Print

Montgomery County Code

Chapter 8. Buildings. [Note]

Article I. General Requirements.

§ 8-1. Scope and applicability.

§ 8-2. Definitions.

§ 8-3. Ordinary repairs.

§ 8-4. Installation of service equipment.

§ 8-5. Maintenance.

§ 8-6. Change in existing use.

§ 8-7. Existing buildings.

§ 8-8. Conditional use approval.

§ 8-9. Posted buildings.

§ 8-10. Unsafe buildings.

Article II. Administration.

§ 8-11. Generally.

§ 8-12. Duties and responsibilities.

§ 8-13. Regulations.

§ 8-14. Standards applicable.

§ 8-14A. Energy performance standards for county buildings.

§ 8-14B. County buildings - energy unit savings plans, energy cost savings plans, and energy performance contracts.

§ 8-14C. Reserved.

§ 8-15. Modifications.

§ 8-16. Controlled materials procedure.

§ 8-17. Inspection.

§ 8-18. Right of entry.

§ 8-19. Emergency measures.

§ 8-20. Stop work order.

§ 8-21. Revocation of permit.

§ 8-22. Violations.

§ 8-23. Appeals.

Article III. Permits.

§ 8-24. Application for permit.

§ 8-24A. Child day care facility.

§ 8-24B. Permits for property within homeowners' associations, municipal corporations, or special taxing districts.

§ 8-24C. Expedited review process for a solar photovoltaic system.

§ 8-24D. Expedited review process for an electric vehicle charging station.

§ 8-25. Permits.

§ 8-25A. Permits affecting certain properties; public notice.

§ 8-26. Conditions of permit.

§ 8-27. Demolition or removal of buildings.

§ 8-28. Certificate of use and occupancy.

§ 8-29. Building within floodplain areas and on unsafe land.

§ 8-29A. Residential fire sprinklers.

§ 8-29B. Control of water runoff on small lots.

Article IV. Timely Adequate Public Facilities Determination.

§ 8-30. Purpose; definitions.

§ 8-31. Requirement for timely adequate public facilities determination; applicability.

§ 8-32. Administrative procedures.

§ 8-33. Reserved.

§ 8-34. Reserved.

§ 8-35. Reserved.

§ 8-36. Reserved.

Article V. Development Approval Payments.

§ 8-37. Payment.

§ 8-38. Rates.

§ 8-39. Exemptions.

§ 8-40. Credits.

§ 8-41. Payments; installment payments.

§ 8-42. Collection and administration; interest and penalties; violation; lien.

Article VI. Works of Art in Public Architecture.

§ 8-43. Definitions.

§ 8-44. Public arts trust.

§ 8-45. Appropriation for art.

§§ 8-46-8-50. Reserved.

Article VII. Reserved.

§§ 8-46—8-53. Reserved.

Article VIII. Clean Renewable Energy Technology.

§ 8-54. Definitions.

§ 8-55. Clean renewable energy technology required.

§ 8-56. Alternative financing.

§ 8-57. Administration; reporting.

Article I. General Requirements.

Sec. 8-1. Scope and applicability.

(a) *Generally.* This Chapter includes the rules and regulations adopted under Section 8-13 which have the force of law. It is known as the building code of Montgomery County. It controls all matters concerning the construction, alteration, addition, repair, removal, demolition, use, location. This Chapter also concerns the creation or alteration of certain ownership units, the occupancy and maintenance of all buildings and structures, on-site access facilities to such buildings and structures and their service equipment. This Chapter applies to existing or proposed buildings and structures in the County.

(b) *Intent.* The intent of this Chapter is to assure public safety, health and welfare as it is affected by building construction, structural strength, egress facilities, sanitary equipment, light, utilities and ventilation, occupancies, and fire safety. In general, the intent of this chapter is to secure safety to life and property from all hazards associated with the design, erection, repair, removal, demolition or use and occupancy of buildings, structures or premises.

(c) *Applicability generally.*

(1) This Chapter applies to the construction, raising, lowering, moving, demolition or occupancy of all buildings and structures and their appurtenant construction, including vaults, area and street projections, on-site access facilities, accessory structures, and additions. It applies to public and private buildings, except where such buildings are otherwise specifically excluded by statute. It also applies to the creation or alteration of any ownership unit, and the closure of any private road.

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

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

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

(d) *Exemptions.* All buildings or structures must be constructed, extended, repaired, removed or altered under a permit that satisfies this Chapter, except for:

(1) ordinary repairs as defined in Section 8-3;

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

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

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

(3) the following public utility equipment:

(A) any structure and its attached cross arms carrying overhead electric power and energy transmission and distribution lines that carry 69,000 volts or less;

(B) equipment installed and maintained by a public utility under regulation by the State Public Service Commission; or

(C) poles or structures used for street lights, fire alarm boxes, traffic signals, or similar municipal equipment installed by the State or a local municipality.

(e) *Matters not provided for.* Any requirement essential for structural, fire or sanitary safety of an existing or proposed building or structure or essential for the safety of the building's occupants and which is not specifically covered by this Chapter, must be determined by the director under Section 8-13.

(f) *Zoning restrictions and referrals.*

(1) When the provisions specified in this Chapter for structural, fire, and sanitary safety are more restrictive than those in Chapter 59, this Chapter controls the erection or alteration of buildings in respect to location, use, permissible area and height; but the more rigid requirements of either the building code or the zoning ordinance applies whenever they are in conflict.

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

(A) construction of a new principal structure; and

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

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

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

(A) a child of the property owner;

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

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

(D) a contractor for the spouse of a child of the property owner. (1975 L.M.C., ch. 1, § 1; 1975 L.M.C., ch. 24, § 1; 1985 L.M.C., ch. 31, § 7; 2016 L.M.C., ch. 35, § 1; 2017 L.M.C., ch. 12, §1.)

Editor's note—See County Attorney Opinion dated 7/29/98 explaining that the Washington Metropolitan Area Transportation Authority, Housing Opportunities Commission, and the fire corporations must comply

with County permit requirements and mandatory referral. See County Attorney Opinion dated 5/20/91 indicating that the Washington Suburban Sanitary Commission is exempt from listed local permits, including Chapters 8, 19, 22, 50, and 59, but must comply with State law regarding sediment control and fire safety.

Sec. 8-2. Definitions.

In this Chapter, the following words and phrases have the following meanings:

Controlled materials. Materials which are certified by an accredited or authoritative agency as meeting accepted engineering standards for quality in accordance with detailed criteria set forth in regulations promulgated pursuant to provisions of this Chapter.

Department. The Department of Permitting Services.

Director. The Director of the Department of Permitting Services.

International Building Code. A comprehensive performance code governing materials and methods of construction used in buildings and structures or parts of either, and their service equipment and systems, published periodically by the International Code Council, Inc., (ICC) or any successor body.

On-site access facilities. Ramps, walkways, driveways and related pedestrian facilities located on a building site which provide a means of access for the public or the general work force to buildings and structures regulated by this Chapter.

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

Parent lot. A lot that is further divided by one or more ownership units.

Person. Any person, corporation, partnership, joint venture, agency, unincorporated association, municipal corporation, County or state agency within the state or any combination thereof.

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

Service equipment. The mechanical, electrical and elevator equipment, including piping, wiring, fixtures and other accessories, which provide sanitation, lighting, heating, ventilation, fire-fighting and transportation facilities essential for the habitable occupancy of the building or structure for its designated use and occupancy. (1975 L.M.C., ch. 1, § 1; 1975 L.M.C., ch. 24, § 2; 1996 L.M.C., ch. 20, § 1; 1998 L.M.C., ch. 12, § 1; 2001 L.M.C., ch. 14, § 1; 2002 L.M.C., ch. 16, § 2; 2003 L.M.C., ch. 16 , § 1; 2016 L.M.C., ch. 35 , § 1.)

Editor's note—See County Attorney Opinion dated 7/29/98 explaining that the Washington Metropolitan Area Transportation Authority, Housing Opportunities Commission, and the fire corporations must comply with County permit requirements and mandatory referral. See County Attorney Opinion dated 10/16/96 discussing an executive regulation that applies to any building for which the County finances all or part of the construction.

Sec. 8-3. Ordinary repairs.

Ordinary repairs to buildings may be made without application or notice to the department; but such repairs shall not include the cutting away of any wall, partition or portion thereof, the removal or cutting of

any structural beam or bearing support or the removal or change of any required means of egress or rearrangement of parts of a structure affecting the exitway requirements; nor shall ordinary repairs include addition to, alteration of, replacement or relocation of any standpipe, water supply, sewer, drainage, drain leader, gas, soil, waste, vent or similar piping, electric wiring or mechanical or other work affecting public health or general safety. (1975 L.M.C., ch. 1, § 1.)

Sec. 8-4. Installation of service equipment.

When the installation, extension, alteration, or repair of an elevator, moving stairway, mechanical equipment, refrigeration, air conditioning or ventilating apparatus, plumbing, gas piping, electric wiring, heating system, fire sprinkler system, or any other equipment is subject to a requirement of this Chapter, it shall be unlawful to use the equipment until the Director issues a certificate approving the work. (1975 L.M.C., ch. 1, § 1; 2003 L.M.C., ch. 23, § 1.)

Sec. 8-5. Maintenance.

(a) All buildings and structures and all parts thereof, both existing and new, shall be maintained in a safe and sanitary condition. All service equipment, means of egress, devices and safeguards which are required by this chapter in a building or which were required by a previous statute in a building when erected, altered or repaired, shall be maintained in good working order.

(b) It shall be unlawful for the owner of a building or his designated agent to fail to maintain the structure and its exitways in a safe and sanitary condition at all times. (1975 L.M.C., ch. 1, § 1.)

Sec. 8-6. Change in existing use.

(a) *Continuation of existing use.* The legal use and occupancy of any structure existing on the effective date of this chapter or for which it had been heretofore approved, may be continued without change, except as may be specifically required herein or as may be deemed necessary by the director for the general safety and welfare of the occupants and the public.

(b) *Change in use.* It shall be unlawful to make any change in the use or occupancy of any structure which would subject it to any special provision of this chapter without approval of the director and his certification that such structure meets the intent of the provisions of law governing building construction for the proposed new use and occupancy and that such change does not result in any greater hazard to public safety or welfare. (1975 L.M.C., ch. 1, § 1.)

Sec. 8-7. Existing buildings.

Except as provided in this section, existing buildings when altered or repaired as herein specified shall be made to conform to the full requirements of this chapter for new buildings:

(a) *Alterations and damages over 25 percent.* If the cost of alterations or repairs, as described herein, or damages by fire or other cause, is over twenty-five (25) percent of the physical value of the building, the director shall determine to what degree the portions so altered or repaired shall be made to conform to the requirements for new buildings.

(b) *Alterations under 25 percent.* If the cost of alterations or repairs described herein is twenty-five (25) percent or less of the physical value of the building, the director shall permit the restoration of the building to its condition previous to damage or deterioration with the same kind of materials as those of which the

building was constructed; provided, that such construction does not endanger the general safety and public welfare and complies with other provisions of this chapter in respect to existing roofs.

(c) *Increase in size.* If the building is increased in floor area or number of stories, the entire building shall be made to conform with the requirements of this chapter with respect to means of egress, fire safety, light and ventilation.

(d) *Part change in use.* If a portion of the building is changed in occupancy or to a new use group and that portion is separated from the remainder of the building with the required vertical and horizontal fire divisions complying with the fire grading in this chapter, then the construction involved in the change shall be made to conform to the requirements for the new use and occupancy and the existing portion shall be made to comply with the exitway requirements of this chapter.

(e) *Physical value.* In applying the provisions of this section, the physical value of the building shall be determined by the director and be based on current replacement costs. (1975 L.M.C., ch. 1, § 1; 1980 L.M.C., ch. 56, § 1.)

Sec. 8-8. Conditional use approval.

For a site with a conditional use:

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

(b) Any change proposed during construction that would substantially alter the location or external appearance of any approved building, structure, or use requires an amendment under Article 59-7 of this Code. (2016 L.M.C., ch. 35, § 1.)

Editor's note—Former § 8-8, Removal of buildings, derived from 1975 L.M.C., ch. 1, § 1, was repealed by 2002 L.M.C., ch. 24, § 1. See § 8-27.

Sec. 8-9. Posted buildings.

(a) *Posted use and occupancy.* Every building and structure and part thereof designed for and listed among high hazard, storage, mercantile, industrial or business use groups as determined in regulations promulgated pursuant to provisions of this chapter shall be posted on all floors by the owner with a suitably designed placard in a form designated by the director, which shall be securely fastened to the structure in a readily visible place, stating: the use group, the fire grading, the live load and the occupancy load.

