



Montgomery
County Council

Committee: Directly to Council

Committee Review: N/A

Staff: Amanda Mihill, Legislative Attorney

Purpose: To receive testimony/final action - vote expected

Keywords: #

AGENDA ITEM #3
October 1, 2019
Public Hearing/Action

SUBJECT

Expedited Bill 28-19, Technical Corrections

Lead Sponsor: County Council

EXPECTED ATTENDEES

None

COUNCIL DECISION POINTS & COMMITTEE RECOMMENDATION

- Public Hearing followed by Action – Roll call vote required

DESCRIPTION/ISSUE

Bill 28-19 would correct technical, typographical, grammatical, reference, and codification errors in, and make stylistic, clarifying, and conforming amendments to, various provisions of County law.

There is a staff amendment on ©21 that includes 2 additional corrections. **Council staff recommends the Council enact Expedited Bill 28-19 with the staff amendment on ©21.**

SUMMARY OF KEY DISCUSSION POINTS

- None

This report contains:

Staff Report

Expedited Bill 28-19

Legislative Request Report

Staff amendment

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©20

©21

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MEMORANDUM

September 26, 2019

TO: County Council

FROM: Amanda Mihill, Legislative Attorney *A. Mihill*

SUBJECT: Expedited Bill 28-19, Technical Corrections

PURPOSE: Public Hearing/Action – Roll call vote required

Expedited Bill 28-19, Technical Corrections, sponsored by Lead Sponsor County Council, was introduced on September 17. Action is scheduled following this hearing.

Bill 28-19 would correct technical, typographical, grammatical, and codification errors in, and makes stylistic, clarifying, and conforming amendments to, several provisions in County law. This bill represents an accumulation of technical and stylistic errors that individually were not significant enough to warrant separate corrective legislation, but which now cumulatively justify a technical corrections bill. This legislation is a result of the continuous vigilance and technical skills of Tammy Seymour of the County Attorney's Office, who is responsible for editing the County Code.

Council staff recommendation

There is a staff amendment on ©21 that includes 2 additional corrections. Council staff recommends the Council enact Expedited Bill 28-19 with the staff amendment on ©21.

This packet contains:	<u>Circle #</u>
Expedited Bill 28-19	1
Legislative Request Report	20
Staff amendment	21

Expedited Bill No. 28-19
Concerning: Technical Corrections
Revised: 9/11/2019 Draft No. 2
Introduced: September 17, 2019
Expires: March 17, 2021
Executive: _____
Effective: _____
Sunset Date: None
Ch. _____, Laws of Mont. Co. _____

COUNTY COUNCIL FOR MONTGOMERY COUNTY, MARYLAND

Lead Sponsor: County Council

AN EXPEDITED ACT to correct technical, typographical, grammatical, reference, and codification errors in, and make stylistic, clarifying, and conforming amendments to, various provisions of County law.

By amending

Montgomery County Code
Chapter 1A, Structure of County Government
Section 1A-102

Chapter 2, Administration
Section 2-81B

Chapter 15A, Economic Development
Sections 15A-5 and 15A-12

Chapter 16, Elections
Section 16-27

Chapter 18A, Environmental Sustainability
Section 18A-35

Chapter 19, Erosion, Sediment Control and Stormwater Management
Section 19-68

Chapter 19A, Ethics
Section 19A-12

Chapter 20, Finance
Section 20-76E

Chapter 22A, Forest Conservation – Trees
Section 22A-3

Chapter 24, Health and Sanitation
Section 24-9

Chapter 25A, Housing, Moderately Priced
Sections 25A-3, 25A-5, 25A-5A, and 25A-8

Chapter 27, Human Rights and Civil Liberties
Article IX, Committee on Hate/Violence
Section 27-64

Chapter 29, Landlord-Tenant Relations
Section 29-19

Chapter 31C, New Home Builder and Seller Registration and Warranty
Sections 31C-5, 31C-6, and 31C-11

