

NOV - RESIDENTIAL POLICE
DEVELOPMENT LITIGATION

M E M O R A N D U M

TO: County Council

FROM: *MF* Michael Faden, Senior Legislative Attorney

SUBJECT: **Action:** Emergency Bill 5-93, Nonresidential Structures -
condemnation

Emergency Bill 5-93, Nonresidential Structures - condemnation, sponsored by the Council President at the request of the County Executive and Councilmember Derick Berlage, was introduced on January 26, 1993. A public hearing was held on February 16, 1993. The Planning, Housing and Economic Development Committee held a worksession on July 8 and recommends enactment of Bill 5-93 with amendments.

Bill 5-93 would extend to nonresidential buildings many of the current remedies for housing and building standards violations which now apply only to residential buildings.

Issues

1) Are any special protections required for historic buildings?

Several speakers at the public hearing, including representatives of the Art Deco Society of Washington and the Silver Spring-Takoma Park Traffic Coalition, urged that special provisions be inserted in the housing and building standards law to protect historic buildings (nonresidential or residential) from hasty demolition by code enforcement agencies.

In response to this concern, Councilmember Berlage proposed an amendment which the PHED Committee accepted in modified form. The Committee amendment (inserted on ©5, lines 82-90; ©5-6, lines 102-114; and ©7, lines 142-152) requires DHCD or another code enforcement agency to give the Historic Preservation Commission notice of a pending demolition or repair order affecting any building on the historic properties master plan or locational atlas. HPC could then initiate the remedies of §24A-7 or §24A-10, whichever applies, under the historic preservation law. §24A-7 and §24A-10 (reprinted on ©12-19) set up the processes respectively for approval of historic area work permits and postponing demolition of potentially historically valuable buildings until a historic review can be made.

The Committee amendment does not limit a code enforcement agency's ability to order and perform emergency repairs, including demolition, under §26-19(a) when a severe emergency requires immediate action to protect public health or safety. However, in that situation the amendment requires the code enforcement agency to make its best efforts during the 24-hour notice period to consult the Planning Board before demolishing a building on the historic master plan or substantially altering its exterior features. Committee Chair Hanna dissented from this part of the amendment, arguing that the agency should not be subject to second-guessing in emergencies.

2) Should farm buildings be exempt from the building standards law?

A speaker at the public hearing, Fayez Hanna, suggested that farm buildings and structures not used for human habitation be exempt from the building standards law. See testimony, ©11. The PHED Committee did not recommend this amendment, but agreed that DHCD could adopt different requirements for farm buildings if appropriate.

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529/LAW/9

Emergency Bill No. 5-93
Concerning: Nonresidential
Structures - condemnation
Draft No. & Date: 3 7/20/93
Introduced: January 26, 1993
Expires: July 26, 1994
Enacted: _____
Executive: _____
Effective: _____
Sunset Date: None
Ch. _____, Laws of Mont. Co. _____

COUNTY COUNCIL
FOR MONTGOMERY COUNTY, MARYLAND

By: The Council President at the Request of the County Executive
and Councilmember Berlage

AN EMERGENCY ACT to:

- (1) modify housing code inspection procedures to include nonresidential structures;
- (2) extend housing code condemnation procedures to cover unsafe nonresidential structures, and redefine the standards for condemnation of residential and nonresidential structures;
- (3) provide for the demolition of condemned nonresidential structures; and
- (4) generally amend the law that establishes housing and building maintenance standards.

By amending

Montgomery County Code
Chapter 26, Housing and Building Maintenance Standards
Sections 26-4, 26-12, 26-14, 26-17, [[and]] 26-18, and 26-19

EXPLANATION: **Boldface** indicates a heading or a defined term
Underlining indicates text that is added to existing law by the original bill
[Single boldface brackets] indicate text that is deleted from existing law by the original bill
Double underlining indicates text that is added to the bill by amendment
[[Double boldface brackets]] indicate text that is deleted from existing law or the bill by amendment
* * * indicates existing law unaffected by the bill

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

1 **Sec. 1. Section 26-4 is amended as follows:**

2 **26-4. Inspections generally; when warrants required; right of entry**
3 **of inspectors and owners.**

4 (a) The enforcing agency may inspect the condition of
5 dwellings, nonresidential structures, and premises located
6 [within] in the County to safeguard the health and safety
7 of the occupants [of dwellings] and [of] the general
8 public. For the purpose of making such inspections, the
9 enforcing agency may enter, examine and survey, at all
10 reasonable times, all dwellings, nonresidential structures,
11 and premises. Before an inspection, the enforcing agency
12 must give notice either orally or in writing of the day of
13 the inspection and obtain the consent of the owner,
14 operator or occupant to the inspection.

15 * * *

16 **Sec. 2. Section 26-12 is amended as follows:**

17 **26-12. Designation of unfit dwellings and unsafe nonresidential**
18 **structures; legal procedure of condemnation.**

19 The designation of dwellings or dwelling units as unfit for
20 human habitation and the designation of nonresidential structures as
21 unsafe for human occupancy or use under this Chapter, and the
22 condemnation and placarding of unfit dwellings or dwelling units and
23 unsafe nonresidential structures, must comply with the following
24 requirements:

25 (a) Any dwelling or dwelling unit and any nonresidential
26 structure which has any of the following defects may be
27 condemned as unfit for human habitation or unsafe for human

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occupancy or use by the enforcing agency:

(1) One which is, entirely or in part, so damaged, decayed, dilapidated, unsanitary, unsafe or vermin-infested that it creates a serious hazard to the health or safety of the occupants or of the public.

(2) One which lacks, entirely or in part, illumination, ventilation, heating, water supply, or sanitation facilities adequate to protect the health or safety of the occupants or of the public, as required in this Chapter.

(3) One which because of its general condition is, entirely or in part, unsanitary or otherwise dangerous to the health or safety of the occupants or the public.

(4) One which contains unsafe equipment, including any boiler, heating equipment, elevator, moving stairway, electrical wiring or device, flammable liquid containers or other equipment, on the premises or in the structure which is in such disrepair or condition that it is a hazard to the life, health, property or safety of the occupants or the public.

(b) The enforcing agency must notify the owner of every dwelling or dwelling unit and every nonresidential structure condemned for human habitation, occupancy or use. [and] The enforcing agency must post a warning placard on the property.

(c) (1) Any person occupying a dwelling or dwelling unit when it is condemned as unfit for human habitation must

55 vacate the dwelling unit within a reasonable time as
56 ordered by the enforcing agency.

57 (2) Any person occupying or using a nonresidential
58 structure when it is condemned as unsafe for human use
59 or occupancy must vacate the building or structure
60 immediately after a warning placard is posted.

61 [(2)](3) A person must not occupy or use and an owner must not
62 permit a person to occupy or use a dwelling [or], a
63 dwelling unit, or a nonresidential structure which has
64 been condemned as unfit for human habitation or unsafe
65 for human occupancy or use until the enforcing agency
66 approves the occupancy or use and removes the
67 placard. The enforcing agency may remove the placard
68 if all defects upon which the condemnation was based
69 have been eliminated.

70 (d) A person must not deface or remove a placard from any
71 dwelling [or], dwelling unit, or nonresidential structure,
72 except as authorized by the enforcing agency.

73 (e) Every owner of a condemned or abandoned structure must
74 secure all windows and doors that are accessible from the
75 ground, from an adjacent structure, or by the reasonably
76 foreseeable use of a ladder, table or other device, and
77 must keep them secured against unauthorized entry.

78 **Sec. 3. Section 26-14 is amended as follows:**

79 **26-14. Notice of violation and order to comply with chapter; appeal**
80 **to housing board of review.**

81 (a) * * *

82 (5) also be sent to the Historic Preservation Commission
83 if any affected building or structure:

84 (A) has been designated on the master plan for
85 historic preservation as an historic site or an
86 historic resource within an historic district, or

87 (B) is listed on the locational atlas and index of
88 historic sites maintained by the
89 Maryland-National Capital Park and Planning
90 Commission.

91 * * *

92 **Sec. 4. Section 26-17 is amended as follows:**

93 **26-17. Effect of Chapter on other [[ordinances, etc]] laws.**

94 (a) This chapter [[shall]] does not [[be deemed to]] repeal,
95 [[or]] modify, or otherwise affect [[in any manner]] any
96 other [[ordinance, resolution, rule]] County law or
97 regulation [[of the County; provided, that wherever]],
98 However, except as specified in subsection (b), if this
99 Chapter imposes more stringent [[regulations, restrictions,
100 limitations]] limits or requirements, [[the provisions of]]
101 this Chapter [[shall]] prevail.

102 (b) If an enforcing agency proposes to take any action under
103 Sections 26-12, 26-14, 26-18, or 26-19(b) that would
104 directly affect any building or structure (1) which has
105 been designated on the master plan for historic
106 preservation as an historic site or an historic resource
107 within an historic district, or (2) which is listed on the
108 locational atlas and index of historic sites maintained by

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109 the Maryland-National Capital Park and Planning Commission,
110 the enforcing agency must apply for a historic area work
111 permit under Section 24A-7 or a permit under Section
112 24A-10, whichever applies, before the enforcing agency
113 removes the building or structure, substantially alters its
114 exterior features, or contracts to do either.

115 **Sec. [[3]] 5. Section 26-18 is amended as follows:**

116 **26-18. Repair or removal of condemned buildings or structures.**

117 (a) If the owner of any building or structure or part of a
118 building or structure condemned under this Chapter [fails
119 to] does not remedy in a manner satisfactory to the
120 enforcing agency the [condition or] conditions which led to
121 the condemnation by [failing to cause such] causing the
122 building or structure or part of a building or structure to
123 be put into [sanitary condition] full compliance with this
124 Chapter, or to be demolished and removed, within the time
125 specified by the enforcing agency in the order of
126 condemnation or any extension [thereof], the enforcing
127 agency may, after [thirty (30)] 30 days' written notice to
128 the owner, order the demolition of the building or
129 structure, the filling of any excavation and the clearing
130 of the property so that it will be in a safe condition.
131 The County may charge the cost of removal [by the County
132 shall be charged] to the owner of the property and collect
133 it as taxes on real property or other debts are collected.
134 [in the manner of taxes, and] Any such charge [shall be] is
135 a lien on the property. [The cost to the County of removal

136 may also be collected as other debts.]

137 (b) Any person aggrieved by an order of the enforcing agency
138 under this Section may appeal [such] the order to the
139 County Board of Appeals [under section 55-2].

140 Sec. 6. Section 26-19 is amended as follows:

141 26-19. Emergency and corrective actions.

142 (a) * * * *If an enforcing agency proposes to take any
143 action under this subsection that would directly affect any
144 building or structure which has been designated on the
145 master plan for historic preservation as an historic site
146 or an historic resource within an historic district, the
147 enforcing agency must make its best efforts to consult with
148 the Chair of the Planning Board or the Chair's designee
149 during the 24 hour period referred to in this subsection
150 before the enforcing agency removes the building or
151 structure, substantially alters its exterior features, or
152 contracts to do either.

153 * * *

154 Approved:

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157 Marilyn J. Praisner, President, County Council

Date

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159 Approved:

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162 Neal Potter, County Executive

Date

LEGISLATIVE REQUEST REPORT

BILL NO. 5-93

Condemnation and Removal of Nonresidential Structures

- 1) **DESCRIPTION:** The Bill establishes authority for the condemnation and removal of unsafe nonresidential buildings.
- 2) **PROBLEM:** Vacant commercial buildings which have become dangerous and unsafe are being entered and occupied by homeless persons and others. Repeated orders to the property owners have resulted in the installation of locks and plywood across the windows. Nevertheless, vandalism and unsafe occupancy continues to reoccur. Chapter 26, the Housing and Building Maintenance Standards, contains a procedure for the demolition of dwellings after they have been condemned, but lacks the authorization to condemn and demolish nonresidential buildings.
- 3) **GOALS AND OBJECTIVES:** To authorize the Department of Housing and Community Development to condemn unsafe nonresidential buildings or structures as a first step toward demolition and removal.
- 4) **COORDINATION:** The legislation will be coordinated with other sections of Chapter 26 which first require maintenance of commercial properties. Condemnation and demolition will be invoked only when properties are not maintained. Existing demolition procedures have established coordination for historic site determination.
- 5) **FISCAL IMPACT:** The operating budget for the first and succeeding years will be increased by \$100,000. Existing procedures provide for recovery of demolition expenses. The actual cost of removal is charged to the owner of the property in the manner of taxes and becomes a lien on the property. Thus, all expenses connected with the demolition and removal of nonresidential buildings will be recovered.
- 6) **ECONOMIC IMPACT:** The removal of blighting influences will benefit neighboring properties and the surrounding community. Customers and employees of nearby businesses would no longer be frightened away.