(b) *Posted occupancy load.* Every building and structure and part thereof designed for a use listed among the assembly building or institutional building use groups as determined in regulations promulgated pursuant to provisions of this chapter shall be posted with an approved placard designating the maximum occupancy load.

(c) *Replacement of posted signs.* All posting signs shall be furnished by the owner and shall be of permanent design; they shall not be removed or defaced and, if lost, removed or defaced, shall be immediately replaced.

(d) *Periodic inspection.* The director may periodically inspect all existing buildings and structures except one- and two-family dwellings, for compliance with the law in respect to posting, or he may accept the report of such inspection from an authorized licensed professional engineer or architect and such inspection and report shall specify any violation of the requirements of this chapter in respect to the posting of floor load, fire grading, occupancy load and use group of the building. (1975 L.M.C., ch. 1, § 1.)

Sec. 8-10. Unsafe buildings.

(a) *Right of condemnation.* All buildings or structures that are or hereafter shall become unsafe, unsanitary or deficient in adequate exitway facilities or which constitute a fire hazard or are otherwise dangerous to human life or the public welfare or which by reason of illegal or improper use, occupancy or maintenance shall be deemed unsafe buildings or structures. All unsafe buildings shall be taken down and removed or made safe and secure, as the director may deem necessary and as provided in this section. A vacant building, unguarded or open at door or window, shall be deemed a fire hazard and unsafe within the meaning of this chapter.

(b) *Examination and record of damaged building.* The director shall examine every building or structure reported as dangerous, unsafe structurally or constituting a fire hazard and he shall cause the report to be filed in a docket of unsafe structures and premises, stating the use of the building, the nature and estimated amount of damages, if any, caused by collapse or failure.

(c) *Notice of unsafe building.* If an unsafe condition is found in a building or structure, the director shall serve on the owner, agent or person in control of the building or structure a written notice describing the building or structure deemed unsafe and specifying the required repairs or improvements to be made to render the building or structure safe and secure or requiring the unsafe building or structure or portion thereof to be demolished within a stipulated time. Such notice shall require the person thus notified to immediately notify the director of his acceptance or rejection of the terms of the order.

(d) *Restoration of unsafe building.* A building or structure condemned by the director may be restored to safe condition; provided, that no change of use or occupancy is contemplated or compelled by reason of such reconstruction or restoration; except, that if the damage or cost of reconstruction or restoration is in excess of fifty (50) percent of its replacement value, exclusive of foundations, such building shall be made to comply in all respects with the requirements for materials and methods of construction of buildings hereafter erected.

(e) *Posting "unsafe" notice.* If the person addressed with an "unsafe" notice cannot be found within the county after diligent search, then such notice shall be sent by registered or certified mail to the last known address of such person and a copy of the ``unsafe" notice shall be posted in a conspicuous place on the premises and such procedure shall be deemed the equivalent of personal notice.

(f) *Disregard of "unsafe" notice.* Upon refusal or neglect of the person served with an "unsafe" notice to comply with the requirements of the order to abate the unsafe condition, the county attorney shall be advised of all the facts and he shall institute the appropriate action to compel compliance. (1975 L.M.C., ch. 1, § 1.)

Cross references-Dangerous buildings, § 22-79; housing code procedure for unfit dwellings, § 26-12; unsafe buildings, ch. 55.

Article II. Administration.

Sec. 8-11. Generally.

The Director enforces and administers this Chapter. (1975 L.M.C., ch. 1, § 2; 1996 L.M.C., ch. 20, § 1; 1998 L.M.C., ch. 12, § 1; 2001 L.M.C, ch. 14, § 1; 2002 L.M.C., ch. 16, § 2.)

Editor's note—See County Attorney Opinion dated 10/16/96 discussing an executive regulation that applies to any building for which the County finances all or part of the construction.

Sec. 8-12. Duties and responsibilities.

The Director shall enforce all the provisions of this Chapter and shall act on any question relative to the mode or manner of construction and the materials to be used in the erection, addition to, alteration, repair, removal, demolition, installation of service equipment and the location, use, occupancy and maintenance of all buildings and structures, except as may otherwise be specifically provided for by statutory requirements or as herein provided:

(a) *Applications and permits.* He shall receive applications and issue permits for the erection and alteration of buildings and structures and inspect the premises for which such permits have been issued and enforce compliance with the provisions of this Chapter;

(b) *Building notices and orders.* He shall issue all necessary notices or orders to remove illegal or unsafe conditions, to require the necessary safeguards during construction, to require adequate exitway facilities in existing buildings and structures and to ensure compliance with all the code requirements for the safety, health and general welfare of the public;

(c) *Inspections.* The Director must make all the required inspections or may accept reports of inspection by authoritative and recognized services or individuals, and all reports of those inspections must be in writing and certified by a responsible officer of the authoritative service or by the responsible individual; or the Director may engage expert opinion as necessary to report upon unusual technical issues that may arise, subject to the approval of the appointing authority. On the request of the Director of Housing and Community Affairs, under the authority of Chapter 26, the Director must investigate complaints of defects in construction that may violate Chapter 26.

(d) *Research and investigations.* The Director must investigate new developments in the building industry. Subject to local climatic or other conditions, the Director must accredit tests meeting the functional requirements of this Chapter conducted by accredited authoritative agencies listed in applicable regulations. The Director also may accept duly authenticated reports from the International Code Council, Inc., or from recognized authoritative sources of all new materials and methods of construction proposed for use which are not specifically provided for in this Chapter. The costs of all tests or other investigations required under this subsection must be paid by the applicant.

(e) *Department records.* He shall keep official records of applications received, permits and certificates issued, fees collected, reports of inspections, and notices and orders issued. File copies of all papers in connection with building operations shall be retained in the official records so long as the building or structure to which they relate remains in existence; and

(f) *Hearings.* Prior to the issuance of notices, orders and permits hereunder, the Director may, upon request, provide all interested parties with an opportunity for hearing after reasonable notice as specified in Section 8-15(c) of this Chapter. The notice shall state the time, place and issues involved. If the Director holds a hearing on a decision of the Department, the time for appeal to the Board of Appeals shall be stayed until a decision is made by the Director or until the Director has acted on a request for reconsideration, if any. A copy of the Director's decision or order shall be delivered or mailed promptly to each party to the hearing or to that party's attorney of record. Any party to a hearing conducted by the Director may, within ten (10) days following a decision by the Director, request in writing that the Director reconsider such decision;

(g) *Annual report.* At least annually, the Director shall compile a written statement of all permits and certificates issued, orders promulgated and materials approved. Interim reports shall be submitted as required. (1975 L.M.C., ch. 1, § 2; 1986 L.M.C., ch. 49, § 3; 1996 L.M.C., ch. 13, § 1; 2003 L.M.C., ch. 16, § 1.)

Editor's note—See County Attorney Opinion dated 10/16/96 discussing an executive regulation that applies to any building for which the County finances all or part of the construction.

Sec. 8-13. Regulations.

(a) The Director may recommend regulations for the administration of this Chapter including a schedule of fees and may, at the Director's discretion, hold public hearings as part of this regulation-making process. Regulations, as amended, must not conflict with or waive any provisions of this Chapter. Such regulations must be at least as restrictive as the requirements of this Chapter. All regulations must be adopted by the County Executive under Method (2) of Section 2A-15. The County Executive must promptly forward to the County Council a copy of any new fee schedule for use in budgetary planning activities. Such fees may be based on area, estimated cost of construction, or a minimal set fee per category. The budget estimate of all fees must be equal to the cost of administering this Code.

(b) The Director must hold at least one public hearing, after adequate public notice, before recommending to the Executive any regulations adopted under this Chapter. All regulations, related to the construction or demolition must be based on the latest edition of the ICC International Building Code and any local amendments to that Code. (1975 L.M.C., ch. 1, § 2; 1975 L.M.C., ch. 24, § 3; 1979 L.M.C., ch. 50, § 1; 1984 L.M.C., ch. 24, § 10; 1984 L.M.C., ch. 27, § 9; 2003 L.M.C., ch. 16, § 1; 2016 L.M.C., ch. 35, § 1; 2017 L.M.C., ch. 12, §1.)

Sec. 8-14. Standards applicable.

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

(b) The closure of any private road must meet the standards and requirements of Chapter 22 and Chapter 49. (1975 L.M.C., ch. 1, § 2; 1975 L.M.C., ch. 24, § 4; 2003 L.M.C., ch. 16, § 1; 2016 L.M.C., ch. 35, § 1.)

Editor's note-The above section is interpreted in Permanent Financial Corporation v. Montgomery County, 308 Md. 239, 518 A.2d 123 (1986).

Sec. 8-14A. Energy performance standards for county buildings.

(a) In this section, "County building" means any building for which the County government finances all or part of the cost of construction.

(b) All County buildings contracted for design after September 1, 1985, must meet the energy performance standards required under this section.

(c) The County Executive must adopt regulations under method (2) to establish:

(1) Minimum building energy performance standards that meet or exceed the energy performance standards established by the State of Maryland under State law;

(2) A procedure for evaluating and monitoring the appropriateness and effectiveness of the standards;

(3) A procedure for evaluating building life cycle costs during the design development phase; and

(4) An incentive program which gives the County Executive the discretion to award bonuses if the building actually performs better than the energy performance standards required under this section.

(d) The Director of General Services may grant a variance or modification of an energy performance standard if:

(1) The architect applies for the variance or modification in writing; and

(2) The Director gives notice of and a chance to comment on the application to:

(A) The County Council;

(B) The Department of Permitting Services; and

(C) The energy conservation advisory committee. (1985 L.M.C., ch. 47, § 1; 1996 L.M.C., ch. 20, § 1; 1998 L.M.C., ch. 12, § 1; 2001 L.M.C., ch. 14, § 1; 2002 L.M.C., ch. 16, § 2; 2008 L.M.C., ch. 5, § 1.)

Editor's note—Section 8-14 is cited in Manian v. County Council for Montgomery County, 171 Md. App. 38, 908 A.2d 665 (2006).

See County Attorney Opinion dated 10/16/96 discussing an executive regulation that applies to any building for which the County finances all or part of the construction.

2008 L.M.C., ch. 5, §§ 2 and 3, state:

Sec. 2. Any responsibility or right granted by law, ordinance, regulation, delegation of authority, contract, or other document to the Department of Public Works and Transportation in connection with designing, building, and maintaining County facilities (except maintaining or renovating public parking facilities under Chapter 60, as provided for under Section 1 of this Act), maintaining County vehicles and equipment, acquiring and disposing of real property not associated with roads, bridges, and other related transportation facilities, and operating mail, printing, and duplication services, is transferred to the Department of General Services.

Sec. 3. Any regulation in effect when this Act takes effect that implements a function transferred to another Department or Office under Section 1 of this Act continues in effect, but any reference in any regulation to the Department from which the function was transferred must be treated as referring to the Department to which the function is transferred. The transfer of a function under this Act does not affect any right of a party to any legal proceeding begun before this Act took effect.

Sec. 8-14B. County buildings - energy unit savings plans, energy cost savings plans, and energy performance contracts.

(a) *Definitions.* In this Section, the following words have the meanings indicated:

County building means a building which is owned or leased by the County.

Energy baseline means the amount of energy consumed each year by a County building based on historical metered data, engineering calculations, submetering of buildings or energy consuming systems, building load simulation models, statistical regression analysis, or any combination of those methods.

Energy cost savings plan means a plan to reduce a County building's energy costs, including related operation and maintenance costs.

Energy performance contract means a contract which provides for the performance of services for the design, acquisition, installation, testing, operation, maintenance, or repair of an identified energy conservation measure or series of measures in a County building.

ENERGY STAR rating means the ENERGY STAR rating developed by the federal Environmental Protection Agency which reflects a building's energy efficiency.

Energy unit savings plan means a plan to reduce the amount of energy used by a County building, as measured in kilowatt hours or British thermal units.

National energy performance rating system means the rating system developed by the federal Environmental Protection Agency under which a building may obtain the ENERGY STAR rating.

Office of Energy and Sustainability or *Office* means the Office of Energy and Sustainability in the Department of General Services created under Section 18A-14.

(b) *Requirements.* The Office of Energy and Sustainability must:

(1) develop an energy baseline, energy unit savings plan, and energy cost savings plan for each County building;

(2) submit an initial report to the County Executive and County Council by February 1, 2015 which summarizes the energy baseline, energy unit savings plan, and energy cost savings plan for each County building; and

(3) submit an annual report to the County Executive and County Council by February 1 of each year that summarizes the steps taken in the preceding fiscal year to implement the energy unit savings plan and energy cost savings plan for each County building.