Chapter 33A, Planning Procedures
Sections 33A-2, 33A-3, and 33A-14

Chapter 49, Streets and Roads
Section 49-62

Chapter 52, Taxation
Section 52-47

Chapter 54, Transient Lodging Facilities
Sections 54-1, 54-3, 54-7, 54-8, 54-11, 54-14, 54-17, 54-20, 54-21, 54-22, 54-22A, 54-25,
54-26, 54-28, 54-30, 54-32, 54-33, 54-39, 54-43, 54-45, and 54-47

Chapter 68C, White Flint Special Taxing District
Section 68C-2

2018 Laws of Montgomery County Chapter 12

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:

Sec. 1. Sections 1A-102, 2-81B, 15A-5, 15A-12, 16-27, 24-9, 18A-35, 19-68, 19A-12, 20-76E, 22A-3, 25A-3, 25A-5, 25A-5A, 25A-8, Article IX of Chapter 27, 27-64, 29-19, 31C-5, 31C-6, 31C-11, 33A-2, 33A-3, 33A-14, 49-62, 52-47, 54-1, 54-3, 54-7, 54-8, 54-11, 54-14, 54-17, 54-20, 54-21, 54-22, 54-22A, 54-25, 54-26, 54-28, 54-30, 54-32, 54-33, 54-39, 54-43, 54-45, 54-47, and 68C-2 are amended as follows:

1A-102. Process for appointing and confirming officials.

* * *

(b) *County Health Officer.*

(1) A person is automatically nominated to the [Maryland] Secretary of [Health and Mental Hygiene] Maryland Department of Health to serve as County Health Officer under State law if the County Executive and the County Council appoint and confirm the person as the County Health Officer.

(2) If the Secretary rejects the nominee for the position of County Health Officer, the County Executive and the County Council must appoint and confirm a new person to be the County's nominee for the position.

* * *

2-81B. Economic Impact Statements.

* * *

(d) Content of economic impact statement. Each economic impact statement must include:

* * *

(2) Each economic impact statement should include the bill's potential positive or negative effects, if any, on the County's workforce, taxation policy, property values, incomes, operating

costs to businesses and non-profits operating in the County,
capital investment from the private sector, economic
development, and the County's competitiveness.

* * *

15A-5. Economic development program.

(a) The Board of Directors must recommend economic development programs and associated performance measures to the Executive and Council each year to advance the policy objectives and perform the activities listed in Section [30B-1] 15A-1, including revisions to the County's strategic plan for economic development established by Section 20-76(a).

* * *

15A-12. Workforce Development Program.

(a) The Workforce Development Corporation's Board of Directors must recommend workforce development programs and associated performance measures to the Executive, Council, and Workforce Development Board each year to advance the policy objectives listed in Section [30B-8] 15A-8.

* * *

16-27. Committee to Recommend Funding for the Public Election Fund.

* * *

(e) The [Council Administrator] Executive Director of the Office of the County Council must provide staff support for the Committee.

18A-35. Eligibility.

* * *

(b) Property assessed clean energy surcharge.

* * *

[(H)]

19-68. High-PAH pavement sealant products.

* * *

(b) Use of coal tar or high-PAH pavement sealants prohibited.

(1) A person must not use a coal tar [a coal tar] or high-PAH pavement [pavement] sealant in the County [in the County].

(2) Both the property owner and the applicator have violated this Section if a coal tar or high-PAH pavement sealant is applied in the County.

* * *

19A-12. Restrictions on other employment and business ownership.

* * *

(c) Exceptions.

(1) Subsections (a) and (b) do not apply to:

* * *

20-76E. Small Business Innovation Research and Small Business Technology Transfer Matching Grant Program.

* * *

(g) *Sunset.* This Section is not effective after July 1, 2025.

* * *

22A-3. Definitions.

In this Chapter, the following terms have the meanings indicated:

* * *

Tract means:

- (1) the property subject to a development application or a sediment control permit, the boundaries of which are described by deed or record plat;
- (2) the entire property subject to a development application or a sediment control permit if it is developed as a single project; or

(3) the length and width of the right-of-way or the limits of disturbance, whichever is greater, for a linear project.

* * *

24-9. Smoking and using electronic cigarettes in public places.