- 7) **EVALUATION:** The legislation will be evaluated by its effectiveness in removing unsafe commercial buildings. The evaluation of future needs will occur during annual budget decisions.
- 8) **EXPERIENCE ELSEWHERE:** Similar programs or legislation in other jurisdictions have not come to our attention.
- 9) **SOURCES OF INFORMATION:** Melvin E. Tull
Chief, Division of Code Enforcement
(301) 217-3725
- 10) **APPLICATION WITHIN MUNICIPALITIES:** Chapter 26 applies within Barnesville, Brookeville, the Village of Martin's Addition, Chevy Chase Sec. 3, the Town of Chevy Chase, Chevy Chase Sec. 5, Glen Echo, Kensington, Somerset, Washington Grove, and Laytonsville. This Bill has not been proposed as a Board of Health regulation.
- 11) **PENALTIES:** Class A penalties apply.



RECEIVED COUNCIL

Montgomery County Government

92 DEC 21 10:01

ROCKVILLE, MARYLAND 20850

Neal Potter
County Executive
(301) 217-2500
TTY 217-6505

MEMORANDUM

December 21, 1992

BILL-

015524



*MF
cc
HAVE SBF
MK
RW*

TO: Marilyn Praisner, President
Montgomery County Council

FROM: Neal Potter, County Executive *NP*

SUBJECT: Recommended Amendment for Authority to Condemn and
Demolish Unsafe Nonresidential Buildings

DISK TO CHRISTY

This proposed legislation would amend Chapter 26 of the Montgomery County Code, the Housing and Building Maintenance Standards, to provide for the condemnation and removal of unsafe nonresidential buildings. Authority and procedures already exist for the demolition of condemned dwellings but not for nonresidential buildings.

The ability to demolish unsafe commercial and other nonresidential buildings is essential to the control of blight and decay. We plan to focus our initial efforts on vacant buildings in the Silver Spring Central Business District which have been allowed to decay and which have been open to vandalism and illegal entry; however, the law will apply to all commercial and industrial areas.

Demolition costs for the first year are expected to be in the range of \$100,000. Thereafter, the annual budget will be \$100,000. Existing procedures provide for recovery of demolition expenses. The actual cost of removal is charged to the owner of the property in the manner of taxes and becomes a lien on the property. All expenses connected with the demolition and removal of nonresidential buildings will be recovered.

NP:mmr

TESTIMONY PRESENTED TO THE HONORABLE COUNCIL MEMBERS
OF MONTGOMERY COUNTY GOVERNMENT
IN SUPPORT OF EXEMPTING FARM BUILDINGS AND STRUCTURES WHICH
ARE USED SOLELY BY OWNERS FOR THE EXCLUSIVE FARM ACTIVITIES

RE: Emergency Bill 5-93
Non-residential Structures Condemnation

It is clear that the intent of this emergency Bill is directed towards extending the authority of demolition and condemnation of residential dwellings to commercial and industrial abandoned buildings. (Ref. December 21, 1992, memorandum of County Executive Neal Potter to the President of Montgomery County Council).

The memorandum clearly states that "THE LAW WILL APPLY TO ALL COMMERCIAL AND INDUSTRIAL AREAS"

Further, the Legislative Request Report indicates that:
THE PROBLEM : is related to vacant commercial buildings;
ECONOMIC IMPACT: on customers and employees of nearby businesses;
EVALUATION : its effectiveness in removing unsafe commercial buildings.

HOWEVER, the language of the proposed Bill, to include "NON-RESIDENTIAL BUILDINGS", is so broad that it can be construed as to apply the condemnation authority to barns, silos and other structures which are used exclusively for farm activities.

Therefore, on behalf of family owned and operated small farms and myself, we respectfully request that this Honorable Council incorporates AN EXEMPTION FOR FARM BUILDINGS AND STRUCTURES WHICH ARE USED SOLELY BY FARM OWNERS. Of course, this requested exemption would not apply if any farm building or structure is used for human habitation.

The requested exemption will eliminate any confusion for enforcement agents, and will result in effective use of the resources allocated for the intended purpose of the Bill.

I am confident that you are well aware that no owner/operator of a small farm would be financially able to maintain farm buildings, so that the requirements of Chapter 26 (Housing and Building maintenance standards) Section 26-4, 26-12 and 26-18, can be met or complied with.

BY FAYEZ HANNA AND OTHER OWNERS OF FAMILY OPERATED SMALL FARMS
(14912 Chestnut Ridge Court, Gaithersburg, Maryland 20878)

(11)

Sec. 24A-7. Same—Application procedures; appeals.

(a) *Applications.* Applications for issuance of an historic area work permit shall be filed with the director. The application shall be in such form and contain such information as may be required to provide information as shall be necessary for the commission to evaluate an act upon such applications in accordance with the provisions of this chapter.

(b) *Referral of application.* Upon the filing of a completed application, within 3 days the director shall forward the application and all attachments to the commission for its review.

(c) *Public appearance.* Upon receipt of the application, the commission shall schedule a public appearance at a commission meeting at which time it will consider the application.

(d) *Notice.* After scheduling of a public appearance, the commission shall forward notice of the public appearance to those citizens or organizations which the commission feels may have an interest in the proceedings.

Upon being advised by the commission of the scheduling of a public appearance, the director shall forward the application and all attachments to the planning board for its review and comments which, if any, are to be made to the commission prior to the public appearance.

(e) *Conduct of commission meeting.* At the public appearance, the procedure will be informal and formal rules of evidence will not be applicable. Interested persons will be encouraged to comment and minutes of the proceedings will be kept.

(f) *Action by the commission.*

(1) Within 45 days after the filing of an application or, in the event the record is left open by the commission, within 15 days after the close of the record, the commission shall make its decision public.

(2) The commission may instruct the director to:

- a. Issue the permit; or
- b. Issue the permit subject to such conditions as are necessary to insure conformity with the provisions and purposes of this chapter; or
- c. Deny the permit.

(3) In the event of a denial of a permit, the applicant shall receive a written notification of the reasons for such denial.

(4) If, after a public appearance, the commission finds that denial of the permit applied for will result in the denial of reasonable use of the property or impose undue hardship on the owner, and within a period of 120 days after such finding no economically feasible plan for the preservation of the structure has been demonstrated by those seeking preservation, the commission must then instruct the director to issue a permit with, if applicable, such reasonable conditions which will further the intent and purposes of this chapter.

(5) Failure of the commission to act on an application within the time periods provided in the provisions of this subsection shall require that the application be deemed granted. By his written consent, the applicant may extend the time period for commission action.

(g) *Miscellaneous provisions.*

(1) The applicant for a permit shall have the responsibility of providing information sufficient to support the application and the burden of persuasion on all questions of fact which are to be determined by the commission. Properties subject to deeds of easement held by other historic preservation organizations shall submit proof of approval of exterior architectural review by the organization holding the easement.

(2) Any permit issued by the director may be subject to such conditions imposed by the commission as are reasonably necessary to assure that work in accordance with the permit shall proceed and be performed in a manner not injurious to those characteristics and qualities of the historic resource which are of historical, architectural, archeological or cultural value.

(3) In the event that there is a conflict between the permit and the requirements of the building code, the permit would control provided that all health and safety requirements are met.

(4) The director is responsible for the enforcement of this chapter.

(h) *Appeal.*

(1) In the event that any party is aggrieved by a decision of the commission, within 30 days from the date on which the commission's decision is made public, such party aggrieved may appeal to the board of appeals which will review the commission's decision *de novo*. The board of appeals has full and exclusive authority to hear and decide all appeals taken from decisions of

the commission in the administration of this chapter. The board of appeals has the authority to affirm, modify or reverse the order or decision of the commission.

(2) Appeals from decision of the county board of appeals shall be in accordance with section 2-114 of this Code. (Ord. No. 9-4, § 1; Ord. No. 11-59.)

Sec. 24A-8. Same—Criteria for issuance.

(a) The commission shall instruct the director to deny a permit if it finds, based on the evidence and information presented to or before the commission that the alteration for which the permit is sought would be inappropriate, inconsistent with or detrimental to the preservation, enhancement or ultimate protection of the historic site or historic resource within an historic district, and to the purposes of this chapter.

(b) The commission shall instruct the director to issue a permit, or issue a permit subject to such conditions as are found to be necessary to insure conformity with the purposes and requirements of this chapter, if it finds that:

(1) The proposal will not substantially alter the exterior features of an historic site or historic resource within an historic district; or

(2) The proposal is compatible in character and nature with the historical, archeological, architectural or cultural features of the historic site or the historic district in which an historic resource is located and would not be detrimental thereto or to the achievement of the purposes of this chapter; or

(3) The proposal would enhance or aid in the protection, preservation and public or private utilization of the historic site or historic resource located within an historic district in a manner compatible with the historical, archeological, architectural or cultural value of the historic site or historic district in which an historic resource is located; or

(4) The proposal is necessary in order that unsafe conditions or health hazards be remedied; or

(5) The proposal is necessary in order that the owner of the subject property not be deprived of reasonable use of the property or suffer undue hardship; or

(6) In balancing the interests of the public in preserving the historic site or historic resource located within an historic district, with the interests of the public from the use and benefit of the alternative proposal, the general public welfare is better served by granting the permit.

(c) It is not the intent of this chapter to limit new construction, alteration or repairs to any 1 period or architectural style.

(d) In the case of an application for work on an historic resource located within an historic district, the commission shall be lenient in its judgment of plans for structures of little historical or design significance or for plans involving new construction, unless such plans would seriously impair the historic or architectural value of surrounding historic resources or would impair the character of the historic district. (Ord. No. 9-4, § 1; Ord. No. 11-59.)

Sec. 24A-9. Demolition by neglect.

In the event of a case of demolition by neglect of an historic resource on public or private property, the following provisions shall apply:

(a) If the historic resource has been designated on the master plan as an historic site or an historic resource within an historic district, the director shall issue a written notice to all persons of record with any right, title or interest in the subject property, or the person occupying such premises, of the conditions of deterioration and shall specify the minimum items of repair or maintenance necessary to correct or prevent further deterioration. The notice shall provide that corrective action shall commence within 30 days of the receipt of such notice and be completed within a reasonable time thereafter. The notice shall state that the owner of record of the subject property, or any person of record with any right, title or interest therein, may, within 10 days after the receipt of the notice, request a hearing on the necessity of the items and conditions contained in such notice. In the event a public hearing is requested, it shall be held by the commission upon 30 days' written notice mailed to all persons of record with any right, title or interest in the subject property and

to all citizens and organizations which the director feels may have an interest in the proceedings.

(1) After a public hearing on the issue of necessity of improvements to prevent demolition by neglect, if the commission finds that such improvements are necessary, it shall instruct the director to issue a final notice to be mailed to the record owners and all parties of record with any right, title or interest in the subject property advising of the items of repair and maintenance necessary to correct or prevent further deterioration. The owners shall institute corrective action to comply with the final notice within 30 days of receipt of the revised notice.

(2) In the event the corrective action specified in the final notice is not instituted within the time allotted, the director may institute, perform and complete the necessary remedial work to prevent deterioration by neglect and the expenses incurred by the director for such work, labor and materials shall be a lien against the property, and draw interest at the highest legal rate, the amount to be amortized over a period of 10 years subject to a public sale if there is a default in payment.

(3) Failure to comply with the original or final notice shall constitute a violation of this chapter for each day that such violation continues and shall be punishable as set forth in section 24A-11.

(4) In the event that the commission finds that, notwithstanding the necessity for such improvements, action provided in paragraphs (1) and (2) of this subsection would impose a substantial hardship on any or all persons with any right, title or interest in the subject property, then the commission shall seek alternative methods to preserve the historic site or historic resource located within an historic district. If none are confirmed within a reasonable time, the director shall not proceed in accordance with paragraphs (1) and (2).

(b) If the historic resource is listed in the "Locational Atlas and Index of Historic Sites in Montgomery County, Maryland," or the microfilmed addenda to such atlas, published by the Maryland-National Capital Park and Planning Commission, the director shall advise the planning board which, after receiving the recommendation of the commission, shall conduct a public hearing to determine whether the historic resource will be designated as an

historic site or historic district in the master plan for historic preservation.

(1) Where the planning board determines that the historic resource will not be included in the master plan for historic preservation, no further action will be taken.

(2) Where the planning board determines that the historic resource in all likelihood will be included in the master plan for historic preservation, the planning board shall initiate an amendment to the master plan for historic preservation pursuant to the provisions of article 28 of the Annotated Code of Maryland.

a. In the event that such amendment is adopted and the historic resource is placed on the master plan for historic preservation as an historic site or an historic resource within an historic district, the director shall give written notice to all persons with any right, title, or interest in the subject property of the conditions of deterioration and shall specify the items of repair or maintenance necessary to stabilize the condition of the historic resource and prevent further deterioration.

b. Such notice shall provide that such stabilization work shall commence within 30 days of receipt of the notice and shall be completed within a reasonable time thereafter.

c. In the event that stabilization action is not instituted within the time allotted, or not completed within a reasonable time thereafter, the director may institute, perform and complete the necessary stabilization work and the expenses incurred by the director for such work, labor or materials shall be a lien against the property, and draw interest at the highest legal rate, the amount to be amortized over a period of 10 years subject to a public sale if there is a default in payment. (Ord. No. 9-4, § 1; Ord. No. 11-59.)

