



Committee: Directly to Council
Committee Review: N/A
Staff: Christine Wellons, Legislative Attorney
Purpose: To receive testimony – no vote expected
Keywords: #Technical Corrections

AGENDA ITEM 5
September 14, 2021
Public Hearing

SUBJECT

Expedited Bill 28-21, Technical Corrections
Lead Sponsor: County Council

EXPECTED ATTENDEES

Public speakers

COUNCIL DECISION POINTS & COMMITTEE RECOMMENDATION

- Public Hearing – no vote expected

DESCRIPTION/ISSUE

- Expedited Bill 28-21 would correct technical, typographical, grammatical, reference, and codification errors in, and make stylistic, clarifying, and conforming amendments to, various provisions of County law.

SUMMARY OF KEY DISCUSSION POINTS

- The County Council periodically enacts a technical corrections bill to fix typographical and stylistic errors in the County laws.
- The most recent technical corrections bill was in 2019, Expedited Bill 28-19.
- Council staff have worked with staff of the County Attorney's Office to prepare Expedited Bill 28-21. The bill makes non-substantive, technical corrections to multiple laws, including the following sections of the Code: 1A-203, 2-43, 2-64A, 2-81B, 16-31, 18A-8, 19A-4, 20-76F, 20-76G, 22A-3, 22A-5, 22A-6, 22A-12, 22A-13, 22A-30, 22A-31, 26-18A, 29-1, 33-26, 33-27, 33-28, 33-29, 33-30, 33-31, 33-32, 33-33, 33A-14, 35-2, 35-6A, 42A-24, 48-62, 52-103A, and 52-103B.

This report contains:

Staff Report	Page 1
Expedited Bill-28-21	©1
Legislative Request Report	©13

F:\LAW\BILLS\2128 technical corrections\PH Cover Sheet.Docx

Alternative format requests for people with disabilities. If you need assistance accessing this report you may [submit alternative format requests](#) to the ADA Compliance Manager. The ADA Compliance Manager can also be reached at 240-777-6197 (TTY 240-777-6196) or at adacompliance@montgomerycountymd.gov

MEMORANDUM

September 9, 2021

TO: County Council
FROM: Christine Wellons, Legislative Attorney
SUBJECT: Expedited Bill 28-21 Technical Corrections
PURPOSE: Public Hearing – No Council vote required

Expedited Bill 28-21, Technical Corrections, sponsored by the County Council, was introduced on July 13, 2021. Action on the bill is tentatively scheduled for September 14, 2021.¹

Expedited Bill 28-21 would correct technical, typographical, grammatical, reference, and codification errors in, and make stylistic, clarifying, and conforming amendments to, various provisions of County law. Specifically, the bill would make non-substantive, technical corrections to the following sections of code: 1A-203, 2-43, 2-64A, 2-81B, 16-31, 18A-8, 19A-4, 20-76F, 20-76G, 22A-3, 22A-5, 22A-6, 22A-12, 22A-13, 22A-30, 22A-31, 26-18A, 29-1, 33-26, 33-27, 33-28, 33-29, 33-30, 33-31, 33-32, 33-33, 33A-14, 35-2, 35-6A, 42A-24, 48-62, 52-103A, and 52-103B.

These sections relate to Chapters of the Code regarding Administration, Elections, Environmental Sustainability, Ethics, Finance, Forest Conservation – Trees, Housing and Building Maintenance Standards, Landlord-Tenant Relations, Personnel and Human Resources, Planning Procedures, Police, Ridesharing and Transpiration Management, Solid Waste, and Taxation.

This packet contains:	<u>Circle #</u>
Bill 28-21	1
Legislative Request Report	13

F:\LAW\BILLS\2128 technical corrections\PH Memo.Docx

¹ #Technical Corrections

Expedited Bill No. 28-21
Concerning: Technical Corrections
Revised: 7/6/2021 Draft No. 2
Introduced: _____
Enacted: _____
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-203

Chapter 2, Administration
Sections 2-43 2-64A, and 2-81B

Chapter 16, Elections
Section 16-31

Chapter 18A, Environmental Sustainability
Section 18A-8

Chapter 19A, Ethics
Section 19A-4

Chapter 20, Finance
Sections 20-76F and 20-76G

Chapter 22A, Forest Conservation - Trees
Sections 22A-3, 22A-5, 22A-6, 22A-12, 22A-13, 22A-30, and 22A-31