(c) *Energy performance contracts.* Each energy unit savings plan and energy cost savings plan that the Office prepares under subsection (b) must include a plan to use an energy performance contract unless the Office finds that the cost of using an energy performance contract outweighs the benefit. (2008 L.M.C., ch. 7, § 1; 2014 L.M.C., ch. 15, § 1.)

Sec. 8-14C. Reserved.

Editor's note—Former Section 8-14C, Private buildings - incentives, derived from 2008 L.M.C., ch. 7, § 1, was repealed by 2014 L.M.C., ch. 15, § 1.

Sec. 8-15. Modifications.

(a) *Variances.* When there are practical difficulties and undue hardship involved in carrying out structural or mechanical provisions of this chapter, the director may vary or modify such provision upon application of the owner or his representative; provided, that the spirit and intent of the law shall be observed and public welfare and safety be assured.

(b) *Written application.* The application for modification and the final decision of the director shall be in writing on a form approved by the department, shall include the names and address of the owners of all property contiguous or opposite to the property described on said application and shall be officially recorded with the application for the permit in the permanent records of the department.

(c) *Notice of hearing.* Within seven (7) days of the filing of the application provided for herein, the director shall cause to be mailed to the owners of any property contiguous or opposite to the property described in said application and, in his discretion, to other interested parties, organizations or agencies a copy of such application and the date, time and place fixed for the hearing.

(d) *Record of hearing.* In all contested cases, the department shall prepare an official record, which shall include testimony and exhibits, but it shall not be necessary to transcribe the stenographic record unless requested for purposes of appeal. (1975 L.M.C., ch. 1, § 2.)

Sec. 8-16. Controlled materials procedure.

(a) When plans for the erection or alteration of a building are prepared by a licensed professional engineer or registered architect, which contemplate structural work or structural changes involving public safety or health and such plans are accompanied by an affidavit of the applicant that he has supervised the preparation of the architectural, structural and mechanical design plans and that he will supervise or check all working drawings and shop details for the construction and that the structure will be built under his field supervision and in accordance with the approved plans and that such plans conform to all the provisions of this chapter and the regulations adopted pursuant to its provisions and that all the material used in the construction will be controlled materials as defined herein, the director may waive examination of the plans and field inspection of the construction and may issue a permit for the performance of the work.

(b) The licensed or registered professional engineer or architect shall be qualified by experience and training in the particular field of construction involved in the building project under consideration.

(c) Before the issuance of the certificate of use and occupancy for such building, the licensed professional engineer or architect who prepared and filed the original plans and who supervised the erection of the building shall file a verified report that the structure has been erected in accordance with the approved plans; and as erected, the building complies in all respects with this chapter and all other laws governing building construction except as to the specific variations legally authorized under the provisions of this chapter and as specifically noted in the verified report and cited in the certificate of use and occupancy.

(d) When applications for unusual designs or magnitude of construction are filed, the director may refer such plans and specifications to the plan review service of the Building Officials Conference of America for advice and recommendations as to their safety of design and compliance with this chapter; or he may, in his discretion, retain a properly qualified licensed engineer or registered architect to examine such application for a specific building operation with respect to safety and conformance to statutory requirements. Such employed licensed engineer or registered architect shall supervise the construction in the field to secure compliance with the approved plans and permit; and upon completion of the work, he and the builder shall file with the director a verified report to the effect that the building has been erected in accordance with accepted engineering practice and in conformity to all the statutory provisions governing building construction for the designated use group classification of the building or structure in respect to use, fire grading, floor and occupancy loads. (1975 L.M.C., ch. 1, § 2.)

Sec. 8-17. Inspection.

(a) *Preliminary inspection.* Before issuing a permit, the director may examine or cause to be examined all buildings, structures and sites for which an application has been filed for a permit to construct, enlarge, alter, repair, remove, demolish or change the use thereof; and he may conduct such inspections from time to time during and upon completion of the work for which he has issued a permit; and he shall maintain a record of all such examinations and inspections and of all violations of this chapter.

(b) *Accredited inspection services.* The director may accept reports of his own inspectors or of approved inspection services which satisfy his requirements as to qualifications and reliability.

(c) *Plan inspection.* When required by the provisions of this chapter materials or assemblies shall be inspected at the point of manufacture or fabrication.

(d) *Inspection reports.* All inspection reports shall be in writing and shall be certified by the approved inspection service, or responsible officer of the service or the individual when expert inspection services are accepted. A label or mark of approval permanently fixed to the product indicating that factory inspection has been made shall be accepted in lieu of the aforesaid report in writing.

(e) *Final inspection.* Upon completion of the building or structure and before issuance of the certificate of use and occupancy as required by this chapter, a final inspection shall be made and all violations of the

approved plans and permit shall be noted and the holder of the permit shall be notified of the violations. (1975 L.M.C., ch. 1, § 2.)

Sec. 8-18. Right of entry.

(a) *Generally.* In the discharge of his duties, the director or his authorized representative shall have the authority to enter at any reasonable hour any building, structure or premises in the county for which a permit has been issued to enforce the provisions of this chapter.

(b) *Municipal cooperation.* The assistance and cooperation of police, fire, and health departments and all other county officials shall be available to him as required in the performance of his duties. (1975 L.M.C., ch. 1, § 2.)

Sec. 8-19. Emergency measures.

(a) *Vacating buildings.* When, in the opinion of the director there is actual and immediate danger of failure or collapse of a building or structure or any part thereof which would endanger life or when any structure or part of a structure has fallen and life is endangered by the occupation of the building, the director is hereby authorized and empowered to order and require occupants to vacate the same forthwith. He shall cause to be posted at each entrance to such building a notice reading as follows:

"THIS BUILDING IS UNSAFE AND ITS USE
OR OCCUPANCY HAS BEEN PROHIBITED
BY MONTGOMERY COUNTY"

and it shall be unlawful for any person to enter such building or structure except for the purpose of making the required repairs or of demolishing the same.

(b) *Temporary safeguards.* When, in the opinion of the director there is actual and immediate danger of collapse or failure of a building or structure or any part thereof which would endanger life, he shall cause the necessary work to be done to render such building or structure or part thereof temporarily safe, whether or not the legal procedure herein described has been instituted.

(c) *Closing streets.* When necessary for the public safety, the director may temporarily close sidewalks, streets, buildings and structures and places adjacent to such unsafe buildings and prohibit the same from being used.

(d) *Emergency repairs.* For the purposes of this section the director shall employ the necessary labor and materials to perform the required work as expeditiously as possible.

(e) *Costs of emergency repairs.* Costs incurred in the performance of emergency work shall be charged to the owner of the property in the manner of taxes and such cost shall constitute a lien on the property. (1975 L.M.C., ch. 1, § 2.)

Sec. 8-20. Stop work order.

(a) In addition to the other provisions set forth in this chapter, whenever the director determines that work on a building or structure is being prosecuted in violation of the provisions of this chapter or chapter 31B, "Noise Control," including those conditions upon which the permit has been issued or in a manner which threatens the safety, health and welfare of the public, the director may order the work to be immediately stopped.

(b) The stop work order described herein shall be issued by the director in writing and served upon the owner of the property involved or his agent or to the person doing the work.

(c) It shall be unlawful for any person to continue or permit the continuance of work in or about a building after having been served with a stop work order, except such work as he is directed to perform to remove a violation or unsafe condition. (1975 L.M.C., ch. 1, § 2; 1986 L.M.C., ch. 32, § 1.)

Sec. 8-21. Revocation of permit.

The director may revoke a permit or approval issued under the provisions of this chapter in case of any false statement or misrepresentation of fact in the application or on the plans on which the permit or approval was based or in case of any violation of the conditions upon which such permit was issued. (1975 L.M.C., ch. 1, § 2.)

Sec. 8-22. Violations.

A person has committed a class A violation if the person violates any provision of this Chapter or another applicable federal, state, or County law regulating an aspect of building construction which the Department enforces, including:

(a) building, altering, or repairing a building or structure in violation of an approved plan; or

(b) violating an order of the Director or any condition of an approved plan, permit, or certificate issued under this Chapter. (1975 L.M.C., ch. 1, § 2; 1983 L.M.C., ch. 22, § 12; 2011 L.M.C., ch. 17, § 1.)

Editor's note—2011 L.M.C., ch. 17, §§ 2 and 3, state:

Sec. 2. Transition. This Act does not apply to any appeal to the Board of Appeals that was filed before this Act took effect.

Sec. 3. Regulations. Regulations 6-06AM and 7-06AM remain in effect, notwithstanding any amendment to the County Code in Section 1 of this Act, except for any provision of the National Fire Code that authorizes or refers to an appeal to the Board of Appeals.

Sec. 8-23. Appeals.

(a) Any person aggrieved by the issuance, denial, renewal, amendment, suspension, or revocation of a permit, or the issuance or revocation of a stop work order, under this Chapter may appeal to the County Board of Appeals within 30 days after the permit is issued, denied, renewed, amended, suspended, or revoked or the stop work order is issued or revoked. A person may not appeal any other order of the Department, and may not appeal an amendment of a permit if the amendment does not make a material change to the original permit. A person must not contest the validity of the original permit in an appeal of an amendment or a stop work order.

(b) After notice and hearing, the Board may affirm, remand, modify, or reverse the action of the Department.

(c) Any party may seek judicial review of a decision of the Board under Section 2-114. (1975 L.M.C., ch. 1, § 2; 2001 L.M.C., ch. 30, § 1; 2011 L.M.C., ch. 17, § 1.)

Editor's note—Section 8-23 is cited and quoted in Montgomery County v. Longo, 187 Md. App. 25, 975 A.2d 312, cert. denied, 411 Md. 357, 983 A.2d 432 (2009).

2011 L.M.C., ch. 17, §§ 2 and 3, state:

Sec. 2. Transition. This Act does not apply to any appeal to the Board of Appeals that was filed before this Act took effect.

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Article III. Permits. [Note]

Sec. 8-24. Application for permit.

(a) *When required.* It is unlawful to construct, enlarge, alter, remove or demolish a building or change the occupancy of a building from one use group to another requiring greater strength, exitway or sanitary provisions; or to change to a prohibited use; or create or alter any ownership unit when a use under an occupancy certificate or a structure exists on the parent lot; or to install or alter any equipment for which provision is made or the installation of which is regulated by this chapter, without first filing an application with the department in writing and obtaining the required permit therefor; except, that ordinary repairs as defined in Section 8-3 which do not involve any violation of this Chapter are exempt from this provision.

(b) *Form.* Application for a permit shall be submitted on forms prescribed by the director and shall be accompanied by the required fee as prescribed by this chapter.

(c) *Qualified applicants.* Application for a permit shall be made by the owner or lessee of the building or structure, or agent of either or by the licensed engineer or architect employed in connection with the proposed work. If the application is made by a person other than the owner in fee, it shall be accompanied by a duly verified affidavit of the owner or the qualified person making the application that the proposed work is authorized by the owner in fee and that the applicant is authorized to make such application. The full names and addresses of the owner, lessee, applicant and of the responsible officer, if the owner or lessee is a corporate body, shall be stated in the application.

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

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

(1) the location and design of entrances and exits to public roads;

(2) the location and size of all buildings and structures;

(3) the location of parking spaces, directional markings, traffic-control devices and signs; and

(4) that it satisfies Division 59-6.2 of Chapter 59.

(f) *Plans and specifications.* The application for the permit shall be accompanied by not less than two (2) copies of specifications and of plans drawn to scale, with sufficient clarity and detailed dimensions to show the nature and character of the work to be performed. When quality of materials is essential for conformity to this chapter, specific information shall be given to establish such quality; and in no case shall this chapter be cited or the term “legal” or its equivalent be used as a substitute for specific information. The director may waive the requirement for filing plans when the work involved is of a minor nature.

(g) *Plot diagram.* Each applicant for a building or occupancy permit must file 2 copies of a plot plan drawn to scale, showing:

(1) The lot upon which the proposed building is to be erected, lot dimensions, lot and block numbers and subdivision name, if any;

(2) Name and width of abutting streets;

(3) Location, dimensions and use of existing buildings and other structures on the same lot;

(4) The location, dimensions and proposed use of buildings and other structures for which a permit is requested;

(5) Front and rear yard widths;

(6) North point and scale of plan; and

(7) If the permit is for a new residential building or accessory structure or an addition to an existing residential building, and a storm water management plan has not already been approved for that construction, the location of any existing and proposed drainage structure, including any swale, and the general flow of water, indicated by arrows, to and from each structure.

(h) *Engineering details.* The director may require adequate details of structural, mechanical and electrical work including computations, stress diagrams and other essential technical data to be filed. All engineering plans and computations shall bear the signature of the engineer or architect responsible for the design.