Sec. 24A-10. Moratorium on alteration or demolition.

(a) *Application for permits for historic resources on locational atlas.* Any applicant for a permit to demolish or substantially alter the exterior features of any historic resource which is listed in the "Locational Atlas and Index of Historic Sites in Montgomery County, Maryland," or the microfilmed addenda to such atlas, published by the Maryland-National Capital Park and Planning Commission, but which is not designated as an historic site

or historic district on the master plan for historic preservation, shall be required to disclose such fact on the application.

(b) *Referral to the planning board.* Upon receipt of such application, the director shall promptly forward the same to the planning board to make a finding, after a public hearing, as to the significance of the historic resource and to determine whether in its opinion, after due consideration has been given to the recommendations of the commission, it will be designated as an historic site or an historic resource within an historic district, listed in the master plan for historic preservation. The planning board's public hearing on an application to demolish or substantially alter any historic resource listed in the locational atlas satisfies the requirements of section 33A-6 of the Code for a public hearing on a preliminary draft amendment to the historic preservation master plan if all notice requirements of that section are met.

(c) *Determination by the planning board.*

(1) Where the planning board determines that the historic resource will not be included in the master plan for historic preservation, the director shall forthwith issue the permit.

(2) Where the planning board determines that the historic resource in all likelihood will be included in the master plan for historic preservation, the director shall withhold issuance of the permit once for a maximum period of 195 days from the date the application for demolition is filed. If, as a result of the master plan process, the property is designated an historic site or an historic resource within an historic district, the application shall be governed by the procedures established in section 24A-7.

If, after a public appearance as provided for in section 24A-7, the commission determines that failure to grant the permit applied for will have the effect of denying the property owner of all reasonable use of his property or causing him to suffer under hardship, then the commission must instruct the director to issue the permit subject to such conditions, if any, as are found to be necessary to insure conformity with the purposes and requirements of this chapter.

(d) *Time limits for planning board action.*

(1) Within 60 days after the filing of an application, or within 15 days after the closing of the record following a public hearing, whichever occurs later, the planning board shall render its findings and determinations with respect to an application.

(2) Failure to adhere to the limits specified in section 24A-10 shall cause the permit to issue by operation of law, except in the event of a finding and further proceedings as provided in subsection (c)(2) of this section. (Ord. No. 9-4, § 1; Ord. No. 11-59.)

Sec. 24A-11. Violations and penalties.

Any person who violates a provision of this chapter, or fails to comply with any of the requirements thereof, or disobeys or disregards a decision of the commission, or fails to abide by the conditions of a permit, shall be subject to punishment for a class A violation as set forth in section 1-19 of chapter 1 of the County Code. Each day a violation continues to exist shall constitute a separate offense. (Ord. No. 9-4, § 1; 1983 L.M.C., ch. 22, § 28; Ord. No. 11-59.)

Sec. 24A-12. Severability.

The provisions of this chapter are severable and if any provisions, clause, sentence, section, word or part thereof is held illegal, invalid or unconstitutional, or inapplicable to any person or circumstances, such illegality, invalidity or unconstitutionality, or inapplicability shall not affect or impair any of the remaining provisions, clauses, sentences, sections, words or parts of the chapter or their applications to other persons or circumstances. It is hereby declared to be the legislative intent that this chapter would have been adopted if such illegal, invalid or unconstitutional provision, clause, sentence, section, word or part had not been included therein, and if the person or circumstance to which the chapter or part thereof is inapplicable had been specifically exempted therefrom. (Ord. No. 9-4, § 1; Ord. 1159.)

Sec. 24A-13. Historic preservation easement program.

(a) There is a county easement program to preserve historic resources in Montgomery County. The commission must administer the program in accordance with this section.

MEMORANDUM

July 7, 1993

TO: Marilyn J. Praisner, President
Montgomery County Council

FROM: Robert K. Kendal, Director
Office of Management and Budget *RKK*

SUBJECT: Emergency Bill 5-93, Nonresidential Structures

This memorandum is in response to a request for a fiscal analysis on the above-mentioned legislation.

LEGISLATIVE SUMMARY

The purpose of this bill is to authorize the Department of Housing and Community Development to inspect, condemn and remove unsafe nonresidential structures.

FISCAL SUMMARY

The Department of Housing and Community Development may inspect nonresidential structures for the health and safety of the general public. If the nonresidential structures are determined unsafe for human occupancy, the structures will be condemned and demolished.

Any additional inspections of unsafe nonresidential structures by the Department of Housing and Community Development would not impact the department's workload. The department can absorb the expense of its inspectors examining unsafe nonresidential buildings because the number of inspections is expected to be minimal. If any unsafe nonresidential structures require demolition, the department would try to fit them into schedule as long as the \$195,000 in contractual services for demolishing structures is not exceeded in FY 94.

The following have contributed to and concurred with this analysis: Melvin Tull of the Department of Housing and Community Development; and Philip Weeda and Theresa Hefko of the Office of Management and Budget.

RKK:pw

cc: Neal Potter
William H. Hussmann
Alastair McArthur
Richard Ferrara

Queen



Montgomery County, Maryland

COUNTY COUNCIL AGENDA

COUNCIL HEARING ROOM, 100 MARYLAND AVENUE, ROCKVILLE, MARYLAND 20850, 301/217-7900, TTY 217-6505

The Council Agenda is subject to change any time after printing or during the Council meeting. Please contact the Council Office to obtain current information.

Tuesday, August 3, 1993

- (1) 8:00 **DISCUSSION** - State Legislative Program in the 6th floor Council Conference Room (Bialek)
- 9:00 **INVOCATION** - The Reverend Rachael Cooney, Ken Gar Baptist Church, Kensington (in the 7th floor Council Hearing Room)
- 9:05 **JOINT PROCLAMATION** - "National Night Out" Proclamation to Colonel Clarence Edwards, Montgomery County Police Department; Trudye Morgan Johnson, Director, Department of Recreation; Lois Spurney and Robin Hoffman, Montgomery County Community Partnership; Ray Kight, Sheriff, Montgomery County; Commander Donald Deering, Park Police; Chief, Terrance Traschuk, Rockville City Police, by County Executive Neal Potter and Council Members Gail Ewing and Betty Ann Krahnke
- 9:10 **PROCLAMATION** - "Amnesty International Group #82" Proclamation to Ardys Andrade, Member, Amnesty International Group, by Council Vice President William E. Hanna, Jr.
- 9:15 **COUNCIL CALENDAR CHANGES** (Knill)
- (2) 9:20 **CONSENT CALENDAR**
 - A. **Action** - Resolution to incorporate Village of Chevy Chase View (Faden)
 - B. **Action** - Resolution to consolidate previously authorized bonds into a single issue (Sherer)
 - C. **Action** - Confirmation of County Executive appointments to the Board of Social Services: Lurline A. Peeler; Carmen L. Vazquez; Jose P. Ceppi (Ferber)
 - D. **Action** - Confirmation of County Executive appointment to the Adult Public Guardianship Review Board: Kathleen H. Musallam (Ferber)
 - E. **Action** - Confirmation of County Executive appointments to the Library Board: Lillian M. Doby; Ellen W. Lazar; James Krebs-Smith; Freda Z. Hartman; Alvin D. Rivera (Ferber)
 - F. **Action** - Confirmation of County Executive appointments to the Silver Spring Center Citizens Advisory Board: Mike Pfetsch; Phyllis L. Cockran; Thomas C. Schild; Elsa Pimentel (Ferber)
 - G. **Action** - Confirmation of County Executive appointments to the Energy Conservation Advisory Committee: Sidney A. Silver; Richard Klein; Scott R. Thigpen; Frederic H. K. Booth; John Lattanzio; Gail H. Marcus; Bharat N. Mulchandani; Kenneth Long (Ferber)
 - H. **Action** - Confirmation of County Executive appointments to the Commission on Health: Ernest Weiss; Laura S. Sims; Marilyn N. Massey; Barbara A. Dobyne-Ward; Richard S. Carson; Mark M. Spradley; Dr. Gary Colangelo (Ferber)

(2) 9:20 CONSENT CALENDAR (continued)

- I. Action - Contract Amendment #3, Independent Auditor MFP (Pedersen)
- J. Action - Resolution to establish a public forum on September 30, 1993, at 7:00 p.m., regarding the first draft of the Health and Human Services Policy (Cockrell)
- K. Action - Resolution to extend time for Council action, to December 14, 1993, on Executive Regulation 10-93, Department of Recreation FY94 Fees (Sherer)
- L. Action - Resolution to establish public hearing on September 9, 1993, at 1:30 p.m., regarding reclassification or deletion of a portion of Link Road from the Rustic Roads list (Orlin)
- M. Action - Advance Taking: Dawson Farm Road T&E (Orlin)
- N. Action - Advance Taking: Briggs Chaney Rd. Realignment East T&E (Orlin)
- O. Action - Abandonment of Alley in Cabin John Subdivision T&E (Orlin)
- P. Action - Resolution to approve the sale of a parcel of land off Lewis Avenue in Rockville acquired by tax sale PHED (Wilson)
- Q. Action - Resolution to establish public hearing on September 9, 1993, at 1:30 p.m., regarding a \$40,000 Supplemental Appropriation and Amendment to the FY94 Operating Budget, Consolidated Fire Tax District, for Self Contained Breathing Apparatus (State funds) (Davidson)

9:25 LEGISLATIVE SESSION Day #23

- A. Approval of Legislative Journal (Freedman)
- B. Introduction of bills
 - (3) i. Bill 22-93, \$7,260,000 Bond Authorization for General County Facilities, sponsored by Council President at the request of the County Executive (Cockrell)
 - (4) ii. Bill 23-93, \$11,770,000 Bond Authorization for Road and Storm Drainage, sponsored by Council President at the request of the County Executive (Cockrell)
 - (5) iii. Bill 24-93, \$1,080,000 Bond Authorization for Parks (Acquisition & Development), sponsored by Council President at the request of the County Executive (Cockrell)
 - (6) iv. Bill 25-93, \$160,000 Bond Authorization for Consolidated Fire Tax District, sponsored by Council President at the request of the County Executive (Cockrell)
 - (7) v. Bill 26-93, \$59,175,000 Bond Authorization for Public Schools, sponsored by Council President at the request of the County Executive (Cockrell)
 - (8) vi. Bill 27-93, \$6,715,000 Bond Authorization for Montgomery College, sponsored by Council President at the request of the County Executive (Cockrell)
 - (9) vii. Emergency Bill 28-93, Minority Business Procurement - Extension, sponsored by Council President at the request of the County Executive (Faden)
- C. Call of Bills for final reading
 - (10) i. Bill 5-93, Non-Residential Structures - condemnation PHED (Faden)
 - (11) ii. Bill 22-92, Consumer Protection-Future Service Contracts PS (Faden)
 - (12) iii. Emergency Bill 7-93, Offenses - Harrassment and Stalking PS (Beninger)
 - (13) iv. Emergency Bill 8-93, Animal Control - Aviaries PS (Beninger)
 - (14) v. Emergency Bill 20-93, Establishment of Police Management Salary Schedule MFP/PS (Beninger/Knill)
- D. Miscellaneous Business

- (15) 12:15 **ACTION** - Resolution to approve Police Management Salary Schedule (Beninger/Knill)
- 12:20 **ACTION** - Approval of Minutes (Freedman)
- 12:25 **UPDATE** - by County Attorney regarding pending litigation
- 12:30 **RECESS**

- (16) 1:30 **PUBLIC HEARING/ACTION** - \$1,600,000 Supplemental Appropriation, FY 94 County Government Operating Budget, Nondepartmental Account, Future Federal/State/Other Grants, to provide for the expenditure authority of unanticipated federal, state, or other grants (Cockrell)

Action - Resolution regarding above

- (17) 1:30 **PUBLIC HEARING** - Zoning Text Amendment 93009, traffic mitigation agreements in share-ride districts (Wilson)
- (18) 1:30 **PUBLIC HEARING** - Bill 21-93, Revenue Stabilization Fund - Establishment (Faden)
- (19) 2:00 **BRIEFING** - Germantown Town Center Citizens Advisory Group (Michaelson)
- 2:30 **DISTRICT COUNCIL SESSION**

- (20) A. **Introduction** - Zoning Text Amendment 93012, notification requirements for continuation of existing authorized accessory apartment special exception (Wilson)

Action - Resolution to establish public hearing on September 28, 1993, at 1:30 p.m. re above

- (21) B. **Action** - Resolution to establish public hearing on September 9, 1993, at 7:30 p.m., regarding Clarksburg Master Plan (Michaelson)

- (22) C. **Action** - Resolution to establish public hearing on September 9, 1993, at 1:30 p.m., regarding Silver Spring Sectional Map Amendment (G-707) (Wilson)