Chapter 26, Housing and Building Maintenance Standards

Section 26-18A

Chapter 29, Landlord-Tenant Relations
Section 29-1

Chapter 33, Personnel and Human Resources
Sections 33-26, 33-27, 33-28, 33-29, 33-30, 33-31, 33-32, and 33-33

Chapter 33A, Planning Procedures
Section 33A-14

Chapter 35, Police
Sections 35-2 and 35-6A

Chapter 42A, Ridesharing and Transportation Management
Section 42A-24

Chapter 48, Solid Waste
Section 48-62

Chapter 52, Taxation
Sections 52-103A and 52-103B

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

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

1 **Sec. 1. Sections 1A-203, 2-43, 2-64A, 2-81B, 16-31, 18A-8, 19A-4, 20-76F,**
2 **20-76G, 22A-3, 22A-5, 22A-6, 22A-12, 22A-13, 22A-30, 22A-31, 26-18A, 29-1,**
3 **33-26, 33-27, 33-28, 33-29, 33-30, 33-31, 33-32, 33-33, 33A-14, 35-2, 35-6A,**
4 **42A-24, 48-62, 52-103A, and 52-103B are amended as follows:**

5 **1A-203. Establishing other offices.**

6 (a) Executive Branch. These are the offices of the Executive Branch that
7 are not part of a department or principal office:

8 * * *

9 Office of Community Use of Public Facilities (section 2-64M)

10 * * *

11 **2-43. Organization and functions.**

12 [(a)] (a) The Department of Police includes the County police and the
13 [Division] Office of County Security [Division]. The Department has
14 the authority, functions and activities prescribed by law.

15 * * *

16 **DIVISION 13. OFFICE OF RACIAL EQUITY AND SOCIAL JUSTICE.**

17 **[OFFICE OF RACIAL EQUITY AND SOCIAL JUSTICE.]**

18 **2-64A. [Sec. 2-64A.] Office of Racial Equity and Social Justice.**

19 * * *

20 **2-81B. Economic Impact Statements.**

21 * * *

22 (c) *Time for submission.*

23 (1) An economic impact statement should be submitted to the
24 Council no more than 21 days after a bill is introduced.

25 (2) If the Director is unable to submit the statement within [the
26 time required by paragraph (2)] 21 days after the bill is
27 introduced, the Director must notify the Council President in

28 writing of the delay, the reason for the delay, and the revised
29 delivery date. If the Council President finds that the revised
30 delivery date is unreasonable, the Council President may set a
31 different delivery deadline.

32 * * *

33 **16-31. Public Election Fund Committee[; County liaison].**

34 * * *

35 **18A-8. Duties and responsibilities.**

36 The Committee has the following duties:

- 37 (a) Advise the Executive and the Council of the activities of the
- 38 Committee in furthering the purpose of this Chapter and Chapter 3;
- 39 (b) Comment on or assist in developing recommendations to promote and
- 40 implement immediate and long-range policies and programs aimed at
- 41 meeting the County’s greenhouse gas emission reduction goals;
- 42 (c) Comment on or assist in developing recommendations to promote and
- 43 implement immediate and long-range policies and programs to
- 44 promote cleaner, more efficient, and more reliable energy use and
- 45 practice in all segments of the community;

46 * * *

47 **19A-4. Definitions.**

48 * * *

- 49 (g) *Employment or employ* means engaging in an activity for
- 50 compensation, including the active sale or promotion for sale of
- 51 intellectual property produced by the public employee, such as books,
- 52 newspaper, magazine, or journal articles, videos, crafts, and
- 53 artwork.[.]

54

* * *

55 **Sec. 20-76F. Public Health Emergency Grant Program.**

56

* * *

57 **[20-76F.] 20-76G. Remedies for Fraudulent Applications or Misuse of Funds.**

58

* * *

59 **22A-3. Definitions.**

60

* * *

61 *Land disturbing activities:*

- 62 (1) has the same meaning as in Chapter 19; and
- 63 (2) means cutting, clearing, or grading of more than 5,000 square feet of
- 64 forest.