(i) *Amendments to application.* Subject to subsection (i), an amendment to a plan, application, or other document may be filed at any time before the work for which the permit is sought or issued is completed. Each timely filed amendment must be treated as part of the original application and filed with it.

(j) *Time limit.* An application for a permit for any proposed work must be treated as abandoned 6 months after the application was filed, unless the application has been diligently prosecuted or a permit was issued. However, for reasonable cause, the Director may extend the time for the Department to consider an application for one or more additional periods which do not exceed 90 days each. (1975 L.M.C., ch. 1, § 3; 2006 L.M.C., ch. 37, § 1; 2009 L.M.C., ch. 10, §§ 1 and 2; 2016 L.M.C., ch. 35 , § 1; 2017 L.M.C., ch. 12 , §1.)

Editor's note—Section 8-24 is quoted in F.D.R. Srour Partnership v. Montgomery County, 179 Md. App. 109, 994 A.2d 1149. Section 8-24 is cited in Remes v. Montgomery County, 387 Md. 52, 874 A.2d 470 (2005), and in Washington Suburban Sanitary Commission v. TKU Associates, 281 Md. 1, 376 A.2d 505 (1971).

See County Attorney Opinion dated 5/21/92 explaining that the construction excise tax is payable only if a building permit is issued and construction takes place.

Sec. 8-24A. Child day care facility.

A building in which a day care provider lives and provides child day care services for 12 or fewer children in accordance with all applicable State and County laws and regulations, including the requirement for a use and occupancy permit under Chapter 59, is a residential use for purposes of this Chapter. (1992 L.M.C., ch. 22, § 1.)

Editor's note-Section 8-24A, establishing a temporary limitation on new residential construction, was repealed by 1986 L.M.C., ch. 55, § 1. The section was formerly derived from 1985 L.M.C., ch. 41, § 1; 1986 L.M.C., ch. 6, § 1; 1986 L.M.C., ch. 21, § 1; and 1986 L.M.C., ch. 42, § 1. Subsequently, a new § 8-24A was added by § 1 of 1989 L.M.C., ch. 22. Section 2 reads as follows:

Section 2. Registration Fees. The Council intends that registration fees collected under this Act [section] be used to defray administrative costs associated with it by both the planning board and executive agencies. To that end, the planning board and the executive should execute an agreement to allocate those revenues.

The section was repealed by § 1 of 1990 L.M.C., ch. 3. See now art. iv, § 8-30 et seq. The passage of 1990 L.M.C., ch. 3 was contingent upon enactment of Subdivision Regulation 89-1. The County has advised that this regulation was enacted July 25, 1989.

1992 L.M.C., ch. 22, § 1, added a new § 8-24A.

Sec. 8-24B. Permits for property within homeowners' associations, municipal corporations, or special taxing districts.

(a) *Homeowners' association registration.*

(1) If a homeowners' association, as defined in section 24B-1 of this Code, wants the county to assist it in exercising its right to approve a proposed project that requires a permit under section 8-24 of this chapter, the homeowners' association must register with the department and pay a fee determined by the director, based on the cost of services provided to the association under this section.

(2) A homeowners' association registers with the department by providing the department with:

a. A statement made under penalty of perjury that it has the authority under its bylaws, declarations, documents, rules, or regulations to approve a proposed project that requires a building permit;

b. The boundaries of the area covered by the homeowners' association's covenants, by premises address;

c. The name, address, and telephone number of the individual to contact for obtaining approval; and

d. Other information the director requires.

(3) A registration of a homeowners' association under this section expires after two (2) years and may be renewed as provided by executive regulation.

(b) *Municipal corporation and special taxing district registration.*

(1) If a municipal corporation or special taxing district wants the county to assist it in exercising its right to approve a proposed project that requires a permit under section 8-24 of this chapter, the municipal corporation or special taxing district must register with the department and pay a fee determined by the director, based on the cost of services provided to the municipality or district under this section.

(2) A municipal corporation or special taxing district registers with the department by providing the department with:

a. A copy of the municipal corporation's or special taxing district's law, rule, or regulation authorizing it to approve a proposed project that requires a building permit;

b. The boundaries of the municipal corporation or special taxing district, by premises address;

c. The address and telephone number of the office to contact for obtaining approval; and

d. Other information the director requires.

(c) *Changes in authority and boundaries.* A homeowners' association, municipal corporation, or special taxing district that registers under this section must re-register with the department within thirty (30) days after the effective date of a change in:

(1) Its authority to approve a proposed project; or

(2) Its boundaries.

(d) *Registration list.* The director must maintain and make available to the public a list of:

(1) The homeowners' associations registered under subsection (a) of this section; and

(2) The municipal corporations and special taxing districts registered under subsection (b) of this section.

(e) *Permit application process.*

(1) When a person applies for a permit under section 8-24 of this chapter, the director must ask the applicant if the site of the proposed project is within:

a. An area covered by covenants of a homeowners' association;

b. A municipal corporation; or

c. A special taxing district.

(2) The applicant must provide the director with a statement made under penalty of perjury whether the site of the proposed project is within an area covered by covenants of a homeowners' association, a municipal corporation, or a special taxing district.

(3) If the applicant indicates that the site of the proposed project is within an area covered by covenants of a homeowners' association, a municipal corporation, or a special taxing district, the director must ask the applicant for:

a. An approval form signed by an authorized representative of the homeowners' association indicating that the work described in the application meets the requirements of all bylaws, declarations, documents, rules, and regulations of the homeowners' association; or

b. A permit from the municipal corporation or special taxing district.

(4) If the applicant does not provide the director with the approval form from the homeowners' association or permit from the municipal corporation or special taxing district when required, the director must send notice promptly to the representative or office listed in the homeowners' association's, municipal corporation's, or special taxing district's registration that the form or permit has not been provided.

(5) The applicant's failure to obtain a signed approval form from a representative of the homeowners' association or a permit from the municipal corporation or special taxing district does not prevent the director from approving the application for a permit under section 8-24 of this chapter. The permit may not take effect earlier than ten (10) days after its issuance.

(f) *Regulations.* The county executive must adopt regulations under method (2) of section 2A-15 of this Code to implement this section.

(g) *Penalty.* Section 8-22 of this chapter, establishing criminal penalties for violation of this chapter, does not apply to this section.

(h) *Liability.* The county is not liable for any act or failure to act by the department in carrying out the provisions of this section. (1987 L.M.C., ch. 30, § 1.)

Editor's note-Section 3 of 1987 L.M.C., ch. 30, which added this section, declared the act effective July 1, 1987.

Sec. 8-24C. Expedited review process for a solar photovoltaic system.

The Department must adopt a fast track review process for each permit to install a rooftop solar photovoltaic system for a single family detached home that meets standardized requirements adopted by the Department. The Department must set the application fee by Executive Regulation adopted under Method 2 for each permit to install a rooftop solar photovoltaic system for a single family detached home that meets standardized requirements adopted by the Department. (2014 L.M.C., ch. 10, § 1.)

Sec. 8-24D. Expedited review process for an electric vehicle charging station.

The Department must adopt a fast track review process for each permit to install an electric vehicle charging station at a single family detached home that meets standardized requirements adopted by the Department. The Department must set the application fee by Executive Regulation adopted under Method 2 for each permit to install an electric vehicle charging station at a single family detached home that meets standardized requirements adopted by the Department. (2014 L.M.C., ch. 11, § 1.)

Sec. 8-25. Permits.

(a) Action on application. The Director must examine or cause to be examined each application for a building permit or an amendment to a permit within a reasonable time after the application is filed. If the application or the plans do not conform to all requirements of this Chapter, the Director must reject the application in writing and specify the reasons for rejecting it. If the proposed work conforms to all requirements of this Chapter and all other applicable laws and regulations, the Director must issue a permit for the work as soon as practicable.

(b) Time limit.

(1) A building permit is invalid if:

(A) an approved inspection, as required by this Chapter, is not recorded in the Department's inspection history file within 12 months after the permit is issued and a second approved inspection is not recorded in the Department's inspection history file within 14 months after the permit is issued; or

(B) the authorized work is suspended or abandoned for a period of 6 months.

(2) The Director must extend a permit for 6 months if the permit holder, before the permit expires, files a written request for an extension and pays an extension fee equivalent to the minimum fee then applicable to the original permit. Except as provided in paragraph (3), the Director must not grant more than one extension per permit under this subsection.

(3) For any building located in an enterprise zone, the Director may extend a permit for additional 6-month periods if the permit holder:

(A) shows good cause for each extension;

(B) requests an extension in writing before the permit expires; and

(C) pays the fee specified in paragraph (2).

(c) Reserved.

(d) Signature to permit. The director or his authorized representative shall attach his signature to each permit issued.

(e) Approved plans. The director shall stamp or endorse in writing both sets of corrected plans "approved" and one set of such approved plans shall be retained by him and the other set shall be kept at the building site, open to inspection of the director or his authorized representative at all reasonable times.

(f) Approval in part. The director may issue a permit for the construction of foundations or any other part of a building or structure before the entire plans and specifications for the whole building have been submitted; provided, that adequate information and detailed statements have been filed complying with all the pertinent requirements of this chapter. The holder of such permit for the foundations or other part of a building or structure shall proceed at his own risk with the building operation and without assurance that a permit for the entire structure will be granted.

(g) Posting of permit and site plans. The building permit or a true copy thereof and a copy of the building or other plans covered by the permit shall be kept on the site of operations open to inspection by the department, fire or police officials, in the course of their duties, during the entire time the work is in progress and until its completion.

(h) Notice of start and other inspections. At least twenty-four (24) hours' notice of start of work under a building permit shall be given to the department unless this requirement is waived in the building permit.

At least twenty-four (24) hours' notice shall be given the department for inspection of footings, concrete reinforcement, fire stopping and similar details before they are covered up. (1975 L.M.C., ch. 1, § 3; 1985 L.M.C., ch. 41, § 2; 1986 L.M.C., ch. 55, § 3; 1990 L.M.C., ch. 41, § 1; CY 1991 L.M.C., ch. 28, § 1; CY 1991 L.M.C., ch. 46, § 1; 1998 L.M.C., ch. 17, § 1; 2002 L.M.C., ch. 35, § 1; 2009 L.M.C., ch.10, §§ 1 and 2.)

Editor's note—Section 8-25 is quoted in Evans v. Burruss, 401 Md. 586, 933 A.2d 872 (2007).

The provision of § 8-25(b) invalidating a building permit which is not used for 6 months is mentioned in connection with a discussion of Montgomery County's growth policy in P. J. Tierney, Maryland's Growing Pains: The Need for State Regulation, 16 U. of Balt. L. Rev. 201 (1987), at p. 236.

See County Attorney Opinion dated 9/24/08 regarding enforcement of the forest conservation law.

2002 L.M.C., ch.35, § 3, states: Expiration. Section 8-25(b)(3) amended by Section 1 of this Act, expires on December 31, 2006. Any building permit extended under authority of Section 8-25(b)(3) expires on that permit's expiration date.

Sec. 8-25A. Permits affecting certain residential properties; public notice.

(a) If a permit is issued under Section 8-25 for new construction on vacant residentially or agriculturally zoned land, or construction of a building or structure that would affect the footprint or height of any existing structure located on residentially or agriculturally zoned land or that is exempt from and exceeds any applicable building height limit, the Director must promptly require the recipient to post on the lot a conspicuous sign describing the proposed construction, specifying the time limit to appeal the issuance of the permit to the Board of Appeals, and including any other information the Director requires. The sign must conform to design, content, size, and location requirements set by regulation under Section 8-13(a).

(b) The regulations adopted under subsection (a) may allow a central sign to be posted, or otherwise vary the design, content, size, or location requirements, for any subdivision that consists of more than 5 new dwellings at a single site.

(c) The recipient must post the required sign within 3 days after the Department releases the permit to the recipient, and must maintain the sign until 30 days after the permit was released.

(d) If the recipient of a permit does not post a sign as required by this Section, the permit is automatically suspended until the recipient has posted the proper sign. If the recipient begins work under the permit without having posted the sign as required, the Director must immediately issue a stop work order. During the 30-day period after the sign is properly posted, any person may appeal the issuance of the permit as if the permit had been released to the recipient on the day the sign was posted. (1998 L.M.C., ch. 17, § 1; 2005 L.M.C., ch. 13, § 1.)

Sec. 8-26. Conditions of permit.

(a) *Generally.* A permit to begin work for new construction, alteration, removal, demolition, or other building operation must not be issued until the fees authorized in this Section are paid to the Department. An amendment to a permit that requires an additional fee because of an increase in the estimated cost of the work involved must not be approved until the additional fee is paid. The Department must not issue any building permit for a residence, except a building designed to be used as a residence for the person's own or immediate family use, under Section 31C-1, to any person except a licensed building contractor or an authorized agent of the licensed building contractor.