- (23) D. **Action** - Resolution to extend time to October 21, 1993 for Council action on Olney Sectional Map Amendment (Wilson)

- (24) E. **Action** - Zoning Text Amendment 92014, establishes land use standards for adult entertainment businesses & provides amortization period for any adult entertainment business now existing which does not meet established standards PHED (Wilson)

- (25) F. **Action** - Resolution to establish special exception filing fee for adult entertainment businesses PHED (Wilson)

- (26) G. **Action** - County Executive's request to permit reuse of Belt Jr. High School as private educational institution (Wilson)

2:30 DISTRICT COUNCIL SESSION (continued)

- (27) H. Action - Consideration of Hearing Examiner's Report and Recommendation of Local Map Amendment:

G-672 - Linowes and Blocher, Attorney for Montgomery Housing Partnership, Contract Purchasers, request reclassification from the RE-2 Zone to the RT-6 Zone of property known as Outlot "A", Montgomery Industrial Park Subdivision, located in the vicinity of the southeast quadrant of Columbia Pike and Industrial Parkway, Silver Spring, consisting of 4.3806 acres, in the 5th Election District
 Drainage Basin: Paint Branch

Recommendations:	Planning Staff:	Withdraw or deny
	Planning Board:	Deny
	Hearing Examiner:	Deny, or if applicant requests permission to amend, then remand

- (28) I. Action - Consideration of Hearing Examiner's Report and Recommendation of Local Map Amendment:

G-702 - Maryland National Capital Park and Planning Commission, Applicants, request reclassification from the RE-2C Zone to the C-2 Zone of property known as the Burdette property located on the western side of Md. Route 27,600 yards north of Bethesda Church Road, Damascus, consisting of 0.21 acres, in the 12th Election District.
 Drainage Basin: Bennett Creek

Recommendations:	Planning Staff:	Approve
	Planning Board:	Approve
	Hearing Examiner:	Grant

6:00 ADJOURN

- (29) 7:30 PUBLIC HEARING - North Bethesda-Garrett Park Sectional Map Amendment (Michaelson)
- (30) Memorandum reporting Receipt of Petitions for Council (McGuire)

Thursday, August 5, 1993

2:00 PROPOSED CLOSED SESSION with the County Attorney pursuant to State Government Article 10-508 (a) (7) and (8) to provide legal advice and discuss potential litigation. Topic is U. S. Department of Labor's ELSA investigation. (in the 6th Floor Council Conference Room)

3:30 LEGISLATIVE SESSION Day #24 (7th Floor Council Hearing Room)

- A. Approval of Legislative Journal (Freedman)
- B. Introduction of bills
- C. Call of Bills for final reading
 - i. Bill 59-91, Residential Picketing PS (Faden)
- D. Miscellaneous Business

HAVE A WONDERFUL SUMMER - SEE YOU IN SEPTEMBER

REMINDERS:

MONDAY, August 2

- 9:00 a.m. *Management and Fiscal Policy Committee
- 9:00 a.m. *Public Safety Committee
- 2:00 p.m. *Management and Fiscal Policy Committee

TUESDAY, August 3

- 8:00 a.m. Discussion - State Legislative Program
- 9:00 a.m. Regular Session - Legislative Session
- 7:30 p.m. Public Hearing - Bethesda-Garrett Park Sectional Map Amendment

THURSDAY, August 5

- 9:00 a.m. *Health and Human Services Committee
- 3:30 p.m. Legislative Session

August 9 thru August 17 Council Recess

August 18 thru August 20 Maryland Association of Counties Meeting

August 23 to September 3 Council Recess

Monday, September 6 Labor Day Holiday

Wednesday, September 8

- 9:00 a.m. *Management and Fiscal Policy Committee

Thursday, September 9

- 9:00 a.m. Regular Session

MONDAY, September 13

- 2:00 p.m. *Transportation and Environment Committee

TUESDAY, September 14

- 9:00 a.m. Regular Session
- 1:30 p.m. Public Hearing - Zoning Text Amendment 93010, Waiver of setback requirements in the I-3 zone under certain circumstances
- 1:30 p.m. Zoning Text Amendment 93011, Parking Regulations for Home Health Practitioners and Nonresident Medical Practitioners

MONDAY, September 20

- 9:00 a.m. *Management and Fiscal Policy Committee
- 2:00 p.m. *Education Committee
- 2:00 p.m. *Planning, Housing and Economic Development Committee

TUESDAY, September 21

- 9:00 a.m. Regular Session - Legislative Session

THURSDAY, September 23

- 9:00 a.m. Health & Human Services Committee

MONDAY, September 27

- 9:00 a.m. *Management and Fiscal Policy Committee
- 2:00 p.m. *Education Committee

TUESDAY, September 28

- 9:00 a.m. Regular Session

THURSDAY, September 30

- 9:00 a.m. *Public Safety Committee

*Council Committee Meeting see IN COMMITTEE for Agenda

In Committee

The Committee Agenda is subject to change any time after printing or during the Council meeting. Please contact the Council Office to obtain current information.

Prepared: July 29, 1993 2 p.m.

<u>PUBLIC SAFETY</u>	Aug. 2	9:00AM	(1) Update from Graffitti Task Force	(LAM)
Betty Ann Krahnke, Chair			(2) Disc.-Improving Efficiencies in Montg. Co. Policing Agencies	(LAM)
Nancy Dacek	**			
Gail Ewing	3CCR			
<u>MGMT./FISCAL POLICY</u>	Aug. 2	9:00AM	(1) Brfg. - Economic Indicators	(SBF)
Marilyn J. Praisner, Chair			(2) Risk Management Report	(CS)
William E. Hanna, Jr.			(3) Development Districts	(MF)
Michael L. Subin	7CHR			
<u>MGMT./FISCAL POLICY</u>	Aug. 2	2:00PM	(1) Contract Amendment #3, Independent Auditor	(JP)
Marilyn J. Praisner, Chair			(2) Staff recommendations to streamline the procedure for approving Co. Govt. grants	(DC)
William E. Hanna, Jr.			(3) Scope of Work for PEG Resources Study	(McK)
Michael L. Subin	7CHR		(4) Brfg- re Leased Spacing Policies	(LAM)
<u>HHS</u>	Aug. 5	8:30AM	(1) Disc.- AIDS Task Force Report	(DC)
Gail Ewing, Chair				
Betty Ann Krahnke	**			
Marilyn J. Praisner	7CHR			
<u>MGMT./FISCAL POLICY</u>	Sept. 8	9:00AM	Bill 9-93, Ethics - Revision	(MF)
Marilyn J. Praisner, Chair			Spending Affordability Guidelines for Capital Improvements Program	(GO)
William E. Hanna, Jr.	**		Bill 21-93, Revenue Stabilization Fund - Establishment	(MF)
Michael L. Subin	7CHR			
<u>T&E</u>	Sept.13	2:00PM	Yet to be determined	
Isiah Leggett, Chair				
Bruce Adams				
Derick Berlage	7CHR			
<u>MGMT./FISCAL POLICY</u>	Sept.20	9:00AM	Spending Affordability Guidelines for Capital Improvements Program	(GO)
Marilyn J. Praisner, Chair			Spending Affordability Guidelines for FY 95 Operating Budget	(CS)
William E. Hanna, Jr.			Committee on Committees Report	(JF)
Michael L. Subin	7CHR			

- M O R E -

PLEASE CALL THE COUNCIL OFFICE FOR FURTHER INFORMATION AND TO VERIFY THE SCHEDULE OF THE FUTURE COMMITTEE MEETINGS.
301/217-7900, TTY-301/217-6505



EDUCATION	Sept.20 2:00PM	Rpt. - Corporate Comm. on Excellence	(CS)
Michael L. Subin, Chair			
Nancy Dacek			
Isiah Leggett	7CHR		
PHED	Sept.20 2:00PM	General Plan	(MM)
William E. Hanna, Jr., Chair		Bethesda Sectional Map Amendment	(MM)
Bruce Adams			
Derick Berlage	3CCR		
HHS	Sept.23 9:00AM	Yet to be determined	
Gail Ewing, Chair			
Betty Ann Krahnke			
Marilyn J. Praisner	7CHR		
MGMT./FISCAL POLICY	Sept.27 9:00AM	Brfg. - Economic Indicators	(SBF)
Marilyn J. Praisner, Chair		Cable Francise Transfer	(McK)
William E. Hanna, Jr.		Disc.-regressiveness of County's tax system	(SF)
Michael L. Subin	7CHR		
PHED	Sept.27 2:00PM	Amend. to conform Chapter 33A "Planning Procedures" w/ Regional District Act ZTA 93008, to clarify Executive's role in review & approval or disapproval of amendments to Zoning Ordinance	(RDW)
William E. Hanna, Jr., Chair		Functional Master Plan for Patuxent River Watershed	(JCA)
Bruce Adams		Amend. to the Master Plan for Historic Preservation: Potomac Historic Resources	
Derick Berlage	3CCR	Olney Sectional Map Amendment	(RDW)
		PROPOSED CLOSED SESSION - with M-NCPPC Staff	
		re acquisition of real property for public purposes pursuant to State Government Article, Section 10-508 (a) (3).	
		Topic is Potomac Palisades Conservation Park. (7th Floor Council Conference Room)	
EDUCATION	Sept.27 2:00PM	Yet to be determined	
Michael L. Subin, Chair			
Nancy Dacek			
Isiah Leggett	7CHR		
PUBLIC SAFETY	Sept.30 9:00AM	Yet to be determined	
Betty Ann Krahnke, Chair			
Nancy Dacek			
Gail Ewing	7CHR		
PHED	Oct. 4 9:00AM	Clarksburg Master Plan	(MM)
William E. Hanna, Jr., Chair			
Bruce Adams			
Derick Berlage	7CHR		
PHED	Oct 4 2:00PM	Brfg. by Parks Dept. re maintenance and police resources	(CS)
William E. Hanna, Jr., Chair		Exec. Reg. 10-93, Dept. of Rec. FY94	(CS)
Bruce Adams		Fees	
Derick Berlage	7CHR		
T&E	Oct. 4 2:00PM	Brfg by Dept. of Entomology - Integrated Pest Mgmt. (IPM) re Turf Mgmt. applications for private & public use	(MCK)
Isiah Leggett, Chair			
Bruce Adams			
Derick Berlage	3CCR		

Quenz

7/20/93

This is the final draft (?)
of the demolition legislation.
When you back from vacation
please call me asap
with any comment because
I'm going on leave on 7/30.

From the desk of . . . **SUSAN COTTLE MADDEN**
Chief Aide to Councilmember Berlage
Montgomery County Council
217-7967



I'd like to have any
issues wrapped up before
I leave.

Thanks for your assistance
I hope you had a great
vacation!

S

Emergency Bill No. 5-93
Concerning: Nonresidential
Structures - condemnation
Draft No. & Date: 3 7/20/93
Introduced: January 26, 1993
Expires: July 26, 1994
Enacted: _____
Executive: _____
Effective: _____
Sunset Date: None
Ch. _____, Laws of Mont. Co. _____

COUNTY COUNCIL
FOR MONTGOMERY COUNTY, MARYLAND

By: The Council President at the Request of the County Executive
and Councilmember Berlage

AN EMERGENCY ACT to:

- (1) modify housing code inspection procedures to include nonresidential structures;
- (2) extend housing code condemnation procedures to cover unsafe nonresidential structures, and redefine the standards for condemnation of residential and nonresidential structures;
- (3) provide for the demolition of condemned nonresidential structures; and
- (4) generally amend the law that establishes housing and building maintenance standards.

By amending

Montgomery County Code
Chapter 26, Housing and Building Maintenance Standards
Sections 26-4, 26-12, 26-14, 26-17, [[and]] 26-18, and 26-19

EXPLANATION: **Boldface** indicates a heading or a defined term
Underlining indicates text that is added to existing law by the original bill
[Single boldface brackets] indicate text that is deleted from existing law by the original bill
Double underlining indicates text that is added to the bill by amendment
[[Double boldface brackets]] indicate text that is deleted from existing law or the bill by amendment
* * * indicates existing law unaffected by the bill

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

1 **Sec. 1. Section 26-4 is amended as follows:**

2 **26-4. Inspections generally; when warrants required; right of entry**
 3 **of inspectors and owners.**

4 (a) The enforcing agency may inspect the condition of
 5 dwellings, nonresidential structures, and premises located
 6 [within] in the County to safeguard the health and safety
 7 of the occupants [of dwellings] and [of] the general
 8 public. For the purpose of making such inspections, the
 9 enforcing agency may enter, examine and survey, at all
 10 reasonable times, all dwellings, nonresidential structures,
 11 and premises. Before an inspection, the enforcing agency
 12 must give notice either orally or in writing of the day of
 13 the inspection and obtain the consent of the owner,
 14 operator or occupant to the inspection.