65

* * *

66 *Watershed* means any area delineated as a watershed in the Montgomery
 67 County Municipal Separate Storm Sewer System (MS4) Permit
 68 Implementation Program (delineated by the State of Maryland as an 8-digit
 69 watershed)[,], and or any smaller area within the watershed that is delineated
 70 by the State of Maryland as a 12-Digit watershed.

71

* * *

72 **22A-5. Exemptions.**

73 The requirements of Article II do not apply to:

74

* * *

- 75 (b) an agricultural activity if:
 - 76 (1) the activity is exempt from the requirements to obtain a
 - 77 sediment control permit under Section 19-2(b)(2)[. Agricultural
 - 78 support buildings and related activities are exempt only if built
 - 79 using best management practices];

80 (2) the activity is subject to a declaration of intent filed with the
81 Planning Director stating that the agricultural areas will remain
82 in commercial agriculture; and

83 (3) agricultural support buildings and related activities are built
84 using best management practices.

85 * * *

86 **22A-6. Special provisions – Exemptions; tree save plans; and highway**
87 **projects.**

88 (a) Tree save plan requirements. An activity or development that would
89 be exempt under Section 22A-5[,], and that would impact a
90 significant, specimen, or champion tree, requires the approval of a tree
91 save plan, which may require tree preservation or mitigation for loss
92 of individual trees. The plan requirements must be based on the size
93 and character of the trees to be cleared. If trees to be cleared are part
94 of an existing scenic buffer between public parkland and a proposed
95 development, trees which are smaller than specimen size may be
96 included in the plan.

97 * * *

98 **22A-12. Retention, afforestation, and reforestation requirements.**

99 * * *

100 (e) *Standards for reforestation and afforestation.*

101 (1) (A) Preferred sequence. Except as provided in the technical
102 manual or otherwise in paragraph (1) of this subsection,
103 the preferred sequence for afforestation and reforestation
104 is, in general: on-site afforestation or reforestation; off-
105 site afforestation or reforestation[;]; enhancement of

106 existing forest through on-site selective clearing,
107 supplemental planting, or both; acquiring credit(s) from
108 an off-site forest mitigation bank; paying a fee in-lieu;
109 and landscaping with an approved plan.

110 * * *

111 (g) *In lieu fee.*

112 * * *

- 113 (1) (A) the requirements for reforestation or afforestation on-site
- 114 or off-site cannot reasonably be accomplished;
- 115 (B) appropriate credits generated by a forest mitigation bank
- 116 in the same watershed within the County are not
- 117 available; and

118 ~~[(B)]~~ (C) if appropriate credits generated by a forest
119 mitigation bank in the same watershed within the County
120 are not available, appropriate credits generated by a
121 forest mitigation bank in the County are not available; or

122 * * *

123 **22A-13. Forest mitigation banks.**

124 * * *

125 (e) The forest mitigation bank plan must include:

- 126 (1) a maintenance agreement which meets the standards in
- 127 subsection 22A- 12(h)(1);
- 128 (2) all information required by subsection 22A-10(c) for a forest
- 129 conservation plan;
- 130 (3) draft easements, covenants, or deed restrictions for the area
- 131 included in the forest mitigation bank[.]; and

132 * * *

133 **22A-30. County Arborist.**

134 * * *

135 (c) *Duties.* The County Arborist has the following functions related to
136 resource management and protection of forest and trees in the County:

137 * * *

138 (4) review variance requests and reports under Article II[, but not
139 including those under 22A-12(b)(3)];

140 * * *

141 **22A-31. Forest Conservation Advisory Committee**

142 * * *

143 (c) *Composition and terms of members.*

144 * * *

145 (2) The Executive must designate a staff member from each of the
146 following departments to serve as an ex officio member:

147 (A) [Agricultural Services] Agricultural Services;

148 * * *

149 **26-18A. Outreach on Quality of Life Issues.**

150 The Executive must submit quarterly reports to the Council that includes
151 activities, plans, and objectives of Executive branch departments to address
152 instances in which an aggregation of problems has led to diminished quality
153 of life for affected residents in an affected community. Contents of the
154 annual report can include recommendations to increase enforcement of
155 violations of County laws related to housing maintenance standards, parking,
156 and solid waste disposal. Every quarterly report must include a section on
157 accessory dwelling units. The accessory dwelling unit section must identify
158 any problems and actions taken or planned actions to eliminate those

159 problems. The Executive, or the Executive’s designee, must hold
160 semiannual meetings with County residents to discuss these problems.