(b) *Compliance with code.* The permit shall be a license to proceed with the work and shall not be construed as authority to violate, cancel or set aside any of the provisions of this chapter except as specifically stipulated by legally granted waivers or modifications as described in the application. The issuance of a permit shall not prevent the department from thereafter requiring a correction of errors in plans or in construction or of violations of this chapter and all other applicable laws or ordinances specifically referring thereto. Certification by a certified engineer that the plans and specifications are in compliance with this chapter shall be accepted by the director as prima facie evidence that all the requirements of this chapter have been met unless he discovers otherwise.

(c) *Compliance with permit.* All work must conform to the approved application and plans for which the permit has been issued and any approved amendments to the permit.

(d) *Compliance with plot plan.* All new work shall be located strictly in accordance with the approved plot plan.

(e) *Change in plot plan.* No lot or plot shall be changed, increased or diminished in area from that shown on the official plot plan, unless a revised diagram showing such changes accompanied by the necessary affidavit of owner or applicant shall have been filed and approved; except, that such revised plot plan will not be required if the change is caused by reason of an official street opening, street widening or other public improvement.

(f) *Compliance with plumbing and gas fitting regulations.* Permits for the erection, enlargement or alteration of buildings will not be issued until evidence has been presented that the plans of the proposed building comply with all applicable regulations relating to water supply, sewerage, drainage, plumbing and gas fitting.

(g) *Compliance with zoning regulations.* The building or structure must comply with all applicable zoning regulations, including all conditions and development standards attached to a site plan approved under Chapter 59. The issuance of a permit by the Department for the building or structure does not affect an otherwise applicable zoning regulation.

(h) *Compliance with location certificate.* Before any first floor construction of a building or structure is placed upon the foundation walls thereof, the owner of such building or structure shall provide the department with two (2) copies of a location plat, certified by a land surveyor entitled by law to practice property line surveying in the state; except, that a professional engineer entitled by law to practice in this state may provide such certification only where property lines and corners are already existing and determined on the ground. This plat shall be drawn accurately to an appropriate scale and shall show the actual location of the building or structure walls with respect to property lines and existing buildings or structures on the same lot, parcel or tract.

(i) *Compliance with excavation, grading and sediment control regulations.*

(1) Unless the construction is exempted by Chapter 19, an applicant for a building permit must obtain a sediment control permit before the building permit is issued.

(2) If a sediment control permit is suspended or revoked, the building permit for construction within the area subject to the sediment control permit may be suspended or revoked.

(3) All work shall conform to plans approved and/or permits issued in accordance with Chapter 19 of this Code.

(j) *Compliance with performance bond for construction of streets before issuance of permit.* As used in this subsection, the phrase "such streets" means streets abutting the building site and those extensions of streets necessary to meet the minimum requirements of Chapter 49.

(1) A permit must not be issued for the erection of any building or structure unless the applicant delivers to the County a performance bond for the construction of streets in all rights-of-way abutting the property on which the building or structure will be erected and those extensions of streets necessary to meet the minimum requirements of Chapter 49. However, a performance bond for the construction of streets is not required when:

(A) all streets are paved with a hard surface and have been accepted for maintenance or are being maintained by the County; or

(B) the County Council authorized construction of each street on a front foot assessment basis.

(2) The performance bond to be delivered shall be that bond required by Section 49-40 of this Code, and such bond shall be in an amount to cover the entire cost of construction of such streets.

(3) If the applicant owns, or is obligated by contract to develop, all or substantially all of the property abutting the streets, a bond in an amount to cover the cost of grading of the streets is sufficient to obtain a building permit. When the applicant does not own, and is not obligated by contract to develop, all or substantially all of the property abutting the streets, the applicant may demand that the Director of Transportation present to the County Council the applicant's proposal to construct the streets on a front-foot-assessment basis. If the County Council refuses to authorize the construction of the streets on a front-foot- assessment basis, the Department must not require the applicant to post a performance bond.

(4) Whenever the applicant must post a performance bond to cover the entire cost of construction, the applicant simultaneously must apply to the Department of Permitting Services for a permit to construct the streets. If the bond covers only grading, the applicant simultaneously must apply for a permit to grade the streets.

(5) If the construction or grading guaranteed by such bond is not begun and completed within a period of one (1) year after the delivery of such bond, the County may proceed to cause such work to be done, in accordance with the provisions of Chapter 49 of this Code and hold the principal or surety on such bond or both liable for the cost thereof.

(k) *Location of underground utilities.* On all work calling for excavation exceeding twelve (12) inches in depth, the applicant shall provide evidence of the location of all utility lines within the area of the proposed excavation.

(l) *Compliance with stop work orders.* The issuance of a permit shall be expressly conditioned upon the applicant's prompt compliance with all stop work orders issued by the Director.

(m) *County line.* Every building or other structure for which a permit is issued must be located completely in the County.

(n) *Tree protection.* If any clearing, construction, or development allowed by any permit issued under this Chapter would result in the trimming, cutting, removal, or injury of any roadside tree (as defined in Section 49-35) or any tree located in a State right-of-way in the County, the Director must not issue that permit until:

(1) the applicant obtains a roadside tree care permit as necessary from the State Department of Natural Resources; and

(2) the applicant has submitted, in connection with the permit applied for under this Chapter, and the Director has approved, a site-specific tree protection plan that meets the requirements of Section 49-

36A(d).

The Department must approve or reject each proposed plan within 30 days after receiving it. If the Department does not act on a proposed plan within 30 days, the plan is approved by default. The Department may require further information after a proposed plan is submitted, and may extend this deadline once for an additional 15 days to receive any needed information. The Department also may extend this deadline at the request of the applicant.

(o) *Regulations.* The Director may recommend, and the Executive may adopt, regulations under Method (2) to specify standards and practices needed to protect and maintain roadside trees, including construction practices needed to prevent or minimize damage to roadside trees, under subsection (n) These regulations must be at least as stringent as applicable state roadside tree care standards and requirements. (1975 L.M.C., ch. 1, § 3; 1986 L.M.C., ch. 46, § 1; 1986 L.M.C., ch. 49, § 3; 1987 L.M.C., ch. 11, § 1; 1996 L.M.C., ch. 4, § 1; 1996 L.M.C., ch. 20, § 1; 1998 L.M.C., ch. 12, § 1; 1998 L.M.C., ch. 17, § 1; 2001 L.M.C., ch. 14, § 1; 2002 L.M.C., ch. 16, § 2; 2005 L.M.C., ch. 17, § 1; 2006 L.M.C., ch. 44, § 1; 2008 L.M.C., ch. 5, § 1; 2010 L.M.C., ch. 49, § 1; 2013 L.M.C., ch. 22 , § 1; 2017 L.M.C., ch. 24, § 1.)

Editor's note—Section 8-26 is cited in Remes v. Montgomery County, 387 Md. 52, 874 A.2d 470 (2005). In Board of Appeals of Montgomery County v. The Mariana Apartments, Inc., 272 Md. 691, 326 A.2d 734 (1974), it was held that the County (and the board of appeals) cannot deny a building permit on grounds of inadequate sewage disposal in the area, as that determination is made by the Washington Suburban Sanitary Commission, which either issues or denies a sewer permit.

See County Attorney Opinion dated 9/24/08 regarding enforcement of the forest conservation law.

2013 L.M.C., ch. 22, § 2, states: Effective Date. This Act takes effect on March 1, 2014, and applies to any permit applied for under Chapter 8, Chapter 19, or Section 49-35 on or after that date.

2008 L.M.C., ch. 5, § 3, states: Sec. 3. Any regulation in effect when this Act takes effect that implements a function transferred to another Department or Office under Section 1 of this Act continues in effect, but any reference in any regulation to the Department from which the function was transferred must be treated as referring to the Department to which the function is transferred. The transfer of a function under this Act does not affect any right of a party to any legal proceeding begun before this Act took effect.

1987 L.M.C., ch. 11, § 2, which amended subsection (g), gave an expiration date of March 1, 1987, for the act, with any permit issued before that date remaining in effect until the expiration date in the permit. The provisions allowed a six-month waiver of the provisions of the subsection in case of emergency.

Sec. 8-27. Demolition or removal of buildings.

(a) Notice. The Director must mail written notice, at least 10 days before the Director issues a permit to remove or demolish a building or structure, to the owner of each adjacent and confronting lot. The applicant must give the Department the name and address of the owner of each adjacent and confronting lot. The notice must identify the building or structure to be demolished or removed, specify the process for issuing the permit and the time limit to appeal the issuance of a permit to the Board of Appeals, and include any other information the Director finds useful. The Director need not deliver this notice if unsafe conditions require immediate demolition or removal of the building or structure.

(b) Signage. The Director need not deliver the notice required by subsection (a) if, at least 10 days before the Director issues a permit to remove or demolish a building or structure, the applicant posts at a conspicuous location on the lot a sign describing the proposed demolition or removal, specifying the process for issuing the permit and the time limit to appeal the issuance of a permit to the Board of Appeals, and including any other information the Director requires. The sign must conform to design, content, size, and location requirements set by regulation under Section 8-13(a).

(c) Special notice for older buildings. At least 30 days before the Director issues a permit to demolish or remove a building, other than a single-family dwelling, that will be more than 25 years old when it is demolished or removed, the Director must list the address of the property on a properly designated website or other widely available form of electronic notice.

(d) Notice to utilities. Before the Director may issue a demolition or removal permit, the applicant must notify each connected public utility and obtain a written release confirming that all service connections and appurtenant equipment, such as meters and regulators, have been safely disconnected and sealed.

(e) Permit requirement; conditions. A person must not demolish or remove a building or structure unless the Director has issued a permit to do so under this Section. Each demolition or removal permit must require the applicant to:

(1) before demolishing or removing a building or structure, exterminate any rodents or other pests in it;

(2) after demolition or removal, clear all construction and demolition debris;

(3) restore the established grade of the surrounding land, unless a sediment control permit is otherwise required; and

(4) at all times keep the site free from any unsafe condition.

(f) Bond or surety. Each applicant for a demolition or removal permit must file a performance bond, cash, certificate of guarantee, or surety with the Department, in an amount equal to the cost of demolition or removal, to assure the safe and expedient demolition or removal of the building or structure and clearing of the site. If the building or structure is not demolished or removed and the site is not cleared of all debris within the time specified in the permit, but not sooner than 60 days after the permit is issued, the Director may enter the property, demolish or remove the building or structure, clear the site of debris, and take action to forfeit the performance bond, enforce the guarantee, or otherwise reimburse the Department for its cost.

(g) Definitions. As used in this Section:

(1) remove means to move a building or structure substantially intact from or within a site; and

(2) demolish means to tear down or destroy an entire building or structure, or all of a building or structure except a single wall or facade. (1975 L.M.C., ch. 1, § 3; 2002 L.M.C., ch. 24, § 1.)

Sec. 8-28. Certificate of use and occupancy.

(a) *Applicability.*

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

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

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

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

(C) a Transitory Use.

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

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

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

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

(c) *New buildings.* It is unlawful for any person to use or occupy a building hereafter erected in whole or in part until the certificate of use and occupancy is issued by the Director in satisfaction of this Chapter.

(d) *Buildings hereafter altered.* It is unlawful for any person to use or occupy a building hereafter enlarged, extended or altered to change from one use group to another, in whole or in part until a certificate of use and occupancy is issued by the director certifying that the work was completed in satisfaction of the approved permit. Any use or occupancy that was continued during the work of alteration, must be discontinued within 30 days after the completion of the alteration unless the required certificate is secured from the Director.

(e) *Existing buildings.* Upon written request from the owner of an existing building, the Director must issue a certificate of use and occupancy if there are no violations of law or orders of the Director pending. In addition, the Director must establish that the alleged use of the building has heretofore existed. Nothing in this Chapter requires the removal, alteration, or abandonment of the use and occupancy of a lawfully existing building, unless such use is deemed to endanger public safety and welfare.

(f) *Changes in use and occupancy.* After a change of use is made in a building, a person is prohibited from reestablishing a prior use that is not lawful for a new building of the same type of construction unless the owner complies with all the applicable provisions of this Chapter.

(g) *Temporary occupancy.* Upon the request of the holder of a permit, the Director may issue a temporary certificate of occupancy for a building or structure or part thereof before the entire work covered by the permit shall have been completed if that such portion or portions may be occupied safely before full completion of the building without endangering life or public welfare.

(h) *Necessary Findings.*

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

(2) Any building, structure, or land on a site with any previous development approval must satisfy the requirements, representations, plans, and conditions contained in the decision or resolution of the deciding body.

