic partner's, and children's benefits when an active*
 102 *member eligible for vesting or retirement dies.*

103 (1) A surviving spouse, domestic partner, or child who is the
 104 designated beneficiary of a member who [dies after becoming

105 eligible for vesting or retirement, but before pension payments
 106 begin,] died after becoming eligible to vest or retire may elect
 107 within 60 days after the member's death a benefit equal to the
 108 yearly amount of benefits that would have been payable if the
 109 member had vested or retired immediately before death and had
 110 elected a 100-percent joint and survivor pension option. The
 111 payments must begin on the member's normal retirement date if
 112 the member was eligible for vesting, or immediately if the
 113 member was eligible for retirement.

114 * * *

115 **33-47. Administration.**

116 * * *

117 (e) *Payment of expenses and contributions.*

118 (1) The [county] County must pay contributions of the [county]
 119 County to the retirement system from appropriations approved
 120 by the County Council.

121 (2) The board must pay:

122 (A) operating expenses of the integrated retirement plan and
 123 the optional retirement plan from the assets of these
 124 plans; and

125 (B) operating expenses of the elected officials' plan from
 126 plan assets or from County government assets, at the
 127 direction of the Chief Administrative Officer.

128 **Sec. 7. Paragraph (3) of Section 33-116(a) of the Code, as added by**
 129 **Chapter 30 of the Laws of Montgomery County 1998, is amended by**
 130 **renumbering the paragraph as follows:**

131 **33-116. Participant Contributions.**

132 (a) *Percent of participant contributions.*

133 [(3)]

134 (4) A participant who rejoins County service after military service
 135 that qualified under Section 33-119(b) as credited service may
 136 contribute * * *

137 **Sec. 8. Chapter 23 of the Laws of Montgomery County 1998 is amended**
 138 **by renumbering Section 33-147 of the Code, as added by that Act, as follows:**

139 **33-[147]146A. Miscellaneous.**

140 **Sec. 9. Section 49-37(a) of the Code is amended as follows:**

141 **49-37. Construction by county.**

142 (a) No road shall be constructed by the county, whether on force account
 143 or by contract or both, unless the right-of-way for such road has been
 144 previously acquired by the county or dedicated to public use by
 145 appropriate recording among the land records of the county, and the
 146 cost of the road is to be charged against the benefited property in
 147 accordance with sections 49-51 to 49-61 and subsection (b) of this
 148 section. Any road so constructed shall conform to the minimum
 149 requirements, standards, and specifications for its particular
 150 classification as prescribed by this article[; provided, that the]. The
 151 county may require such construction to be in excess of or better than
 152 that prescribed as a minimum[; provided further, that nothing herein
 153 shall prohibit]. Nothing in this Section prohibits the county from
 154 constructing [roads pursuant to section 20-42 relating to] a road under
 155 a contract [services for municipalities] with a municipality or pursuant
 156 to [agreements made by the] an agreement between the county [with
 157 other governmental agencies] and another government agency.

158

* * *

159

Sec. 10. Section 49-57(a) of the Code is amended as follows:

160

49-57. Roads partly in unincorporated area and partly in city, town, etc.

161

(a) Whenever a road lies partly within the unincorporated area of the county and partly within a city, town, village, or special taxing area [therein which] of the county that has jurisdiction over the construction or maintenance of that part of the road [lying within such] in the incorporated area, the entire [length and width of such] road may be constructed by the county or by the city, town, village, or special taxing area [in accordance with] according to the laws, ordinances, rules, and regulations [relating to the] for construction of county roads[,] or of "public ways" [or such] in the city, town, village, or special taxing area [, as defined in the Annotated Code of Maryland, 1957, article 23B, section 74, in the same manner] as if [such] the road [lay] were wholly within the unincorporated area of the county or wholly within [such] the city, town, village, or special taxing area]; provided, however, that the] The county executive [or] and the governing body of [such] the city, [[county]] town, village, or special taxing area [shall] must mutually consent [thereto to the other of such parties desiring so] to construct such road or public way, which consent may be granted without regard to the laws and ordinances of [such] the county or of [such] the city, town, village, or special taxing area [relating to the] regarding construction of roads or public ways and assessment [therefor] for the construction.