15 * * *

16 **Sec. 2. Section 26-12 is amended as follows:**

17 **26-12. Designation of unfit dwellings and unsafe nonresidential**
 18 **structures; legal procedure of condemnation.**

19 The designation of dwellings or dwelling units as unfit for
 20 human habitation and the designation of nonresidential structures as
 21 unsafe for human occupancy or use under this Chapter, and the
 22 condemnation and placarding of unfit dwellings or dwelling units and
 23 unsafe nonresidential structures, must comply with the following
 24 requirements:

25 (a) Any dwelling or dwelling unit and any nonresidential
 26 structure which has any of the following defects may be
 27 condemned as unfit for human habitation or unsafe for human

28 occupancy or use by the enforcing agency:

29 (1) One which is, entirely or in part, so damaged,
30 decayed, dilapidated, unsanitary, unsafe or
31 vermin-infested that it creates a serious hazard to
32 the health or safety of the occupants or of the public.

33 (2) One which lacks, entirely or in part, illumination,
34 ventilation, heating, water supply, or sanitation
35 facilities adequate to protect the health or safety of
36 the occupants or of the public, as required in this
37 Chapter.

38 (3) One which because of its general condition is,
39 entirely or in part, unsanitary or otherwise dangerous
40 to the health or safety of the occupants or the public.

41 (4) One which contains unsafe equipment, including any
42 boiler, heating equipment, elevator, moving stairway,
43 electrical wiring or device, flammable liquid
44 containers or other equipment, on the premises or in
45 the structure which is in such disrepair or condition
46 that it is a hazard to the life, health, property or
47 safety of the occupants or the public.

48 (b) The enforcing agency must notify the owner of every
49 dwelling or dwelling unit and every nonresidential
50 structure condemned for human habitation, occupancy or
51 use. [and] The enforcing agency must post a warning
52 placard on the property.

53 (c) (1) Any person occupying a dwelling or dwelling unit when
54 it is condemned as unfit for human habitation must

55 vacate the dwelling unit within a reasonable time as
56 ordered by the enforcing agency.

57 (2) Any person occupying or using a nonresidential
58 structure when it is condemned as unsafe for human use
59 or occupancy must vacate the building or structure
60 immediately after a warning placard is posted.

61 ~~[(2)]~~(3) A person must not occupy or use and an owner must not
62 permit a person to occupy or use a dwelling [or], a
63 dwelling unit, or a nonresidential structure which has
64 been condemned as unfit for human habitation or unsafe
65 for human occupancy or use until the enforcing agency
66 approves the occupancy or use and removes the
67 placard. The enforcing agency may remove the placard
68 if all defects upon which the condemnation was based
69 have been eliminated.

70 (d) A person must not deface or remove a placard from any
71 dwelling [or], dwelling unit, or nonresidential structure,
72 except as authorized by the enforcing agency.

73 (e) Every owner of a condemned or abandoned structure must
74 secure all windows and doors that are accessible from the
75 ground, from an adjacent structure, or by the reasonably
76 foreseeable use of a ladder, table or other device, and
77 must keep them secured against unauthorized entry.

78 **Sec. 3. Section 26-14 is amended as follows:**

79 **26-14. Notice of violation and order to comply with chapter; appeal**
80 **to housing board of review.**

81 (a) * * *

82 (5) also be sent to the Historic Preservation Commission
83 if any affected building or structure:

84 (A) has been designated on the master plan for
85 historic preservation as an historic site or an
86 historic resource within an historic district, or

87 (B) is listed on the locational atlas and index of
88 historic sites maintained by the
89 Maryland-National Capital Park and Planning
90 Commission.

91 * * *

92 **Sec. 4. Section 26-17 is amended as follows:**

93 **26-17. Effect of Chapter on other [[ordinances, etc]] laws.**

94 (a) This chapter [[shall]] does not [[be deemed to]] repeal,
95 [[or]] modify, or otherwise affect [[in any manner]] any
96 other [[ordinance, resolution, rule]] County law or
97 regulation [[of the County; provided, that wherever]].
98 However, except as specified in subsection (b), if this
99 Chapter imposes more stringent [[regulations, restrictions,
100 limitations]] limits or requirements, [[the provisions of]]
101 this Chapter [[shall]] prevails.

102 (b) If an enforcing agency proposes to take any action under
103 Sections 26-12, 26-14, 26-18, or 26-19(b) that would
104 directly affect any building or structure (1) which has
105 been designated on the master plan for historic
106 preservation as an historic site or an historic resource
107 within an historic district, or (2) which is listed on the
108 locational atlas and index of historic sites maintained by

109 the Maryland-National Capital Park and Planning Commission,
110 the enforcing agency must apply for a historic area work
111 permit under Section 24A-7 or a permit under Section
112 24A-10, whichever applies, before the enforcing agency
113 removes the building or structure, substantially alters its
114 exterior features, or contracts to do either.

115 **Sec. ~~[[3]]~~ 5. Section 26-18 is amended as follows:**

116 **26-18. Repair or removal of condemned buildings or structures.**

117 (a) If the owner of any building or structure or part of a
118 building or structure condemned under this Chapter [fails
119 to] does not remedy in a manner satisfactory to the
120 enforcing agency the [condition or] conditions which led to
121 the condemnation by [failing to cause such] causing the
122 building or structure or part of a building or structure to
123 be put into [sanitary condition] full compliance with this
124 Chapter, or to be demolished and removed, within the time
125 specified by the enforcing agency in the order of
126 condemnation or any extension [thereof], the enforcing
127 agency may, after [thirty (30)] 30 days' written notice to
128 the owner, order the demolition of the building or
129 structure, the filling of any excavation and the clearing
130 of the property so that it will be in a safe condition.
131 The County may charge the cost of removal [by the County
132 shall be charged] to the owner of the property and collect
133 it as taxes on real property or other debts are collected.
134 [in the manner of taxes, and] Any such charge [shall be] is
135 a lien on the property. [The cost to the County of removal

136 may also be collected as other debts.]

137 (b) Any person aggrieved by an order of the enforcing agency
138 under this Section may appeal [such] the order to the
139 County Board of Appeals [under section 55-2].

140 **Sec. 6. Section 26-19 is amended as follows:**

141 **26-19. Emergency and corrective actions.**

142 (a) * * * *If an enforcing agency proposes to take any
143 action under this subsection that would directly affect any
144 building or structure which has been designated on the
145 master plan for historic preservation as an historic site
146 or an historic resource within an historic district, the
147 enforcing agency must make its best efforts to consult with
148 the Chair of the Planning Board or the Chair's designee
149 during the 24 hour period referred to in this subsection
150 before the enforcing agency removes the building or
151 structure, substantially alters its exterior features, or
152 contracts to do either.

153 * * *

154 Approved:

156 _____
157 Marilyn J. Praisner, President, County Council

_____ Date

158
159 Approved:

160 _____
161 _____
162 Neal Potter, County Executive

_____ Date

" Gwen,

Could you let Bud know that I may not be back
by noon.

Thank you,
Sally

MEMORANDUM

TO: Planning, Housing and Economic Development Committee

FROM: *MF* Michael Faden, Senior Legislative Attorney

SUBJECT: Worksession: Emergency Bill 5-93, Nonresidential Structures -
condemnation

Emergency Bill 5-93, Nonresidential Structures - condemnation, sponsored by the Council President at the request of the County Executive and Councilmember Derick Berlage, was introduced on January 26, 1993. A public hearing was held on February 16, 1993. Bill 5-93 would extend to nonresidential buildings many of the current remedies for housing and building standards violations which now apply only to residential buildings.

Issues

1) Are any special protections required for historic buildings?

Several speakers at the public hearing, including representatives of the Art Deco Society of Washington and the Silver Spring-Takoma Park Traffic Coalition, urged that special provisions be inserted in the housing and building standards law to protect historic buildings (nonresidential or residential) from hasty demolition by code enforcement agencies.

In response to this concern, Councilmember Berlage has proposed an amendment, shown on @19. This amendment allows the Historic Preservation Commission, after receiving notice of a pending demolition or repair order from DHCD or another code enforcement agency, to use the remedies of §24A-7 or §24A-10, whichever applies. §24A-7 and §24A-10 (reprinted on @11-18) set up the processes, under the historic preservation law, respectively for approval of historic area work permits and postponing demolition of potentially historically valuable buildings until a historic review can be made.

This amendment does not limit DHCD's ability to order and perform emergency repairs, including demolition, under §26-19(a) when a severe emergency requires immediate action to protect public health or safety.

2) Should farm buildings be exempt from the building standards law?

A speaker at the public hearing, Fayez Hanna, suggested that farm buildings and structures not used for human habitation be exempt from the building standards law. See testimony, @10.

This packet contains:	Circle #
Emergency Bill 5-93	1
Legislative Request Report	7
Memo from County Executive	9
Testimony of Fayez Hanna	10
Historic preservation law (excerpts)	11
Amendment by Councilmember Berlage	19

Emergency Bill No. 5-93
Concerning: Nonresidential
Structures - condemnation
Draft No. & Date: 2 1/22/93
Introduced: January 26, 1993
Expires: July 26, 1994
Enacted: _____
Executive: _____
Effective: _____
Sunset Date: None
Ch. , Laws of Mont. Co. _____

COUNTY COUNCIL
FOR MONTGOMERY COUNTY, MARYLAND

By: The Council President at the Request of the County Executive
and Councilmember Berlage

AN EMERGENCY ACT to:

- (1) modify housing code inspection procedures to include nonresidential structures;
- (2) extend housing code condemnation procedures to cover unsafe nonresidential structures, and redefine the standards for condemnation of residential and nonresidential structures;
- (3) provide for the demolition of condemned nonresidential structures; and
- (4) generally amend the law that establishes housing and building maintenance standards.

By amending

Montgomery County Code
Chapter 26, Housing and Building Maintenance Standards
Sections 26-4, 26-12 and 26-18

EXPLANATION: **Boldface** indicates a heading or a defined term
Underlining indicates text that is added to existing law by the original bill
[Single boldface brackets] indicate text that is deleted from existing law by the original bill
Double underlining indicates text that is added to the bill by amendment
[[Double boldface brackets]] indicate text that is deleted from existing law or the bill by amendment
* * * indicates existing law unaffected by the bill

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

1 **Sec. 1. Section 26-4 is amended as follows:**

2 **26-4. Inspections generally; when warrants required; right of entry**
3 **of inspectors and owners.**

4 (a) The enforcing agency may inspect the condition of
5 dwellings, nonresidential structures, and premises located
6 [within] in the County to safeguard the health and safety
7 of the occupants [of dwellings] and [of] the general
8 public. For the purpose of making such inspections, the
9 enforcing agency may enter, examine and survey, at all
10 reasonable times, all dwellings, nonresidential structures,
11 and premises. Before an inspection, the enforcing agency
12 must give notice either orally or in writing of the day of
13 the inspection and obtain the consent of the owner,
14 operator or occupant to the inspection.

15 * * *

16 **Sec. 2. Section 26-12 is amended as follows:**

17 **26-12. Designation of unfit dwellings and unsafe nonresidential**
18 **structures; legal procedure of condemnation.**

19 The designation of dwellings or dwelling units as unfit for
20 human habitation and the designation of nonresidential structures as
21 unsafe for human occupancy or use under this Chapter, and the
22 condemnation and placarding of unfit dwellings or dwelling units and
23 unsafe nonresidential structures, must comply with the following
24 requirements:

25 (a) Any dwelling or dwelling unit and any nonresidential
26 structure which has any of the following defects may be
27 condemned as unfit for human habitation or unsafe for human

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occupancy or use by the enforcing agency:

(1) One which is, entirely or in part, so damaged, decayed, dilapidated, unsanitary, unsafe or vermin-infested that it creates a serious hazard to the health or safety of the occupants or of the public.

(2) One which lacks, entirely or in part, illumination, ventilation, heating, water supply, or sanitation facilities adequate to protect the health or safety of the occupants or of the public, as required in this Chapter.

(3) One which because of its general condition is, entirely or in part, unsanitary or otherwise dangerous to the health or safety of the occupants or the public.

(4) One which contains unsafe equipment, including any boiler, heating equipment, elevator, moving stairway, electrical wiring or device, flammable liquid containers or other equipment, on the premises or in the structure which is in such disrepair or condition that it is a hazard to the life, health, property or safety of the occupants or the public.

(b) The enforcing agency must notify the owner of every dwelling or dwelling unit and every nonresidential structure condemned for human habitation, occupancy or use. [and] The enforcing agency must post a warning placard on the property.

(c) (1) Any person occupying a dwelling or dwelling unit when it is condemned as unfit for human habitation must

55 vacate the dwelling unit within a reasonable time as
56 ordered by the enforcing agency.

57 (2) Any person occupying or using a nonresidential
58 structure when it is condemned as unsafe for human use
59 or occupancy must vacate the building or structure
60 immediately after a warning placard is posted.

61 ~~[(2)]~~(3) A person must not occupy or use and an owner must not
62 permit a person to occupy or use a dwelling [or], a
63 dwelling unit, or a nonresidential structure which has
64 been condemned as unfit for human habitation or unsafe
65 for human occupancy or use until the enforcing agency
66 approves the occupancy or use and removes the
67 placard. The enforcing agency may remove the placard
68 if all defects upon which the condemnation was based
69 have been eliminated.