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

(i) *Contents of certificate.* When a building or structure is entitled to a certificate of use and occupancy, the Director must issue a certificate 10 days after written applications. The certificate certifies compliance with this Chapter and the purpose for which the building or structure may be used. The certificate of use and occupancy must specify the use group, the fire grading, the allowable live load on all floors, the occupancy load in the building and all parts of the building and any special stipulations and conditions of the building permit. (1975 L.M.C., ch. 1, §3; 2016 L.M.C., ch. 35 , § 1.)

Editor's note-In National Institutes of Health Federal Credit Union v. Hawk, 47 Md. App. 180, 422 A.2d 55 (1980), the court rules there broad review of all factors exist when making a determination as to the issuance of a certificate of occupancy. In Ross v. Montgomery County, 252 Md. 497, 250 A.2d 635 (1969), it was held that the issuance of a building permit does not confer a vested right which cannot be eliminated by subsequent legislative action.

Sec. 8-29. Building within floodplain areas and on unsafe land.

(a) A building permit must not be issued for any structure or any alteration of an existing structure:

(1) On land which lies within the floodplain covered by the 100-year flood, as defined in Section 19-36, of any stream or drainage course, or on land which the Director finds to be unsafe for development use because it is subject to flooding, erosion, unstabilized slope or fill within the danger reach of a high hazard dam, or otherwise located in a situation that causes unsafe building conditions; or

(2) In violation of a residential building restriction line placed on a recorded subdivision plat under the subdivision law, except that a building permit may be issued for fences, public utilities, recreation and agricultural uses, and for reconstruction, repair, or improvement of single family dwellings located within any floodplain covered by the 100-year flood as defined in Section 19-36.

(b) No part of any on-site sewage disposal system may be located within the floodplain covered by the 100-year flood as defined in section 19-36. (1975 L.M.C., ch. 1, § 3; 1989 L.M.C., ch. 39, § 1; 1992 L.M.C., ch. 33, § 1.)

Editor's note-Res. No. 9-280, introduced and adopted on June 19, 1979, recognized the authority of the Maryland Department of Natural Resources to regulate construction within the 100-year floodplain.

Sec. 8-29A. Residential fire sprinklers.

(a) In this Section, *fire sprinkler system* means equipment that includes 1 or more devices that:

1. open automatically by operation of a heat-responsive releasing mechanism;
2. discharge water in a specific pattern over a designated area to extinguish or control fire;
3. use the same service water supply pipe to the building that the domestic water system uses;
4. meet the requirements of current National Fire Protection Association standards as modified by the Director of Fire and Rescue Services; and
5. are approved by the Director of Fire and Rescue Services.

(b) The County must not issue a building permit for the construction or reconstruction of any residential building unless the plans include the installation in each dwelling unit and any attached accessory structure of a fire sprinkler system.

(c) The County Executive must issue regulations to implement this Section. The regulations may authorize the Director to approve the use of specific construction alternatives that provide equivalent or greater protection of the public in residential buildings in which fire sprinkler systems will be installed.

(d) After inspection and final approval of a fire sprinkler system required under this Section, the inspector must provide to the initial occupant of the dwelling unit written information approved by the Fire Administrator about the proper care and maintenance of a residential fire sprinkler system. If the dwelling unit has never been occupied, the builder or other current owner must not accept payment or rent for the unit until the inspector has transmitted this fire sprinkler information to the initial occupant. The Fire Administrator must make the information widely available to residents who purchase or lease a previously occupied unit with an installed fire sprinkler system, and other County residents. (1987 L.M.C., ch. 8, § 1; 1990 L.M.C., ch. 24, § 1; 2003 L.M.C., ch. 23, § 1.)

Editor's note—2003 L.M.C., ch. 23, § 2, states: Transition. The amendments to Section 8-29A of the Code made by this Act apply to residential building permits issued on or after January 1, 2004.

Section 8-29A was repealed by 1980 L.M.C., ch. 45, § 1. Subsequently, 1987 L.M.C., ch. 8, § 1, added a new § 8-29A. Section 2 of 1990 L.M.C., ch. 24, reads as follows:

(a) § 8-29A(d), as added by Section 1, applies to any detached single-family dwelling unit for which an application for a building permit is filed on or after July 1, 1990.

(b) § 8-29A(b), as amended by Section 1, applies to any group home for which an application for a building permit is filed on or after July 1, 1990.

(c) The builder must install a fire sprinkler system that complies with § 8-29A(e), as added by Section 1, in any primary sales model detached single-family dwelling unit which is shown to prospective buyers for sales purposes on or after July 1, 1990.

Sec. 8-29B. Control of water runoff on small lots.

(a) The Director must not issue a building permit for any detached one- or two-family residential building located on a recorded lot smaller than 15,000 square feet, or a permit for any addition to such a residential building that would increase the building lot coverage by more than 400 square feet, unless the plans provide for safe conveyance or control of any increased water runoff, resulting from additional impervious area or any other topographic alteration, that would drain onto any adjacent or nearly private property.

(b) In this Section, *approved drainage system* means any method of safe conveyance from the property or storage on the property of on-site water runoff at the design rate specified in subsection (c), using one or more of the following methods or devices or any other method or device approved by the Director that would provide equivalent or greater protection of adjacent and nearby properties:

(1) on-site absorption or drainage device, such as rain barrel, cistern with slow release or controlled pump discharge, underground percolation and storage system, rain garden, rooftop garden or detention device, bioretention filter, or vegetation buffer;

(2) existing or new drainage facility, such as drainage interceptor, inlet, trench, permeable paved area, or similar feature;

(3) drainage line, inlet or pipe, or other engineered feature such as a swale or ditch; or

(4) natural topography or buffer area that successfully absorbs water drainage.

(c) Each approved drainage system must be designed to convey or control at least 1.5 inches of rainfall during a 24-hour period.

(d) After the approved drainage system is installed, the permittee must certify to the Director that the system:

(1) has been installed as provided in the plans approved by the Director; and

(2) will convey or control the water runoff specified in subsection (c) without impacting adjacent or nearby private properties.

(e) The permittee and the permittee's successors in interest must preserve and maintain each approved drainage system to the extent necessary to provide the same level of protection for adjacent and nearby properties. The permittee and the permittee's successors in interest must obtain the Director's approval before materially modifying any element of an approved drainage system. The Director may require a permittee to record an easement in the County land records for any approved drainage system to assure the continued preservation and maintenance of that system. (2006 L.M.C., ch. 37, § 1.)

Editor's note—2006 L.M.C., ch. 37, § 2, states, in part: County Code Section 8-29B, inserted by Section 1 of this Act, applies to any building for which an application for a building permit is filed on or after that date.

Article IV. Timely Adequate Public Facilities Determination. [Note]

Sec. 8-30. Purpose; definitions.

(a) *Purpose.* The purpose of this article is to avoid the premature development of land where public facilities, including transportation, are inadequate. It is intended to promote better timing of development with the provision of adequate public facilities.

(b) *Definitions.* In this article, the following words and phrases have the meanings stated, unless the context clearly indicates otherwise.

(1) *Development* means proposed work to construct, enlarge, or alter a building for which a building permit is required. *Development* does not include an addition to, or renovation or replacement of, an existing building if, as measured under guidelines adopted by the Planning Board for calculating numbers of vehicle trips and students:

(A) occupants of the building would generate fewer than 30 total peak hour vehicle trips; or, if they would generate more than 30 trips, the total number of trips would not increase by more than 5 over the number of trips generated by the building at full occupancy; and

(B) the number of public school students who will live in the building would not increase by more than 5 over the number of students generated by the building at full occupancy.

(2) *Non-residential development* means any development that does not contain only any type of dwelling or dwelling unit (including a multiple-family building, mobile home or townhouse) as defined in Section 59-A-2, and any extension, addition, or accessory building.

(3) *Existing building* means a building that is substantially intact when an application for a building permit for renovation, replacement, or reconstruction is filed.

(4) *Renovation* means an interior or exterior alteration that does not affect a building's footprint.

(5) *Replacement* means demolition or partial demolition of an existing building and rebuilding that building. A replacement building may exceed the footprint of the previous building.

(6) *Recorded lot* means any parcel, lot, or other tract of land recorded as developable property among the County land records.

(7) *Timely adequate public facilities determination* means an adequate public facilities determination by the Planning Board that is required before a building permit is issued, or is within the time limits prescribed by law for the validity of an adequate public facilities determination, or both. (1990 L.M.C., ch. 3, § 2; 1996 L.M.C., ch. 4, § 1; 2004 L.M.C., ch. 2, § 2; 2006 L.M.C., ch. 5, § 1; 2010 L.M.C., ch. 39, § 1.)

Sec. 8-31. Requirement for timely adequate public facilities determination; applicability.

(a) As provided in subsection (b), the Director may issue a building permit only if the Planning Board has made a timely determination that public facilities will be adequate to serve the proposed development encompassed by the permit application under:

(1) Chapter 50, if required;

(2) Chapter 59 for project plans or site plans, if required; or

(3) Section 8-32 for development if the Planning Board or its designee finds that a new adequate public facilities determination is required under this Article, Section 50-20, or other applicable law.

The work performed after the permit is issued must conform to the uses and amount of development for which the adequacy of public facilities was reviewed.

(b) *Applicability.* This Article applies to each applicant for a building permit on a recorded lot for which no valid finding of adequate public facilities has been made, including any recorded lot for which an original finding of adequate public facilities has expired. (1990 L.M.C., ch. 3, § 2; 1996 L.M.C., ch. 4, § 1; 2004 L.M.C., ch. 2, § 2; 2006 L.M.C., ch. 5, § 1.)

Editor's note—2006 L.M.C., ch. 5, § 2, states: Transition. Any replacement building for which a site plan application was accepted by the Planning Board before this Act became law [April 3, 2006] need not comply with the requirements of Section 8-31, as amended by Section 1 of this Act, for a timely adequate public facilities determination if: (a) the building was not required to obtain that determination before this Act took effect [July 3, 2006]; and (b) the replacement building would be less than 1,000 square feet larger than the building it would replace.

Sec. 8-32. Administrative procedures.

(a) *Initial referral of applications.* The Director must refer each building permit application to which this Article applies to the designee of the Planning Board to conduct an adequate public facilities analysis for the Board's review.

(b) *Review by other agencies.* The Director must also refer each application to which this Article applies for comments on the adequacy of public facilities to:

(1) the Department of Transportation;

(2) the Superintendent of the Montgomery County Public School System;

(3) the County Fire and Rescue Service; and

(4) the Department of Police.

Each recipient must submit any comments on the application to the Planning Board within 30 days after receiving the application from the Director.

(c) *Review and finding by Planning Board.*

(1) *Standards and Conditions*. The Planning Board may consider an application for timely adequate public facilities determination as part of a site plan review under Division 59-D-3 if site plan review is otherwise required. The Board may condition its adequacy finding on the execution of appropriate agreements with an applicant to the extent permitted for adequate public facilities determinations under subdivision or site plan approval procedures.

(2) *Hearing Requirement*. An applicant for a building permit or other interested person must be given the opportunity for a hearing before the Board acts under this Section. The Planning Board finding is final agency action for purposes of judicial review.

(3) *Planning Board Finding*. When the Planning Board receives all necessary information from the applicant and reviews any comments received from other public agencies and any other person, the Board must find, consistent with the adopted Growth Policy, whether all applicable public facilities will be adequate to support the proposed development.

(4) The Planning Board may establish procedures to carry out its responsibilities under this Section, including procedures to delegate the review of certain applications to a designee of the Board.

(d) *Decision by Director.*

(1) *Administrative Decision*. After receiving the adequacy finding of the Planning Board, the Director may issue, deny, or condition any permit, as appropriate, including requiring the applicant to execute binding agreements with the Planning Board.

(2) *Appeal*. An applicant or other interested person may appeal the decision of the Director as provided in Section 8-23. The Planning Board must receive notice of each decision of the Director under this Section and any appeal to the Board of Appeals. The Planning Board may intervene, request a hearing, and otherwise participate fully in a proceeding before the Director, the Board of Appeals, or any court with respect to the adequacy of public facilities.

(e) *Time limit.* An adequate public facilities determination made under this section remains valid for not less than 5 or more than 12 years, using the standards in Section 50-20. (1990 L.M.C., ch. 3, § 2; 1996 L.M.C., ch. 4, § 1; 2004, L.M.C., ch. 2, § 2; 2006 L.M.C., ch. 5, § 1; 2008 L.M.C., ch. 5, § 1.)