* * *

(f) *Posting signs.* [*Posting signs.*]

* * *

25A-3. Definitions.

The following words and phrases, as used in this Chapter, have the following meanings:

Age-restricted unit means a dwelling unit, the occupancy of which is conditioned on at least one resident being age 55 or older.

[*Area median income* means the median household income for the Washington, DC metropolitan area as estimated by the U.S. Department of Housing and Urban Development.]

Applicant means any person, firm, partnership, association, joint venture, business entity, or any other entity or combination of entities, and any transferee of all or part of the land at one location.

Area median income means the median household income for the Washington, DC metropolitan area as estimated by the U.S. Department of Housing and Urban Development.

* * *

25A-5. Requirement to build MPDUs; payment to Housing Initiative Fund; 3 agreements.

* * *

(e) Any applicant subject to subsection (a), in order to obtain a building permit, must submit to the Department of Permitting Services a

written MPDU agreement approved by the Director and the County Attorney. Each agreement must require that:

* * *

(2) in subdivisions with single-family dwelling units[,], each MPDU must have three or more bedrooms, unless this requirement is waived by the Director in a subdivision with only two-bedroom market rate units;

* * *

25A-5A. Alternative payment agreement.

(a) The Director may approve an MPDU agreement that allows an applicant, instead of building some or all of the required for-sale MPDUs in a proposed subdivision or conversion of existing property from non-residential use to residential use, to pay to the Housing Initiative Fund an amount computed under subsection (b) upon a finding that:

(1) either:

* * *

(B) regulatory development constraints at a particular site would render the building of approved density and all required MPDUs at that site infeasible;[,] or

* * *

(c) A payment to the Housing Initiative Fund under this Section:

* * *

(2) must be deposited in to the Affordable Housing Acquisition and Preservation CIP project; and

(3) must be used only to buy, build, or preserve more MPDUs, or more bedrooms in the same number or fewer MPDUs, in the

same Planning Area as the development for which the payment
was made unless[.]:

* * *

25A-8. Sale or rental of MPDUs.

* * *

(b) *Sale or rental to eligible households.*

* * *

(4) The Executive may by regulation establish a buyer and renter selection system which considers household size, County residency, employment in the County, and length of time since the household was certified for the MPDU program. Eligible households will be notified [and] when MPDUs are available for sale or rent and will be given an opportunity to buy or rent an MPDU during the priority marketing period in the order of their selection priority ranking.

* * *

Article IX. Committee [on] Against Hate/Violence.

* * *

27-64. Definitions

(a) As used in this Article:

* * *

Service employee means an individual employed on a full or part-time basis by a contractor as a:

* * *

(4) a driver, helper, or mechanic performing services on a County contract for residential solid waste, recycling, or yard waste collection and disposal.[.]

* * *

29-19. Licensing procedures.

* * *

(b) *Accessory apartment rental license.*

(1) An owner of a lot or parcel in a zone that permits accessory apartments may obtain a license to operate an accessory apartment if:

* * *

(C) the Director finds that:

* * *

(ii) the accessory apartment was approved under Article 59-G as a special exception under the Zoning Ordinance applicable before October 30, 2014 or [or] under 2014 Zoning Ordinance §59.3.3.3 as a conditional use.

* * *

31C-5. Registration process; fees.

* * *

(f) *Expiration of license.* Unless renewed under the procedures in Section 31C-6, a registration expires on the second anniversary of its effective date. Once a registration expires, it cannot be renewed. The former registrant must submit a new application for registration.

* * *

31C-6. Registration Renewal.

* * *

(e) By the date on which a registration is set to expire, the Director must send the applicant written notification of the [of the] Board's recommendation, if any, and the Director's final action regarding renewal of a registration. If the Director fails to notify the applicant by this date, the renewal application is deemed approved.

* * *

31C-11. Administration; regulations.

* * *

(6) [includes] include standards by which a person may be deemed qualified to comply with County and State law, as required in Section 31C-5.

33A-2. Definitions.

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

["*Article 66B*" means Article 66B of the Maryland Code.]