70 (d) A person must not deface or remove a placard from any
71 dwelling [or], dwelling unit, or nonresidential structure,
72 except as authorized by the enforcing agency.

73 (e) Every owner of a condemned or abandoned structure must
74 secure all windows and doors that are accessible from the
75 ground, from an adjacent structure, or by the reasonably
76 foreseeable use of a ladder, table or other device, and
77 must keep them secured against unauthorized entry.

78 **Sec. 3. Section 26-18 is amended as follows:**

79 **26-18. Repair or removal of condemned buildings or structures.**

80 (a) If the owner of any building or structure or part of a
81 building or structure condemned under this Chapter [fails

82 to] does not remedy in a manner satisfactory to the
 83 enforcing agency the [condition or] conditions which led to
 84 the condemnation by [failing to cause such] causing the
 85 building or structure or part of a building or structure to
 86 be put into [sanitary condition] full compliance with this
 87 Chapter, or to be demolished and removed, within the time
 88 specified by the enforcing agency in the order of
 89 condemnation or any extension [thereof], the enforcing
 90 agency may, after [thirty (30)] 30 days' written notice to
 91 the owner, order the demolition of the building or
 92 structure, the filling of any excavation and the clearing
 93 of the property so that it will be in a safe condition.
 94 The County may charge the cost of removal [by the County
 95 shall be charged] to the owner of the property and collect
 96 it as taxes on real property or other debts are collected.
 97 [in the manner of taxes, and] Any such charge [shall be] is
 98 a lien on the property. [The cost to the County of removal
 99 may also be collected as other debts.]

100 (b) Any person aggrieved by an order of the enforcing agency
 101 under this Section may appeal [such] the order to the
 102 County Board of Appeals [under section 55-2].

104 Approved:

106 _____
 107 Marilyn J. Praisner, President, County Council

_____ Date

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Approved:

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Neal Potter, County Executive

Date

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This is a correct copy of Council action.

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Kathleen A. Freedman, CMC

Date

119

Secretary of the Council

120

529/LAW/1-6

6

LEGISLATIVE REQUEST REPORT

BILL NO. 5-93

Condemnation and Removal of Nonresidential Structures

- 1) **DESCRIPTION:** The Bill establishes authority for the condemnation and removal of unsafe nonresidential buildings.
- 2) **PROBLEM:** Vacant commercial buildings which have become dangerous and unsafe are being entered and occupied by homeless persons and others. Repeated orders to the property owners have resulted in the installation of locks and plywood across the windows. Nevertheless, vandalism and unsafe occupancy continues to reoccur. Chapter 26, the Housing and Building Maintenance Standards, contains a procedure for the demolition of dwellings after they have been condemned, but lacks the authorization to condemn and demolish nonresidential buildings.
- 3) **GOALS AND OBJECTIVES:** To authorize the Department of Housing and Community Development to condemn unsafe nonresidential buildings or structures as a first step toward demolition and removal.
- 4) **COORDINATION:** The legislation will be coordinated with other sections of Chapter 26 which first require maintenance of commercial properties. Condemnation and demolition will be invoked only when properties are not maintained. Existing demolition procedures have established coordination for historic site determination.
- 5) **FISCAL IMPACT:** The operating budget for the first and succeeding years will be increased by \$100,000. Existing procedures provide for recovery of demolition expenses. The actual cost of removal is charged to the owner of the property in the manner of taxes and becomes a lien on the property. Thus, all expenses connected with the demolition and removal of nonresidential buildings will be recovered.
- 6) **ECONOMIC IMPACT:** The removal of blighting influences will benefit neighboring properties and the surrounding community. Customers and employees of nearby businesses would no longer be frightened away.

- 7) **EVALUATION:** The legislation will be evaluated by its effectiveness in removing unsafe commercial buildings. The evaluation of future needs will occur during annual budget decisions.
- 8) **EXPERIENCE ELSEWHERE:** Similar programs or legislation in other jurisdictions have not come to our attention.
- 9) **SOURCES OF INFORMATION:** Melvin E. Tull
Chief, Division of Code Enforcement
(301) 217-3725
- 10) **APPLICATION WITHIN MUNICIPALITIES:** Chapter 26 applies within Barnesville, Brookeville, the Village of Martin's Addition, Chevy Chase Sec. 3, the Town of Chevy Chase, Chevy Chase Sec. 5, Glen Echo, Kensington, Somerset, Washington Grove, and Laytonsville. This Bill has not been proposed as a Board of Health regulation.
- 11) **PENALTIES:** Class A penalties apply.



RECEIVED COUNCIL

Montgomery County Government

92 DEC 21 PS: 01

ROCKVILLE, MARYLAND 20850

Neal Potter
County Executive
(301) 217-2500
TTY 217-6505

MEMORANDUM

December 21, 1992



015524

MF
CC
HAVE SBF
MK
RW

BILL-

TO: Marilyn Praisner, President
Montgomery County Council

FROM: Neal Potter, County Executive *NP*

SUBJECT: Recommended Amendment for Authority to Condemn and
Demolish Unsafe Nonresidential Buildings

DISK TO CHRISTY

This proposed legislation would amend Chapter 26 of the Montgomery County Code, the Housing and Building Maintenance Standards, to provide for the condemnation and removal of unsafe nonresidential buildings. Authority and procedures already exist for the demolition of condemned dwellings but not for nonresidential buildings.

The ability to demolish unsafe commercial and other nonresidential buildings is essential to the control of blight and decay. We plan to focus our initial efforts on vacant buildings in the Silver Spring Central Business District which have been allowed to decay and which have been open to vandalism and illegal entry; however, the law will apply to all commercial and industrial areas.

Demolition costs for the first year are expected to be in the range of \$100,000. Thereafter, the annual budget will be \$100,000. Existing procedures provide for recovery of demolition expenses. The actual cost of removal is charged to the owner of the property in the manner of taxes and becomes a lien on the property. All expenses connected with the demolition and removal of nonresidential buildings will be recovered.

NP:mmr

TESTIMONY PRESENTED TO THE HONORABLE COUNCIL MEMBERS
OF MONTGOMERY COUNTY GOVERNMENT
IN SUPPORT OF EXEMPTING FARM BUILDINGS AND STRUCTURES WHICH
ARE USED SOLELY BY OWNERS FOR THE EXCLUSIVE FARM ACTIVITIES

RE: Emergency Bill 5-93
Non-residential Structures Condemnation

It is clear that the intent of this emergency Bill is directed towards extending the authority of demolition and condemnation of residential dwellings to commercial and industrial abandoned buildings. (Ref. December 21, 1992, memorandum of County Executive Neal Potter to the President of Montgomery County Council).

The memorandum clearly states that "THE LAW WILL APPLY TO ALL COMMERCIAL AND INDUSTRIAL AREAS"

Further, the Legislative Request Report indicates that:
THE PROBLEM : is related to vacant commercial buildings;
ECONOMIC IMPACT: on customers and employees of nearby businesses;
EVALUATION : its effectiveness in removing unsafe commercial buildings.

HOWEVER, the language of the proposed Bill, to include "NON-RESIDENTIAL BUILDINGS", is so broad that it can be construed as to apply the condemnation authority to barns, silos and other structures which are used exclusively for farm activities.

Therefore, on behalf of family owned and operated small farms and myself, we respectfully request that this Honorable Council incorporates AN EXEMPTION FOR FARM BUILDINGS AND STRUCTURES WHICH ARE USED SOLELY BY FARM OWNERS. Of course, this requested exemption would not apply if any farm building or structure is used for human habitation.

The requested exemption will eliminate any confusion for enforcement agents, and will result in effective use of the resources allocated for the intended purpose of the Bill.

I am confident that you are well aware that no owner/operator of a small farm would be financially able to maintain farm buildings, so that the requirements of Chapter 26 (Housing and Building maintenance standards) Section 26-4, 26-12 and 26-18, can be met or complied with.

BY FAYEZ HANNA AND OTHER OWNERS OF FAMILY OPERATED SMALL FARMS
(14912 Chestnut Ridge Court, Gaithersburg, Maryland 20878)

Sec. 24A-7. Same—Application procedures; appeals.

(a) *Applications.* Applications for issuance of an historic area work permit shall be filed with the director. The application shall be in such form and contain such information as may be required to provide information as shall be necessary for the commission to evaluate an act upon such applications in accordance with the provisions of this chapter.

(b) *Referral of application.* Upon the filing of a completed application, within 3 days the director shall forward the application and all attachments to the commission for its review.

(c) *Public appearance.* Upon receipt of the application, the commission shall schedule a public appearance at a commission meeting at which time it will consider the application.

(d) *Notice.* After scheduling of a public appearance, the commission shall forward notice of the public appearance to those citizens or organizations which the commission feels may have an interest in the proceedings.

Upon being advised by the commission of the scheduling of a public appearance, the director shall forward the application and all attachments to the planning board for its review and comments which, if any, are to be made to the commission prior to the public appearance.

(e) *Conduct of commission meeting.* At the public appearance, the procedure will be informal and formal rules of evidence will not be applicable. Interested persons will be encouraged to comment and minutes of the proceedings will be kept.

(f) *Action by the commission.*

(1) Within 45 days after the filing of an application or, in the event the record is left open by the commission, within 15 days after the close of the record, the commission shall make its decision public.

(2) The commission may instruct the director to:

- a. Issue the permit; or
- b. Issue the permit subject to such conditions as are necessary to insure conformity with the provisions and purposes of this chapter; or
- c. Deny the permit.

(3) In the event of a denial of a permit, the applicant shall receive a written notification of the reasons for such denial.

(4) If, after a public appearance, the commission finds that denial of the permit applied for will result in the denial of reasonable use of the property or impose undue hardship on the owner, and within a period of 120 days after such finding no economically feasible plan for the preservation of the structure has been demonstrated by those seeking preservation, the commission must then instruct the director to issue a permit with, if applicable, such reasonable conditions which will further the intent and purposes of this chapter.

(5) Failure of the commission to act on an application within the time periods provided in the provisions of this subsection shall require that the application be deemed granted. By his written consent, the applicant may extend the time period for commission action.

(g) *Miscellaneous provisions.*

(1) The applicant for a permit shall have the responsibility of providing information sufficient to support the application and the burden of persuasion on all questions of fact which are to be determined by the commission. Properties subject to deeds of easement held by other historic preservation organizations shall submit proof of approval of exterior architectural review by the organization holding the easement.

(2) Any permit issued by the director may be subject to such conditions imposed by the commission as are reasonably necessary to assure that work in accordance with the permit shall proceed and be performed in a manner not injurious to those characteristics and qualities of the historic resource which are of historical, architectural, archeological or cultural value.

(3) In the event that there is a conflict between the permit and the requirements of the building code, the permit would control provided that all health and safety requirements are met.

(4) The director is responsible for the enforcement of this chapter.

(h) *Appeal.*

(1) In the event that any party is aggrieved by a decision of the commission, within 30 days from the date on which the commission's decision is made public, such party aggrieved may appeal to the board of appeals which will review the commission's decision *de novo*. The board of appeals has full and exclusive authority to hear and decide all appeals taken from decisions of

the commission in the administration of this chapter. The board of appeals has the authority to affirm, modify or reverse the order or decision of the commission.

(2) Appeals from decision of the county board of appeals shall be in accordance with section 2-114 of this Code. (Ord. No. 9-4, § 1; Ord. No. 11-59.)

Sec. 24A-8. Same—Criteria for issuance.

(a) The commission shall instruct the director to deny a permit if it finds, based on the evidence and information presented to or before the commission that the alteration for which the permit is sought would be inappropriate, inconsistent with or detrimental to the preservation, enhancement or ultimate protection of the historic site or historic resource within an historic district, and to the purposes of this chapter.

(b) The commission shall instruct the director to issue a permit, or issue a permit subject to such conditions as are found to be necessary to insure conformity with the purposes and requirements of this chapter, if it finds that:

(1) The proposal will not substantially alter the exterior features of an historic site or historic resource within an historic district; or

(2) The proposal is compatible in character and nature with the historical, archeological, architectural or cultural features of the historic site or the historic district in which an historic resource is located and would not be detrimental thereto or to the achievement of the purposes of this chapter; or

(3) The proposal would enhance or aid in the protection, preservation and public or private utilization of the historic site or historic resource located within an historic district in a manner compatible with the historical, archeological, architectural or cultural value of the historic site or historic district in which an historic resource is located; or

(4) The proposal is necessary in order that unsafe conditions or health hazards be remedied; or

(5) The proposal is necessary in order that the owner of the subject property not be deprived of reasonable use of the property or suffer undue hardship; or

(6) In balancing the interests of the public in preserving the historic site or historic resource located within an historic district, with the interests of the public from the use and benefit of the alternative proposal, the general public welfare is better served by granting the permit.

(c) It is not the intent of this chapter to limit new construction, alteration or repairs to any 1 period or architectural style.