Editor's note—2008 L.M.C., ch. 5, § 3, states: Sec. 3. Any regulation in effect when this Act takes effect that implements a function transferred to another Department or Office under Section 1 of this Act continues in effect, but any reference in any regulation to the Department from which the function was transferred must be treated as referring to the Department to which the function is transferred. The transfer of a function under this Act does not affect any right of a party to any legal proceeding begun before this Act took effect.

Sec. 8-32, formerly Sec 8-34, was renumbered and amended by 2006 L.M.C., ch. 5, § 1.

Former Sec. 8-32, Registration of certain properties, which was derived from 1990 L.M.C., ch. 3, § 2, was repealed by 2006 L.M.C., ch. 5, § 1.)

Sec. 8-33. Reserved.

Former Sec. 8-33, Partial exemption from full compliance with local area transportation review requirements, which was derived from 1990 L.M.C., ch. 3, § 2; 1996 L.M.C., ch. 4, § 1, was repealed by 2006 L.M.C., ch. 5, § 1.

Sec. 8-34. Reserved.

2006 L.M.C., ch. 5, § 1, renumbered former Sec. 8-34 to Sec. 8-32.

Sec. 8-35. Reserved.

Former Sec. 8-35, Penalties, which was derived from 1990 L.M.C., ch. 3, § 2, was repealed by 2006 L.M.C., ch. 5, § 1.

Sec. 8-36. Reserved.

Former Sec. 8-36. Regulations, which was derived from 1990 L.M.C., ch. 3, § 2, was repealed by 2006 L.M.C., ch. 5, § 1.

Article V. Development Approval Payments.

Sec. 8-37. Payment.

(a) Any person who receives approval of a preliminary plan of subdivision under any Alternative Review Procedure for Transportation Facilities adopted in the Growth Policy which requires a Development Approval Payment must pay a development approval payment to the Director of Finance.

(b) If the applicant has received approval under the Alternative Review Procedure for limited residential development, the applicant must pay the applicable development approval payment before a building permit is released for any building in the area covered by the subdivision plan.

(c) If the applicant has applied under the Alternative Review Procedure for Metro Station Policy Areas, the applicant must agree, in a contract with the Planning Board and the Department of Transportation, as a condition of plan approval to pay the first installment of the development approval payment, as provided in Section 8-41, for each building in the area covered by the subdivision plan before the Department releases a building permit for that building. In addition, the applicant, and the owner of the property if the owner is not the applicant, must expressly accept in the same contract:

(1) the applicant's liability for the entire development approval payment, and

(2) the attachment to all real property in the subdivision of the lien imposed under Section 8-42(e). (1993 L.M.C., ch. 46, § 1; 1996 L.M.C., ch. 4, § 1; 2004 L.M.C., ch. 2, § 2; 2008 L.M.C., ch. 5, § 1.)

Editor's note—2008 L.M.C., ch. 5, § 3, states: Sec. 3. Any regulation in effect when this Act takes effect that implements a function transferred to another Department or Office under Section 1 of this Act continues in effect, but any reference in any regulation to the Department from which the function was transferred must be treated as referring to the Department to which the function is transferred. The transfer of a function under this Act does not affect any right of a party to any legal proceeding begun before this Act took effect.

Sec. 8-38. Rates.

(a) The rate of the payment required under Section 8-37 is:

(1) $1 per square foot of gross floor area in any building or part of a building that is:

(A) owned by a nonprofit organization that is exempt from federal income taxes under Section 501(c)(3) of the Internal Revenue Code;

(B) intended to be used primarily for the direct provision of charitable services; and

(C) not intended to be used as a permanent residence;

(2) $2.40 per square foot of gross floor area in any building or part of a building that is intended to be used primarily:

(A) for storage, industrial or manufacturing, or research and development purposes, or

(B) for offices by a nonprofit organization that is exempt from federal income taxes under Section 501(c)(3) of the Internal Revenue Code;

(3) $4 per square foot of gross floor area in any other nonresidential building or part of a building;

(4) $3 per square foot of gross floor area in any multi-family residential building or any addition to a multi-family residential building; and

(5) $3.75 per square foot of gross floor area in any single-family residential building, including any townhouse, or any addition to a single-family residential building.

(b) However, notwithstanding subsection 8-39(c), the minimum rate that must be charged for each single-family dwelling unit (including each townhouse) is $1500, and the minimum rate that must be charged for each multi-family dwelling unit is $1200.

(c) If, within 5 years after a use and occupancy permit is issued, any person changes the use of all or part of a building to a use for which a higher payment would have been due under this Section when the building permit was issued (including a change from a status, use, or ownership that is exempt under Section 8-39 to a status, use, or ownership that is not so exempt), the owner of the building must within 10 days after the change in status, use, or ownership pay all additional payments that would have been due if the building or part of the building had originally been used as it is later used. If the building owner does not pay any additional payment when due, each later owner is liable for the payment, and any interest or penalty due under Section 8-42, until all payments, interest, and penalties are paid.

(d) Each year the County Council by resolution, after a public hearing advertised at least 15 days in advance, may increase or decrease the payment rates set in this Section.

(e) (1) "Gross floor area," as used in this Article, means the sum of the gross horizontal areas of the several floors of a building measured from the exterior faces of the exterior walls or from the center line of a party wall.

(2) "Gross floor" area does not include any:

(A) unfinished basement or attic area with a clear height less than 7 feet 6 inches;

(B) interior amenity space required to obtain approval of a site plan;

(C) area occupied by an atrium or other multi-story space other than the first floor of the space;

(D) area occupied by unenclosed mechanical, heating, air conditioning, or ventilating equipment;

(E) parking garage or area; or

(F) other accessory structure that is not a separate building.

(3) In any single-family residential building, "gross floor area" also does not include 50% of any finished or unfinished basement or attic area with a clear height of 7 feet 6 inches or more. (1993 L.M.C., ch. 46, § 1.)

Sec. 8-39. Exemptions.

The payment required under Section 8-37 does not apply to:

(a) (1) any reconstruction or alteration of an existing building or part of a building that does not increase the gross floor area of the building; and

(2) any building that replaces an existing building on the same site to the extent of the gross floor area of the previous building, if construction begins within one year after demolition or destruction of the previous building was substantially completed;

(b) the first 1200 square feet of gross floor area of:

(1) a new nonresidential building, or

(2) an addition to an existing nonresidential building;

(c) the first 1200 square feet of gross floor area in any dwelling unit or addition to an existing dwelling unit;

(d) (1) any Moderately Priced Dwelling Unit built under Chapter 25A,

(2) any Productivity Housing Unit, as defined in Section 25B-17(m), and

(3) any other dwelling unit built under a government regulation or binding agreement that limits for at least 15 years the price or rent charged for the unit in order to make the unit affordable to households earning less than the income levels set by regulation for Moderately Priced Dwelling Units, adjusted for family size;

(e) a nonresidential building owned, and used primarily, by any agency or instrumentality of federal, state, County or municipal government;

(f) a building or part of a building owned by an accredited college or university and used exclusively for instruction, instruction-related research, and administration of higher education programs;

(g) a building owned by a nonprofit organization that is exempt from federal income taxes under Section 501(c)(3) of the Internal Revenue Code, used primarily for educational or religious activities, and not used for any substantial commercial activity. (1993 L.M.C., ch. 46, § 1.)

Sec. 8-40. Credits.

Any person who makes a development approval payment under Section 8-37 may reduce that payment by:

(a) any amount the person paid under Chapter 52 Article IV (development impact tax for transportation improvements) or Chapter 52 Article VI (expedited development approval excise tax) for the building that is the subject of this payment; and

(b) any amount the person paid or is required to pay for any development district tax levied under County law on account of the building which is the subject of this payment, to the extent that the development district tax is in addition to (and not a part of or substitute for) the ad valorem real property tax applicable to the property. (1993 L.M.C., ch. 46, §1; 2016 L.M.C., ch. 7, §1.)

Sec. 8-41. Payments; installment payments.

(a) Before the Department of Permitting Services releases a building permit for all or any part of a building subject to this Article, the applicant must show that all payments due under Section 8-38 have been paid.

(b) When a person applies to a city or town in the County for a building permit for a building or dwelling unit, the applicant must show that all payments due under Section 8-38 with respect to the building or unit have been paid. The Director of Finance must promptly refund any payment made for any building or part of a building for which a building permit is not issued by the city or town.

(c) (1) Any payment due under Section 8-37(c) may be paid in not more than 6 equal annual installments. The first installment must be paid before the building permit for any building subject to the subdivision plan is released, and each succeeding installment must be paid not later than the next December 31.

(2) In addition, the person making the payment must pay interest on the amount of each installment except the first at a rate set each year by the Director of Finance not less than the annual nationwide rate of inflation in construction costs since the first installment was paid. The payer may pay any installment in advance at any time, with interest calculated to the end of the month of payment. (1993 L.M.C., ch. 46, § 1; 1996 L.M.C., ch. 20, § 1;1998 L.M.C., ch. 12, § 1; 2001 L.M.C., ch. 14, § 1; 2002 L.M.C., ch. 16, § 2.)

Sec. 8-42. Collection and administration; interest and penalties; violation; lien.

(a) If any person fails to pay the Director of Finance the full payment or any installment payment due under Section 8-37, that person is liable for:

(1) interest on the unpaid amount at the rate of of one percent per month for each month or part of a month after the due date for payment under Section 8-41; and

(2) a penalty of 5 percent of the amount due and unpaid per month or part of a month after the due date for payment under Section 8-41, not to exceed 25 percent of the amount due and unpaid.

The Director must collect any interest and penalty as a part of the payment.

(b) If any person fails to pay the payment when due, the Director must obtain information on which to calculate the payment due. As soon as the Director obtains sufficient information to calculate any payment due, the Director must assess interest and penalties against the person. The Director must notify the person by mail sent to the person's last known address of the total amount of all payments, interest, and penalties. The total amount must be paid within 10 days after the notice is mailed.

(c) Every person liable for any payment under Section 8-37 must preserve for 6 years all records necessary to determine the amount of the payment. The Director may inspect the records at any reasonable time.

(d) Any failure to pay the payment due under Section 8-37, and any other violation of this Article, is a Class A violation. Each violation is a separate offense. A conviction does not relieve any person from liability for any unpaid payments, interest, or penalties.

(e) (1) Section 52-18D applies to this payment as if it were a tax. However, the lien under this Article attaches to all real property in the subdivision when the contract is signed under Section 8-37(c). The lien imposed under this Article has the same priority and may be enforced in the same manner as a lien imposed in case of nonpayment of County real property taxes.

(2) A lien must not be attached to any real property owned by the Washington Metropolitan Area Transit Authority if the applicant for subdivision approval furnishes sufficient alternative security in a form and amount accepted by the County Attorney.

(f) The County Executive may adopt regulations under method (2) to implement this Article.

(g) As used in this Article, "person" includes any individual, corporation, association, firm, partnership, group of individuals acting as a unit, trustee, receiver, assignee or personal representative. "Building" and "dwelling unit" have the same meaning as in Chapter 59.

(h) By September 1 of each year in which payments are received under this Article, the Director must report to the County Council for the preceding fiscal year:

(1) the amount collected under this Article, by policy area and building use type;

(2) the amount of property exempted from development approval payments under Section 8-39; and

(3) the amount of credits granted under Section 8-40.

(i) In each fiscal year the Director must transfer 20 percent of the revenue received under this Article to support the Montgomery Housing Initiative established under Section 25B-9. The Council must appropriate the remaining revenue received under this Article to fund transportation projects in the annual capital improvements program and the expenses of any transportation management district established under Chapter 42A. Unless the Council by resolution directs otherwise, revenue under this Article must not be appropriated to any project that is eligible for federal or state funding, except for the County's matching share of the project costs.

Article VI. Works of Art in Public Architecture. [Note]

Sec. 8-43. Definitions.

In this Article, *work of art* means an object, objects or surface embellishment produced with skill and taste. A work of art should generally be an original creation, rather than a mass-produced item, generally expressing, but not limited to, a social, cultural or historical theme. Works of art include, but are not limited to, paintings, sculptures, engravings, carvings, frescos, mobiles, murals, collages, mosaics, statues, bas-reliefs, tapestries, photographs, drawings, stained glass, fountains, or other decoration, either exterior or interior. The term does not include temporarily hung works of art, landscaping, or the choice or use of materials in architecture. (1984 L.M.C., ch. 1, § 1; 1995 L.M.C., ch. 12, § 1.)

Sec. 8-44. Public arts trust.

(a) There is a Public Arts Trust fund within County Government to:

(1) receive, hold, and pay out public and private funds to:

(A) buy and display works of art on public property in the County; and

(B) pay the cost of administering the fund; and

(2) sponsor privately-funded temporary or permanent displays of art on public property in the County.