161 * * *

162 **29-1. Definitions.**

163 * * *

164 *Dwelling unit, multifamily:*

- 165 (a) a dwelling unit that shares a common entrance from the outside with
- 166 other dwelling units in the same building;
- 167 (b) a dwelling unit in a structure where units are arranged above or below,
- 168 or next to, another dwelling unit;
- 169 (c) an accessory dwelling unit;[;] or
- 170 (d) an individual living unit.

171 * * *

172 **[33-26] 33-27—33-33. Reserved.**

173 * * *

174 **33A-14. Greenhouse Gas Emissions and Racial Equity and Social Justice.**

175 As part of the factors and conditions outlined in Section 21-104 [Section
176 21-104] of the Regional District Act and Section 1-201 of the Land Use
177 Article of the Maryland Code [Section 1-201 of the Land Use Article of
178 the Maryland Code] in preparing the Plan, the Planning Board must:

179 * * *

180

181 **35-2. Law Enforcement Trust and Transparency Act.**

182 * * *

183 (e) *Internal investigation.* This Section must not be interpreted to
184 prohibit:

- 185 (1) an internal administrative review of the incident by the

186 Department for possible discipline of a police officer pursuant
187 to the Law Enforcement Officers’ Bill of Rights, MD Public
188 Safety Code, §§3-101 to 3-113, as amended; [or;] or

189 * * *

190 **35-6A. Community Policing.**

191 * * *

192 **42A-24. Transportation Demand Management Plans for Employers.**

193 (a) *Transportation Demand Management (TDM) Plan for an Individual*
194 *Employer.*

195 (1) The Director must require an employer subject to this Section
196 to submit a TDM Plan meeting the requirements of this Section
197 [District].

198 (2) Upon written request from the Director, an employer must
199 provide the Director with the number of full-time and part-time
200 employees working for that organization by workplace in each
201 Policy Area or District.

202 (3) An employer must submit a TDM Plan to the Director if: [.]

203 * * *

204 **48-62. Enforcement.**

205 * * *

206 (d) *Presumption of responsibility.* There is a rebuttable presumption that
207 the owner of private property from which a balloon [in] is released in
208 violation of Section 48-60 is responsible for the violation if the
209 enforcement officer cannot determine which person released the
210 balloon.

211 * * *

212 **52-103A. Property tax credit — energy-efficient buildings.**

213 * * *

214 (b) *Definitions.* In this Section the following words have the meanings
215 indicated:

216 * * *

217 *Energy-efficient building* means a [non- residential] non-residential or
218 multi-family residential building that:

- 219 (1) has or will have at least 10,000 square feet of gross floor area;
- 220 (2) has received a Certificate of Occupancy from the Department of
221 Permitting Services;
- 222 (3) has achieved at least a minimum 50 percent occupancy rate for
223 at least 12 consecutive months; and
- 224 (4) has demonstrated energy improvements consistent with the
225 requirements of this Section.

226 * * *

227 **52-103B. Property tax credit — newly constructed energy-efficient buildings.**

228 * * *

229 (c) *Definitions.* In this Section the following words have the meanings
230 indicated:

231 * * *

232 *Newly constructed energy-efficient building* means:

233 * * *

- 234 (B) A newly constructed non-residential or [multifamily]
235 multi-family building, of at least 10,000 square feet in
236 gross floor area, that has achieved substantial completion
237 and received a Certificate of Occupancy from the
238 Department of Permitting Services within the past year;

239

or

240

(C) A non-residential or [multifamily] multi-family building,
241 of at least 10,000 square feet in gross floor area, that has
242 undergone a major renovation that warrants bringing the
243 entire building up to current Building Code standards and
244 has received final inspection and approval from the
245 Department of Permitting Services.

246

* * *

247

Sec. 2. Expedited Effective Date. The Council declares that this legislation

248

is necessary for the immediate protection of the public interest. This Act takes

249

effect on the date on which it becomes law.

LEGISLATIVE REQUEST REPORT

Expedited Bill 28-21
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: Christine Wellons, Council Staff
Tammy Seymour, Office of the County Attorney

APPLICATION WITHIN MUNICIPALITIES: The applicability of other provisions in municipalities follows the applicability of the underlying provision of the County Code.

PENALTIES: Not applicable.