162

163

164

165

166

167

168

169

170

171

172

173

174

175

176

177

178

179

180

181

182

183

- 210 (A) 36 cents for each package containing 1.5 ounces or less;
- 211 or
- 212 (B) for each package containing more than 1.5 ounces, 36
- 213 cents for each unit or fraction [or] of a unit containing 1.5
- 214 ounces.
- 215 (3) **Pipe tobacco is:**
- 216 (A) 36 cents for each package containing 1.5 ounces or less;
- 217 or
- 218 (B) for each package containing more than 1.5 ounces, 36
- 219 cents for each unit or fraction [or] of a unit containing 1.5
- 220 ounces.

* * *

222 **Sec. 14. Section 2 of Chapter 5 of the Laws of Montgomery County**
 223 **2000 is amended as follows:**

224 **Sec. 2. Section 2 of Chapter [26] 13 of the Laws of Montgomery County**
 225 **1997 is repealed:**

226 **Sec. 15. Rule of Interpretation.**

227 The amendments in this Act are intended to make technical, typographical,
 228 grammatical, codification, and stylistic changes that do not change the substantive
 229 effect of the laws that they amend. An amendment made by this Act must be
 230 interpreted as a restatement and correction of the corresponding statutory
 231 provision, without substantive effect.

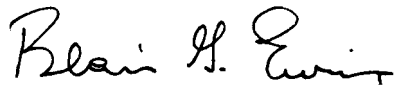
232 **Sec. 16. Effective Dates.**

233 (a) Section 1 takes effect as if enacted in Chapter 21 of the Laws of
 234 Montgomery County 1998.

235 (b) Section 2 takes effect as if enacted in Chapter 24 of the Laws of
 236 Montgomery County 1999.


- 237 (c) Section 3 takes effect as if enacted in Chapter 18 of the Laws of
238 Montgomery County 1998.
- 239 (d) Section 4 takes effect as if enacted in Chapter 27 of the Laws of
240 Montgomery County 1998.
- 241 (e) Section 5 takes effect as if enacted in Chapter 26 of the Laws of
242 Montgomery County 1999.
- 243 (f) Section 6 takes effect as if enacted in Chapter 31 of the Laws of
244 Montgomery County 1998.
- 245 (g) Section 7 takes effect as if enacted in Chapter 30 of the Laws of
246 Montgomery County 1998.
- 247 (h) Section 8 takes effect as if enacted in Chapter 23 of the Laws of
248 Montgomery County 1998.
- 249 (i) Section 9 takes effect as if enacted in Chapter 39 of the Laws of
250 Montgomery County 1977 and recodified, as amended in this Act, in
251 Chapter 37 Laws of Montgomery County 1986.
- 252 (j) Section 10 takes effect on October 1, 1994.
- 253 (k) Section 11 takes effect as if enacted in Chapter 15 of the Laws of
254 Montgomery County 2000.
- 255 (l) Section 12 takes effect as if enacted in Chapter 16 of the Laws of
256 Montgomery County 1999.
- 257 (m) Section 13 takes effect as if enacted in Chapter 34 of the Laws of
258 Montgomery County 1998.
- 259 (n) Section 14 takes effect as if enacted in Chapter 5 of the Laws of
260 Montgomery County 2000.

261 *Approved:*

262 
Blair G. Ewing, President, County Council

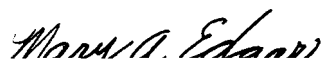
November 21, 2001
Date

263 *Approved:*

264 
Douglas M. Duncan, County Executive

11/20/01
Date

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

266 
Mary A. Edgar, CMC, Clerk of the Council

November 30, 2001
Date