* * *

"*Regional District Act*" means Chapter 780 of the Laws of Maryland for 1959, as amended and codified in [Article 28] Division II of the Land Use Article of the Maryland Code.

33A-3. Initiation of plan.

The [commission] Commission or the [district council] District Council shall initiate work on a plan in accordance with the provisions of [section 63(d)1 of the regional district act] Title 21 of the Regional District Act.

33A-14. Greenhouse Gas Emissions.

As part of the factors and conditions outlined in [§7-108] Section 21-104 of the Regional District Act and [§1.01 and §1.03 of Article 66B] Section 1-201 of the Land Use Article of the Maryland Code, in preparing the Plan, the Planning Board must:

* * *

49-62. Abandonment authority; scope of Article; procedures.

* * *

(j) *Storm drainage rights-of-way.*

* * *

(4) Before granting a partial or total abandonment of a storm drainage right-of-way under this subsection, the County Executive may require the owner of the land that is presently encumbered by the storm drainage right-of-way, or the proposed owner if the County holds fee-title to the storm drainage right-of-way, to execute a maintenance and liability agreement. If the Executive requires a maintenance and liability agreement, the agreement must:

* * *

(B) hold the County harmless for any damages to private property located in the area proposed to be abandoned that arises out of the presence, maintenance of, or other work related to the existing storm drain facility.

52-47. Credits.

* * *

(b) Except as provided in subsection (l), a property owner must receive a credit for constructing or contributing to an improvement of the type listed in Section 52-50, including the cost of an improvement in a Unified Mobility Program or the White Oak Local Area Transportation Improvement Program, if the improvement reduces traffic demand or provides additional transportation capacity and to the extent the cost of the improvement exceeds the property owner's

fee under a Unified Mobility Program or the White Oak Local Area
Transportation Improvement Program.[.]

* * *

(2) The Department of Transportation must:

* * *

(E) certify the amount of the credit to the Department of
Permitting Services before that Department or a
municipality collects the applicable impact tax.[.]

* * *

54-1. Definitions.

For the purposes of this Chapter, unless the language or context clearly
indicates that a different meaning is intended, the following words and phrases
have the following meanings:

* * *

Plumbing Code means the Plumbing Code adopted by the Washington
Suburban Sanitary Commission, as amended.

* * *

Transient visitor means a person who purchases lodging, with or without
meals, for a continuous period of 6 months or less.

54-3. Guest register—Required.

Any person who owns or operates a hotel[,] in the County must maintain on
the premises a permanent register containing:

* * *

54-7. Inspection of register by county officials.

Registers kept under [section] Section 54-3 must always be available at the
hotel for inspection by the Director, the fire marshal, the police chief and their
designees. The licensee may request the official to present proper credentials or
proof of identity.

54-8. Owner, operator or manager to reside on premises.

The owner, operator, or a responsible manager appointed by the owner or operator must be on-site at all times at each hotel.

54-11. Right of entry of county officials.

The Director, the fire marshal, the police chief and their designee,[,] upon exhibiting the proper credentials or proof of identity, may enter any hotel to make any necessary inspection during business or operating hours. Inspections may also occur at other times if the county officials find it necessary to protect the health and safety of any person.

54-14. License required.

* * *

54-17. Certificates to be filed before issuance.

The Director must not issue an initial license or license renewal under this Division unless the applicant files with the Department a certificate:

* * *

54-20. Denial where operator has been convicted of certain state law violations.

The Director may deny an initial license or license renewal to operate a hotel under this Division if the Director finds the owner or operator of the proposed hotel was convicted of violating the following provisions of the Criminal Law Article of the Maryland Code:

* * *

The Director may deny an initial license or license renewal if the owner or operator was convicted of any similar offense outside Maryland.

54-21. Procedure for issuance or denial.

(a) When an application for a license under this Division, or when a previously issued license is in the renewal process,[,] the Director or

the Director's designee must conduct all investigations and inspections required by this article. The Director must approve or deny the application within 90 days after the date of filing, or as soon thereafter as practicable. Applications for renewal of a license filed on or before October 1 under Section 54-25 and that have not been approved or denied by the Director before the following January 1, remain in effect until approved or denied by the Director.