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

(1) Arts and Humanities Council;

(2) Montgomery County Public Schools;

(3) Montgomery College; and

(4) Montgomery County Parks Commission.

(c) The Chief Administrative Officer must report to the County Council:

(1) each quarter on:

(A) new locations selected for works of art to be funded by the Public Arts Trust; and

(B) works of art purchased or displayed with Public Arts Trust funds during the quarter; and

(2) each year by January 15 on all other uses of Public Arts Trust funds during the prior calendar year. (1995 L.M.C., ch. 12, § 1; 2001 L.M.C., ch. 28, §§ 2, 15 and 16.)

Editor's note The effective date of the amendments made to this section by 2001 L.M.C., ch. 28, § 2, is the same effective date as 1999 L.M.C., ch. 24, § 1.

Sec. 8-45. Appropriation for art.

Each year the County Council should consider appropriating funds for the next fiscal year to the Public Arts Trust in an amount equal to .05% of the combined total approved programmed capital expenditures for the then current fiscal year for County Government, Public Schools, Montgomery College, and Maryland-National Capital Park and Planning Commission. (1984 L.M.C., ch. 1, § 1; 1988 L.M.C., ch. 43, §§ 1--3;

1990 L.M.C., ch. 43, § 1; CY 1991 L.M.C., ch. 9, § 1; 1992 L.M.C., ch. 9, § 1; 1995 L.M.C., ch. 12, §§ 1, 2.)

ARTICLE VII. Reserved.*

***Editor's note**—Former Article VII, Energy Efficiency and Environmental Design, containing former Sections 8-46 through 8-52, derived from 2006 L.M.C., ch. 44, § 2, as amended by 2008 L.M.C., ch. 7, § 2, was repealed by 2017 L.M.C., ch. 24, § 2.

Sec. 8-46. Reserved.

Editor's note—Former Section 8-46, Energy efficiency and environmental design–Short title, derived from 2006 L.M.C., ch. 44, § 2, was repealed by 2017 L.M.C., ch. 24, § 2.

Sec. 8-47. Reserved.

Editor's note—Former Section 8-47, Energy efficiency and environmental design–Policy, derived from 2006 L.M.C., ch. 44, § 2, was repealed by 2017 L.M.C., ch. 24, § 2.

Sec. 8-48. Reserved.

Editor's note—Former Section 8-48, Energy efficiency and environmental design–Definitions, derived from 2006 L.M.C., ch. 44, § 2 and 2008 L.M.C., ch. 7, § 2, was repealed by 2017 L.M.C., ch. 24, § 2.

Sec. 8-49. Reserved.

Editor's note—Former Section 8-49, Energy efficiency and environmental design–Standards and requirements, derived from 2006 L.M.C., ch. 44, § 2 and 2008 L.M.C., ch. 7, § 2, was repealed by 2017 L.M.C., ch. 24, § 2.

Sec. 8-50. Reserved.

Editor's note—Former Section 8-50, Energy efficiency and environmental design–Building permits, derived from 2006 L.M.C., ch. 44, § 2 and 2008 L.M.C., ch. 7, § 2, was repealed by 2017 L.M.C., ch. 24, § 2.

Sec. 8-51. Reserved.

Editor's note—Former Section 8-51, Energy efficiency and environmental design–Regulations, derived from 2006 L.M.C., ch. 44, § 2 and 2008 L.M.C., ch. 7, § 2, was repealed by 2017 L.M.C., ch. 24, § 2.

Sec. 8-52. Reserved.

Editor's note—Former Section 8-52, Energy efficiency and environmental design–Report, derived from 2006 L.M.C., ch. 44, § 2, was repealed by 2017 L.M.C., ch. 24, § 2.

Sec. 8-53. Reserved.

Editor's note—Former Section 8-53, ASHRAE/USGBC/IESNA standards, derived from 2008 L.M.C., ch. 7, § 3, was repealed by 2014 L.M.C., ch. 15, § 1.

ARTICLE VIII. CLEAN RENEWABLE ENERGY TECHNOLOGY.

Sec. 8-54. Definitions.

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

Clean energy portfolio target means a target, expressed in megawatt hour equivalents, for establishing an amount of clean energy to be installed on the County's portfolio of facilities. The County's portfolio includes any building, facility, or property in which the County has a financial interest. A financial interest includes any ownership, lease, or public private partnership, and any facility where the County provides 30% of total funding.

Clean renewable energy technology means a technology or system that uses geothermal heating and cooling, solar hot water heating, wind power, solar electricity generation, or solar thermal generation. *Clean renewable energy technology* includes passive solar energy generation that reduces energy use from other sources by at least 20%.

Department means the Department of General Services.

Director means the Director of the Department or the Director's designee. (2014 L.M.C., ch. 16, § 1.)

Sec. 8-55. Clean renewable energy technology required.

(a) By December 10, 2014, the County Executive must establish, by Method 1 Regulation, a Clean Energy Plan that includes a specific amount of on-site clean energy that must be installed on any new or existing County facility. This Plan must include:

(1) a clean energy portfolio target for total clean energy to be installed on County facilities, which must exceed 1 kilowatt per 1,000 square feet of facilities anticipated to be added to the County's portfolio as documented in the Capital Improvement Program;

(2) a process for vetting any new facility for potential renewable energy installation during the design phase, including key criteria for evaluating opportunities for solar energy;

(3) a plan to ensure that appropriate facilities are solar ready, to the extent possible;

(4) criteria for responsible site selection to balance the County's renewable energy goals with other environmental objectives;

(5) a process to coordinate with County agencies on any new facility built using at least 30% County funds; and

(6) required funding and staffing to achieve the target.

(b) The County may install a clean energy system in an alternate location in the County to meet this requirement, including:

(1) a vacant property;

(2) a land swap or lease agreement; or

(3) any other property or facility where the County has a contractual, budgetary, or other interest.

(c) The Executive must recommend to the Council whether funds to support solar energy should be incorporated in a energy specific capital improvement budget, utility Non Departmental Account, or other mechanism to overcome any funding gap to meet the renewable energy target. (2014 L.M.C., ch. 16, § 1; 2016 L.M.C., ch. 7, §1.)

Sec. 8-56. Alternative financing.

(a) An alternative financing arrangement which allows leveraging of federal, state, utility, and other incentives, including any grant, lease-purchase agreement, power purchase agreement, or energy savings performance contract, may meet the clean renewable energy technology requirement under this Article.

(b) The purchase of Renewable Energy Credits does not meet the clean renewable energy technology requirement under this Article. (2014 L.M.C., ch. 16 , § 1.)

Sec. 8-57. Administration; reporting.

(a) The Department must administer this Article using accepted principles of sound accounting and fiscal management.

(b) The Department must submit an annual report to the County Council and County Executive by April 1 each year describing:

(1) the added clean renewable energy technology generation by each project;

(2) the revenues and expenditures of each project;

(3) each project supported by the Program; and

(4) the cost and energy savings resulting from the program. (2014 L.M.C., ch. 16 , § 1.)

Editor's note—Former Article VIII. Energy Efficiency (Secs. 8-54, 8-55, 8-56, 8-57), derived from 2008 L.M.C., ch. 7, § 4, was repealed by 2010 L.M.C., ch. 16, § 1.

Notes

[Note] ***Editor's note-**In Denice v. Spotswood I. Quinby, Inc., 248 Md. 428, 237 A.2d 4 (1968), it was held that compliance with the County building code is an implied condition of every construction contract. Chapter 8 is cited in Council of Chevy Chase View v. Rothman, 323 Md. 674, 594 A.2d 1131 (1991). The County building code is mentioned in Bernstein v. Reforzo, 37 Md. App. 724, 379 A.2d 181 (1978).

See County Attorney Opinion dated 12/13/99 explaining that the County has the authority to inspect stormwater management facilities constructed before 1985, but maintenance responsibility lies with the owner. See County Attorney Opinion dated 1/29/97 evaluating fees that may be charged for permits for Montgomery County Public Schools, Washington Suburban Sanitary

Commission, Montgomery College, Maryland-National Capital Park and Planning Commission, Revenue Authority, and County agencies. [attachments]

1998 L.M.C., ch. 13, §1, amending 1997 L.M.C., ch. 27, §1, reads as follows:

"(a) Notwithstanding any provision of Chapter 8, Chapter 59, or any other County law to the contrary, the Director of the Department of Permitting Services must not issue or allow the transfer of a certificate of use and occupancy between July 22, 1997, and September 30, 1998, for any nonresidential use of property by a pawnbroker.

(b) Notwithstanding any provision of Chapter 8, Chapter 59, or any other County law to the contrary, any certificate of use and occupancy issued between July 22, 1997, and September 30, 1998, for the nonresidential use of property by a pawnbroker is void.

(c) Subsections (a) and (b) do not prohibit the Director from issuing a use and occupancy certificate for the nonresidential use of property ("new location") by a pawnbroker that holds a valid use and occupancy certificate for the use of another property ("current location") in the County if:

(1) both the current location and the new location are owned by the same property owner;

(2) the new location adjoins the current location directly or through one or more properties owned by the same property owner;

(3) the total floor space (square footage) of the new location is not more than 100 percent larger than the total floor space of the current location; and

(4) the pawnbroker surrenders the use and occupancy certificate for the current location when the Director issues a certificate for the new location.

(d) In this Act, pawnbroker means a pawnbroker as defined in Section 30-7 of the County Code or Section 12-101(e) of the Maryland Secondhand Precious Metal Object Dealers and Pawnbrokers Act." 1998 L.M.C., ch. 5, § 1 and 1997 L.M.C., ch. 40, §1, previously amended 1997 L.M.C., ch. 27, §1.

1995 L.M.C., ch. 33, § 1 reads as follows: "Notwithstanding any provision of Chapter 8, Chapter 59, or any other County law to the contrary, the Department of Environmental Protection must not issue a building permit for any wireless communication transmission antenna (including any cellular or mobile telephone transmission antenna), any structure on which any such antenna would be located, or any related equipment building before March 22, 1996, if the antenna is a publicly owned or publicly operated use under Chapter 59. Any building permit issued or released between November 21, 1995, and March 21, 1996, for a publicly owned or publicly operated wireless communication transmission antenna (including any cellular or mobile telephone transmission antenna), or any structure on which any such antenna would be located, is void."

Cross references-Agricultural land preservation, ch. 2B; condominiums, ch. 11A; cooperative housing, ch. 11C; electricity, ch. 17; energy conservation, ch. 18A; erosion, sediment control and storm water management, ch. 19; fire safety code, ch. 22; historic resource preservation, ch. 24A; homeowners' associations, ch. 24B; building and fire regulations for hospitals, sanitariums, nursing and care homes, § 25-53 et seq.; housing, moderately priced, ch. 25A; housing policy, ch. 25B; housing and building maintenance standards, ch. 26; discrimination in real estate, § 27-11 et seq.; maximum sound levels for construction, repair or demolition of structures, § 31B-6; new home warranty and builder licensing, ch. 31C; planning procedures, ch. 33A; plumbing and gas fitting, ch. 34; pond and excavation safety standards, ch. 36; rat control, ch. 39; subdivision of land, ch. 50; swimming pools, ch. 51; unsafe buildings, ch. 55; zoning, ch. 59.

[Note] ***Cross reference-**Building permit, § 59-A-3.1.

[Note] ***Editor's note-**Article IV; §§ 8-30 — 8-42, relating to licensing of building contractors, was repealed by 1986 L.M.C., ch. 49, § 2. The article was previously derived from 1969 L.M.C., ch. 12, § 1; 1972 L.M.C., ch. 16, § 5; 1975 L.M.C., ch. 1, § 4; 1977 L.M.C., ch. 28, § 4; 1981 L.M.C., ch. 47, §§ 1--4; 1983 L.M.C., ch. 22, § 12; 1984 L.M.C., ch. 24, § 10; 1984 L.M.C., ch. 27, § 9. Subsequently, a new article, §§ 8-30--3-36, was added by § 2 of 1990 L.M.C., ch. 3, which was contingent upon passage of Subdivision Regulation 89-1. This regulation was adopted July 25, 1989.

Cross references--New home warranty and builder license, ch. 31C; traffic mitigation agreements for certain developments, § 42A-9A.

[Note] ***Editor's note-**Sections 1 and 2 of 1995 L.M.C., ch. 12, repealed §§ 8-43, 8-45, 8-46(note), 8-47--8-50, renumbered § 8-44 as 8-43 and § 8-46 as 8-45, and added a new § 8-44.
Note-Renumbered from art. V to art. VI by 1993 L.M.C., ch. 46, § 1.
Cross reference-Arts, ch. 5A.