(d) In the case of an application for work on an historic resource located within an historic district, the commission shall be lenient in its judgment of plans for structures of little historical or design significance or for plans involving new construction, unless such plans would seriously impair the historic or architectural value of surrounding historic resources or would impair the character of the historic district. (Ord. No. 9-4, § 1; Ord. No. 11-59.)

Sec. 24A-9. Demolition by neglect.

In the event of a case of demolition by neglect of an historic resource on public or private property, the following provisions shall apply:

(a) If the historic resource has been designated on the master plan as an historic site or an historic resource within an historic district, the director shall issue a written notice to all persons of record with any right, title or interest in the subject property, or the person occupying such premises, of the conditions of deterioration and shall specify the minimum items of repair or maintenance necessary to correct or prevent further deterioration. The notice shall provide that corrective action shall commence within 30 days of the receipt of such notice and be completed within a reasonable time thereafter. The notice shall state that the owner of record of the subject property, or any person of record with any right, title or interest therein, may, within 10 days after the receipt of the notice, request a hearing on the necessity of the items and conditions contained in such notice. In the event a public hearing is requested, it shall be held by the commission upon 30 days' written notice mailed to all persons of record with any right, title or interest in the subject property and

to all citizens and organizations which the director feels may have an interest in the proceedings.

(1) After a public hearing on the issue of necessity of improvements to prevent demolition by neglect, if the commission finds that such improvements are necessary, it shall instruct the director to issue a final notice to be mailed to the record owners and all parties of record with any right, title or interest in the subject property advising of the items of repair and maintenance necessary to correct or prevent further deterioration. The owners shall institute corrective action to comply with the final notice within 30 days of receipt of the revised notice.

(2) In the event the corrective action specified in the final notice is not instituted within the time allotted, the director may institute, perform and complete the necessary remedial work to prevent deterioration by neglect and the expenses incurred by the director for such work, labor and materials shall be a lien against the property, and draw interest at the highest legal rate, the amount to be amortized over a period of 10 years subject to a public sale if there is a default in payment.

(3) Failure to comply with the original or final notice shall constitute a violation of this chapter for each day that such violation continues and shall be punishable as set forth in section 24A-11.

(4) In the event that the commission finds that, notwithstanding the necessity for such improvements, action provided in paragraphs (1) and (2) of this subsection would impose a substantial hardship on any or all persons with any right, title or interest in the subject property, then the commission shall seek alternative methods to preserve the historic site or historic resource located within an historic district. If none are confirmed within a reasonable time, the director shall not proceed in accordance with paragraphs (1) and (2).

(b) If the historic resource is listed in the "Locational Atlas and Index of Historic Sites in Montgomery County, Maryland," or the microfilmed addenda to such atlas, published by the Maryland-National Capital Park and Planning Commission, the director shall advise the planning board which, after receiving the recommendation of the commission, shall conduct a public hearing to determine whether the historic resource will be designated as an

historic site or historic district in the master plan for historic preservation.

(1) Where the planning board determines that the historic resource will not be included in the master plan for historic preservation, no further action will be taken.

(2) Where the planning board determines that the historic resource in all likelihood will be included in the master plan for historic preservation, the planning board shall initiate an amendment to the master plan for historic preservation pursuant to the provisions of article 28 of the Annotated Code of Maryland.

a. In the event that such amendment is adopted and the historic resource is placed on the master plan for historic preservation as an historic site or an historic resource within an historic district, the director shall give written notice to all persons with any right, title, or interest in the subject property of the conditions of deterioration and shall specify the items of repair or maintenance necessary to stabilize the condition of the historic resource and prevent further deterioration.

b. Such notice shall provide that such stabilization work shall commence within 30 days of receipt of the notice and shall be completed within a reasonable time thereafter.

c. In the event that stabilization action is not instituted within the time allotted, or not completed within a reasonable time thereafter, the director may institute, perform and complete the necessary stabilization work and the expenses incurred by the director for such work, labor or materials shall be a lien against the property, and draw interest at the highest legal rate, the amount to be amortized over a period of 10 years subject to a public sale if there is a default in payment. (Ord. No. 9-4, § 1; Ord. No. 11-59.)

Sec. 24A-10. Moratorium on alteration or demolition.

(a) *Application for permits for historic resources on locational atlas.* Any applicant for a permit to demolish or substantially alter the exterior features of any historic resource which is listed in the "Locational Atlas and Index of Historic Sites in Montgomery County, Maryland," or the microfilmed addenda to such atlas, published by the Maryland-National Capital Park and Planning Commission, but which is not designated as an historic site

or historic district on the master plan for historic preservation, shall be required to disclose such fact on the application.

(b) *Referral to the planning board.* Upon receipt of such application, the director shall promptly forward the same to the planning board to make a finding, after a public hearing, as to the significance of the historic resource and to determine whether in its opinion, after due consideration has been given to the recommendations of the commission, it will be designated as an historic site or an historic resource within an historic district, listed in the master plan for historic preservation. The planning board's public hearing on an application to demolish or substantially alter any historic resource listed in the locational atlas satisfies the requirements of section 33A-6 of the Code for a public hearing on a preliminary draft amendment to the historic preservation master plan if all notice requirements of that section are met.

(c) *Determination by the planning board.*

(1) Where the planning board determines that the historic resource will not be included in the master plan for historic preservation, the director shall forthwith issue the permit.

(2) Where the planning board determines that the historic resource in all likelihood will be included in the master plan for historic preservation, the director shall withhold issuance of the permit once for a maximum period of 195 days from the date the application for demolition is filed. If, as a result of the master plan process, the property is designated an historic site or an historic resource within an historic district, the application shall be governed by the procedures established in section 24A-7.

If, after a public appearance as provided for in section 24A-7, the commission determines that failure to grant the permit applied for will have the effect of denying the property owner of all reasonable use of his property or causing him to suffer under hardship, then the commission must instruct the director to issue the permit subject to such conditions, if any, as are found to be necessary to insure conformity with the purposes and requirements of this chapter.

(d) *Time limits for planning board action.*

(1) Within 60 days after the filing of an application, or within 15 days after the closing of the record following a public hearing, whichever occurs later, the planning board shall render its findings and determinations with respect to an application.

(2) Failure to adhere to the limits specified in section 24A-10 shall cause the permit to issue by operation of law, except in the event of a finding and further proceedings as provided in subsection (c)(2) of this section. (Ord. No. 9-4, § 1; Ord. No. 11-59.)

Sec. 24A-11. Violations and penalties.

Any person who violates a provision of this chapter, or fails to comply with any of the requirements thereof, or disobeys or disregards a decision of the commission, or fails to abide by the conditions of a permit, shall be subject to punishment for a class A violation as set forth in section 1-19 of chapter 1 of the County Code. Each day a violation continues to exist shall constitute a separate offense. (Ord. No. 9-4, § 1; 1983 L.M.C., ch. 22, § 28; Ord. No. 11-59.)

Sec. 24A-12. Severability.

The provisions of this chapter are severable and if any provisions, clause, sentence, section, word or part thereof is held illegal, invalid or unconstitutional, or inapplicable to any person or circumstances, such illegality, invalidity or unconstitutionality, or inapplicability shall not affect or impair any of the remaining provisions, clauses, sentences, sections, words or parts of the chapter or their applications to other persons or circumstances. It is hereby declared to be the legislative intent that this chapter would have been adopted if such illegal, invalid or unconstitutional provision, clause, sentence, section, word or part had not been included therein, and if the person or circumstance to which the chapter or part thereof is inapplicable had been specifically exempted therefrom. (Ord. No. 9-4, § 1; Ord. 1159.)

Sec. 24A-13. Historic preservation easement program.

(a) There is a county easement program to preserve historic resources in Montgomery County. The commission must administer the program in accordance with this section.

July 1, 1993

Amendment by Councilmember Berlage

Insert at @4, line 78, and renumber current section 3:

Sec. 3. Section 26-14 is amended as follows:

26-14. Notice of violation and order to comply with chapter; appeal to housing board of review.

(a)

* * *

(5) also be sent to the Historic Preservation Commission if any affected building or structure:

(A) has been designated on the master plan for historic preservation as an historic site or an historic resource within an historic district, or

(B) is listed on the locational atlas and index of historic sites maintained by the Maryland-National Capital Park and Planning Commission.

* * *

Sec. 4. Section 26-17 is amended as follows:

26-17. Effect of Chapter on other [[ordinances, etc]] laws.

(a) This chapter [[shall]] does not [[be deemed to]] repeal, [[or]] modify, or otherwise affect [[in any manner]] any other [[ordinance, resolution, rule]] County law or regulation [[of the County; provided, that wherever]]. However, except as specified in subsection (b), if this Chapter imposes more stringent [[regulations, restrictions, limitations]] limits or requirements, [[the provisions of]] this Chapter [[shall]] prevail.

(b) If an enforcing agency proposes to take any action under Sections 26-12, 26-14, 26-18, or 26-19(b) that would directly affect any building or structure (1) which has been designated on the master plan for historic preservation as an historic site or an historic resource within an historic district, or (2) which is listed on the locational atlas and index of historic sites maintained by the Maryland-National Capital Park and Planning Commission, the enforcing agency must apply for a historic area work permit under Section 24A-7 or a permit under Section 24A-10, whichever applies, before the enforcing agency removes the building or structure, substantially alters its exterior features, or contracts to do either.

July 1, 1993

DRAFT

Amendment by Councilmember Berlage

Insert at 4, line 78, and renumber current section 3:

Sec. 3. Section 26-14 is amended as follows:**26-14. Notice of violation and order to comply with chapter; appeal to housing board of review.**

(a)

* * *

(5) also be sent to the Historic Preservation Commission if any affected building or structure:**(A) has been designated on the master plan for historic preservation as an historic site or an historic resource within an historic district, or****(B) is listed on the locational atlas and index of historic sites maintained by the Maryland-National Capital Park and Planning Commission.**

* * *

Sec. 4. Section 26-17 is amended as follows:**26-17. Effect of Chapter on other [[ordinances, etc]] laws.****(a) This chapter [[shall]] does not [[be deemed to]] repeal, [[or]] modify, or otherwise affect [[in any manner]] any other [[ordinance, resolution, rule]] County law or regulation [[of the County; provided, that wherever]]. However, except as specified in subsection (b), if this Chapter imposes more stringent [[regulations, restrictions, limitations]] limits or requirements, [[the provisions of]] this Chapter [[shall]] prevail.****(b) If an enforcing agency proposes to take any action under Sections 26-12, 26-14, 26-18, or 26-19(b) that would directly affect any building or structure (1) which has been designated on the master plan for historic preservation as an historic site or an historic resource within an historic district, or (2) which is listed on the locational atlas and index of historic sites maintained by the Maryland-National Capital Park and Planning Commission, the enforcing agency must apply for a historic area work permit under Section 24A-7 or a permit under Section 24A-10, whichever applies, before the enforcing agency removes the building or structure, substantially alters its exterior features, or contracts to do either.**

[This amendment allows the Historic Preservation Commission, after receiving notice of a pending demolition or repair order from DHCD or another code enforcement agency, to use the remedies of §24A-7 or §24A-10, whichever applies. This amendment does not limit DHCD's ability to order and perform emergency repairs, including demolition, under §26-19(a).]



495 1307

MONTGOMERY COUNTY COUNCIL
ROCKVILLE, MARYLAND

FAX COVER SHEET

DERICK BERLAGE
DISTRICT 5

Sender's FAX #: (301) 217-7989

7/6/93
DATE

TO: Rever Marcus

FROM: Derick Berlage / Susan Cottle Mudder

MESSAGE: The latest draft of the
amendment for the demolition
bill. See you July 8?
Nancy seemed satisfied with this

NUMBER OF PAGES INCLUDING COVER SHEET: _____
language. Acv

IF YOU DO NOT RECEIVE ALL OF THE PAGES INDICATED ABOVE, PLEASE CALL AND SPEAK WITH CAROL MCKENZIE AT (301) 217-7967.

IMPORT MESSAGE

TO Haen

DATE 6-30-83 TIME 5:40 A.M.
P.M.

WHILE YOU WERE OUT
M Nancy ~~Admitt~~ Baird

OF _____

Area Code & Exchange 703-968-7015

TELEPHONED		PLEASE CALL	<input checked="" type="checkbox"/>
CALLED TO SEE YOU		WILL CALL AGAIN	
WANTS TO SEE YOU		URGENT	
RETURNED YOUR CALL			

Message _____

Operator ARJ



DRAFT

June 30, 1993

Amendment by Councilmember Berlage

Insert at 4, line 78, and renumber current section 3:

Sec. 3. Section 26-17 is amended as follows:

26-17. Effect of Chapter on other laws.

(a) This chapter does not ~~shall~~ repeal, modify, or otherwise affect ~~in any manner~~ any other County law or regulation ~~of the County; provided, that wherever~~. However, if this Chapter imposes more stringent regulations, restrictions, limitations or requirements, the provisions of this Chapter shall prevail.