- (b) If, after all investigations and inspections are completed, the Director finds that the hotel for which a license under this Division is requested does not satisfy the requirements of this chapter, the Director must, within 10 days after making such a finding, transmit notice of such finding to the applicant. The notice must advise the applicant of the necessary corrective measures to be taken before the Director will issue the license. The Director may direct the applicant to appear within 10 days from the date of service of the notice to show cause why the license should not be denied. If the applicant fails to show cause as directed in such notice, or fails to take the necessary corrective action, the Director may deny the application.

* * *

54-22. Display.

The applicant must prominently display each license issued under this Division in the hotel for which it was issued.

54-22A. Complaints.

* * *

54-25. Renewal.

On or before July 1 of each year, every hotel must make application to the department for renewal of the license required by this Division. Before a license

for any hotel is renewed by the[,] Director, the Director must receive[,] the certificates [as] required [by] under Section 54-17. The Director must renew the license after receiving the certificates, completing any outstanding complaint investigations, and finding that the application satisfies this Article.

54-26. Revocation or suspension generally.

* * *

(b) The Director may revoke or suspend any license issued under this Division if the Director finds that the hotel is disruptive to the general peaceful enjoyment, dangerous to the health and safety[,] of the community, or is a nuisance because of noise or indecent or immoral activity by any guest, owner, operator or employee. The Director may also revoke or suspend any license issued under this Chapter if the owner or operator of the hotel has, while operating the hotel, been convicted of violating:

* * *

54-28. Water and sewer facilities.

Water and sewer facilities in every hotel must be connected to public lines where such lines are available. When public sewer lines are not available, the private sewage system must satisfy Chapter 45 of this Code. When public water lines are not available, only a water supply approved by the Director may be used.

54-30. Disposal of solid waste.

All solid waste must be stored in covered metal receptacles. These receptacles must be removed from the premises and cleaned at least once a week or as often as the Director requires.[.] All such waste must be disposed of in a manner that does not constitute a nuisance.

54-32. Minimum size of rooms.

- (a) Any habitable room in a hotel must be at least 70 square feet in floor area and there must be at least 50 square feet of floor area for each person. Children under 12 years of age are counted as one-half person. Children under 1 year of age are not counted as a person for the purpose of this requirement.

* * *

54-33. Heating and ventilation.

All rooms in hotels must be adequately heated and ventilated. Every habitable room must have at least one [one] easily opened window or skylight, or such other device that adequately ventilates the room. Every hotel must have a heating system. The heating system must be properly installed and maintained in safe and good working condition capable of safely and adequately heating all habitable rooms, bathrooms and water closet compartments to a temperature of at least 70 degrees Fahrenheit at a distance of 3 feet above floor level under ordinary minimum winter conditions.

54-39. Food, dining rooms and kitchens.

Food, public dining rooms and kitchens in each hotel must satisfy Chapter 15 [15] of this Code as amended.

54-43. Certification for a License.

An application for a bed and breakfast license or short-term residential rental or a license renewal for either use must be signed by the applicant and include the State Sales Tax and Use Registration number. The applicant must certify that:

* * *

- (m) where applicable, the following parties were notified:

- (1) in a single-unit or attached unit, abutting and confronting neighbors[,];

(2) in a multi-unit building, neighbors living across the hall and those that share a ceiling, floor, and walls with the applicant's unit[.];

(3) the municipality in which the residence is located[.];

(4) any applicable [home owner] homeowner's association, condominium, housing cooperative[.]; and

(5) the owner of the unit or the owner's rental agent, if the applicant is not the owner;

(n) the application is not prohibited by any [Home Owner's Association] homeowner's association or condominium document, or a rental lease;

* * *

54-45. License Approval and Renewal.

The Director must:

* * *

(b) approve or deny a license or a license renewal within 15 working days after receipt of the application and all required fees unless the Director receives a challenge to the certifications under Section [54-47] 54-46; and

* * *

54-47. Suspension.

* * *

68C-2. Creation; Boundaries.

(a) The White Flint Special Taxing District is coterminous with the boundary of the White Flint Metro Station Policy Area as it appears in the 2016-2020 Subdivision Staging Policy as adopted on April 17, 2018[.]

(b) Except as provided in subsection (c), the following properties, identified by street address, are not included in the District: 5411 McGrath Boulevard, 5440 Marinelli Road, 5801 Nicholson Lane, 11700 Old Georgetown Road, 11701 Old Georgetown Road, 11750 Old Georgetown Road, 11800 Old Georgetown Road, 11801 Rockville Pike, 5800 Nicholson Lane, 5802 Nicholson Lane, 5809 Nicholson Lane, 5440 Marinelli Road, 5503 Edson Lane, 5505 Edson Lane, 5507 Edson Lane, 5509 Edson Lane, 11201 Woodglen Drive, 11203 Woodglen Drive, 11205 Woodglen Drive, 11207 Woodglen Drive, 11209 Woodglen Drive, 11351 Woodglen Drive, 11418 Rockville Pike, 11200- 11219 Edson Park Place, 11222 Edson Park Place, 11224 Edson Park Place, 11226 Edson Park Place, 11228 Edson Park Place, 11230 Edson Park Place, 11232 Edson Park Place, 11234 Edson Park Place, 11236 Edson Park Place, 11238 Edson Park Place, and 11240 Edson Park Place. [Park Place.]

* * *

Sec. 2. Chapter 12 of the 2018 Laws of Montgomery County is amended as follows:

Sec. 3. Expedited Effective Date; application date.

* * *

(b) Section 2 of this Act takes effect on July 1, 2018. Notwithstanding Section 52-110(e), an individual that meets the eligibility criteria of Section [51-110(c)(3)] 52-110(c)(3) must submit an application to the Director on or before September 1, 2018 if the individual seeks to receive the tax credit for Fiscal Year 2019.

Sec. 3. Expedited Effective Date.

431 The Council declares that this legislation is necessary for the immediate
432 protection of the public interest. This Act takes effect on the date on which it
433 becomes law.

434 *Approved:*

435

436

437	Nancy Navarro, President, County Council	Date
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438 *Approved:*

439

440

441 Marc Elrich, County Executive Date

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

443

444

445	Mary Anne Paradise, Acting Clerk of the Council	Date
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LEGISLATIVE REQUEST REPORT

Bill 28-19 *Technical Corrections*

DESCRIPTION:	Makes technical, typographical, grammatical, and other non-substantive corrections to County law.
PROBLEM:	Codifying several new laws revealed several technical and other non-substantive errors that could confuse a person trying to follow or enforce County law.
GOALS AND OBJECTIVES:	To correct technical and other non-substantive errors in the County Code.
COORDINATION:	Council legal staff and County Attorney's Office.
FISCAL IMPACT:	To be requested.
ECONOMIC IMPACT:	To be requested.
EVALUATION:	Not applicable.
EXPERIENCE ELSEWHERE:	Not applicable.
SOURCE OF INFORMATION:	Amanda Mihill, Council Staff (240) 777-7815 Tammy Seymour, Office of the County Attorney (240) 777-6789
APPLICATION WITHIN MUNICIPALITIES:	The applicability of other provisions in municipalities follows the applicability of the underlying provision of the County Code.
PENALTIES:	Not applicable.

AMENDMENT

To Bill 28-19

BY COUNCIL STAFF

PURPOSE: To add additional technical corrections

Beginning on page 13, after line 274, change Section 54-9 to read:

54-9. Parking facilities.

Every hotel must provide off-street automobile parking for visitors as[[,]] required by [[chapter]] Chapter 59 of this Code, as amended.

Beginning on page 13, lines 275-159, change Section 54-11 to read:

54-11. Right of entry of county officials.

The Director, the fire marshal, the police chief and their designee,[,] upon exhibiting the proper credentials or proof of identity, may enter any hotel to make any necessary inspection during business or operating hours. Inspections may also occur at other times if the county officials find it necessary to protect the health and safety of any person.