(b) If an enforcing agency proposes to take any action under Sections 26-12, 26-14, 26-18, or 26-19(b) that would directly affect any building or structure which has been designated on the master plan for historic preservation as an historic site or an historic resource within an historic district, or which is listed on the locational atlas and index of historic sites maintained by the Maryland-National Capital Park and Planning Commission, the enforcing agency must:

(1) send a copy of any notice of proposed action to the Historic Preservation Commission; and

(2) give the Commission a reasonable opportunity to employ the procedures of Section 24A-9 before the enforcing agency moves the building or structure, substantially alters its exterior features, or contracts to do either.

allow follow the HPC to do procedures under 24A-7 or 24A-10 which is applicable

[This amendment allows the Historic Preservation Commission, after receiving notice of a pending demolition or repair order from DHCD or another code enforcement agency, to use the demolition by neglect remedies of §24A-9. This option will require some modification of current practices to avoid duplicate notices under Chapters 26 and 24A. This amendment does not affect DHCD's ability to order and perform emergency repairs, including demolition, under §26-19(a).]

Post-It™ brand fax transmittal memo 7871		# of pages ▶
To	Gwen Marcus	From
Co.	HPC	Co.
Dept.		Phone #
Fax #		Fax #

Handwritten in form:
 From: ANSA COFFE MADDA
 Co.: COUNTY COUNCIL
 Phone #: 217 7959
 Fax #: 217 7489

SENT BY:
RCV BY:

2- 9-93 : 11:11 :
2- 8-93 : 9:12 :

GULC-
301217/300-

3014951320:# 4/11
MAY 1993

Emergency Bill No. 5-93
Concerning: Nonresidential
Structures - condemnation
Draft No. & Date: 2 1/22/93
Introduced: January 26, 1993
Expires: July 26, 1994
Enacted: _____
Executive: _____
Effective: _____
Sunset Date: None
Ch. _____, Laws of Mont. Co. _____

COUNTY COUNCIL
FOR MONTGOMERY COUNTY, MARYLAND

By: The Council President at the Request of the County Executive
and Councilmember Berlage

AN EMERGENCY ACT to:

- (1) modify housing code inspection procedures to include nonresidential structures;
- (2) extend housing code condemnation procedures to cover unsafe nonresidential structures, and redefine the standards for condemnation of residential and nonresidential structures;
- (3) provide for the demolition of condemned nonresidential structures; and
- (4) generally amend the law that establishes housing and building maintenance standards.

By amending

Montgomery County Code
Chapter 26, Housing and Building Maintenance Standards
Sections 26-4, 26-12 and 26-18

EXPLANATION: Boldface indicates a heading or a defined term
Underlining indicates text that is added to existing law by the original bill
[Single boldface brackets] indicate text that is deleted from existing law by the original bill
Double underlining indicates text that is added to the bill by amendment
[[Double boldface brackets]] indicate text that is deleted from existing law or the bill by amendment
* * * indicates existing law unaffected by the bill

The County Council For Montgomery County, Maryland, approves the following act:

①

Emergency Bill No. 5-93

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Sec. 1. Section 26-4 is amended as follows:

26-4. Inspections generally; when warrants required; right of entry of inspectors and owners.

(a) The enforcing agency may inspect the condition of dwellings, ~~nonresidential structures~~, and premises located [within] in the County to safeguard the health and safety of the occupants [of dwellings] and [of] the general public. For the purpose of making such inspections, the enforcing agency may enter, examine and survey, at all reasonable times, all dwellings, ~~nonresidential structures~~, and premises. Before an inspection, the enforcing agency must give notice either orally or in writing of the day of the inspection and obtain the consent of the owner, operator or occupant to the inspection, which consent may *not be unreasonably withheld, delayed, or conditioned.*

Sec. 2. Section 26-12 is amended as follows:

26-12. Designation of unfit dwellings and ~~unsafe nonresidential structures~~; legal procedure of condemnation.

The designation of dwellings or dwelling units as unfit for human habitation ~~and the designation of nonresidential structures as unsafe for human occupancy or use~~ under this Chapter, and the condemnation and placarding of unfit dwellings or dwelling units ~~and unsafe nonresidential structures~~, must comply with the following requirements:

(a) Any dwelling or dwelling unit ~~and any nonresidential structure~~ which has any of the following defects may be condemned as unfit for human habitation ~~or unsafe for human~~

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Emergency Bill No. 3-93

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occupancy or use by the enforcing agency:

- (1) One which is, entirely or in part, so damaged, decayed, dilapidated, unsanitary, unsafe or vermin-infested that it creates a serious hazard to the health or safety of the occupants or of the public.
- (2) One which lacks, entirely or in part, illumination, ventilation, heating, water supply, or sanitation facilities adequate to protect the health or safety of the occupants or of the public, as required in this Chapter.
- (3) One which because of its general condition is, entirely or in part, unsanitary or otherwise dangerous to the health or safety of the occupants or the public.
- (4) One which contains unsafe equipment, including any boiler, heating equipment, elevator, service stairway, electrical wiring or device, flammable liquid containers or other equipment, on the premises or in the structure which is in such disrepair or condition that it is a hazard to the life, health, property or safety of the occupants or the public.

(b) The enforcing agency must ^{provide written notice to} notify the owner of every dwelling or dwelling unit and every nonresidential structure condemned for human habitation, occupancy or use, ^{indicating the general conditions which have resulted in such determination,} [and] The enforcing agency must post a warning placard on the property.

(c) (1) Any person occupying a dwelling or dwelling unit when it is condemned as unfit for human habitation must

The enforcement agency shall forward a copy of such notice to the Historic Preservation Commission and the Hist Pres Com shall determine if the structure is subject to Chapter 24A. The HE shall provide written notice to the enforcing agency concerning whether the structure is subject to Chapter 24A or not.

(3)

Emergency Bill No. 1-93

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vacate the dwelling unit within a reasonable time as ordered by the enforcing agency.

(2) Any person occupying or using a nonresidential structure when it is condemned as unsafe for human use or occupancy must vacate the building or structure

immediately after a warning placard is posted and surrender any valid use and occupancy permit.

[(2)](3) A person must not occupy or use and an owner must not permit a person to occupy or use a dwelling [or], a dwelling unit, or a nonresidential structure which has been condemned as unfit for human habitation or unsafe for human occupancy or use until the enforcing agency approves the occupancy or use and removes the placard. The enforcing agency may remove the placard if all defects upon which the condemnation was based have been eliminated.

(d) A person must not deface or remove a placard from any dwelling [or], dwelling unit, or nonresidential structure, except as authorized by the enforcing agency.

(e) Every owner of a condemned or abandoned structure must secure all windows and doors that are accessible from the ground, from an adjacent structure, or by the reasonably foreseeable use of a ladder, table or other device, and must keep them secured against unauthorized entry.

Sec. 3. Section 26-18 is amended as follows:

26-18. Repair or removal of condemned buildings or structures.

(a) If the owner of any building or structure or part of a building or structure condemned under this Chapter [fails

Not subject to Chapter 24A or released from coverage upon determination by the HRC

Emergency Bill No. 5-93

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Nothing contained in this Chapter is intended to override or modify the requirements under Chapter 29A of the county code or Article 3 section 3-24

to] does not remedy in a manner satisfactory to the enforcing agency the [condition or] conditions which led to the condemnation by [failing to cause such] causing the building or structure or part of a building or structure to be put into [sanitary condition] full compliance with this Chapter, or to be demolished and removed, within the time specified by the enforcing agency in the order of condemnation or any extension [thereof], the enforcing agency may, after [thirty (30)] 30 days' written notice to the owner, order the demolition of the building or structure, the filling of any excavation and the clearing of the property so that it will be in a safe condition. The County ^{shall} may charge the cost of removal [by the County shall be charged] to the owner of the property and collect it as taxes on real property or other debts are collected, [in the manner of taxes, and] Any such charge [shall be] in a lien on the property. [The cost to the County of removal may also be collected as other debts.]

(b) Any person aggrieved by an order of the enforcing agency under this Section may appeal [such] the order to the County Board of Appeals [under section 55-2].

Approved:

Marilyn J. Praisner, President, County Council

Date

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SENT BY:
RCV BY:

2- 9-93 ; 11:14 ;
2 5-93 : 9:16 :

GULC-
0014110000

3014851320:# 9/11

Emergency ~~Call~~ No. 5-77

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Approved:

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Neal Foster, County Executive

Date

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This is a correct copy of Council action.

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Kathleen A. Freedman, OMC

Date

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Secretary of the Council

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529/LAW/1-6



LEGISLATIVE REQUEST REPORT

BILL NO. 5-83

Condemnation and Removal of Nonresidential Structures

- 1) **DESCRIPTION:** The Bill establishes authority for the condemnation and removal of unsafe nonresidential buildings.
- 2) **PROBLEM:** Vacant commercial buildings which have become dangerous and unsafe are being entered and occupied by homeless persons and others. Repeated orders to the property owners have resulted in the installation of locks and plywood across the windows. Nevertheless, vandalism and unsafe occupancy continues to reoccur. Chapter 26, the Housing and Building Maintenance Standards, contains a procedure for the demolition of dwellings after they have been condemned, but lacks the authorization to condemn and demolish nonresidential buildings.
- 3) **GOALS AND OBJECTIVES:** To authorize the Department of Housing and Community Development to condemn unsafe nonresidential buildings or structures as a first step toward demolition and removal.
- 4) **COORDINATION:** The legislation will be coordinated with other sections of Chapter 26 which first require maintenance of commercial properties. Condemnation and demolition will be invoked only when properties are not maintained. Existing demolition procedures have established coordination for historic site determination.
- 5) **FISCAL IMPACT:** The operating budget for the first and succeeding years will be increased by \$100,000. Existing procedures provide for recovery of demolition expenses. The actual cost of removal is charged to the owner of the property in the manner of taxes and becomes a lien on the property. Thus, all expenses connected with the demolition and removal of nonresidential buildings will be recovered.
- 6) **ECONOMIC IMPACT:** The removal of blighting influences will benefit neighboring properties and the surrounding community. Customers and employees of nearby businesses would no longer be frightened away.

- 2-
- 7) **EVALUATION:** The legislation will be evaluated by its effectiveness in removing unsafe commercial buildings. The evaluation of future needs will occur during annual budget decisions.
- 8) **EXPERIENCE ELSEWHERE:** Similar programs or legislation in other jurisdictions have not come to our attention.
- 9) **SOURCES OF INFORMATION:** Melvin E. Tull
Chief, Division of Code Enforcement
(301) 217-3725
- 10) **APPLICATION WITHIN MUNICIPALITIES:** Chapter 26 applies within Barnesville, Brookeville, the Village of Martin's Addition, Chevy Chase Sec. 3, the Town of Chevy Chase, Chevy Chase Sec. 5, Glen Echo, Kensington, Somerset, Washington Grove, and Laytonsville. This Bill has not been proposed as a Board of Health regulation.
- 11) **PENALTIES:** Class A penalties apply.

SENT BY:
RCV BY:

2- 9-93 : 11:11 :
2- 8-93 : 9:12 :

GULC-
13012177385-

3014951320:# 4/11
CHIA.W.3

Emergency Bill No. 9-93
Concerning: Nonresidential
Structures - condemnation
Draft No. & Date: 2 1/22/93
Introduced: January 26, 1993
Expires: July 26, 1994
Enacted: _____
Executive: _____
Effective: _____
Sunset Date: None
Ch. _____, Laws of Mont. Co. _____

COUNTY COUNCIL
FOR MONTGOMERY COUNTY, MARYLAND

By: The Council President at the Request of the County Executive
and Councilmember Berlage

AN EMERGENCY ACT to:

- (1) modify housing code inspection procedures to include nonresidential structures;
- (2) extend housing code condemnation procedures to cover unsafe nonresidential structures, and redefine the standards for condemnation of residential and nonresidential structures;
- (3) provide for the demolition of condemned nonresidential structures; and
- (4) generally amend the law that establishes housing and building maintenance standards.

By amending

Montgomery County Code
Chapter 26, Housing and Building Maintenance Standards
Sections 26-4, 26-12 and 26-18

EXPLANATION: Boldface indicates a heading or a defined term
Underlining indicates text that is added to existing law by the original bill
[Single boldface brackets] indicate text that is deleted from existing law by the original bill
Double underlining indicates text that is added to the bill by amendment
[[Double boldface brackets]] indicate text that is deleted from existing law or the bill by amendment
* * * indicates existing law unaffected by the bill

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

①

Emergency Bill No. 5-93

1 Sec. 1. Section 26-4 is amended as follows:

2 26-4. Inspections generally; when warrants required; right of entry
3 of inspectors and owners.

4 (a) The enforcing agency may inspect the condition of
5 dwellings, ~~nonresidential structures~~, and premises located
6 [within] in the County to safeguard the health and safety
7 of the occupants [of dwellings] and [of] the general
8 public. For the purpose of making such inspections, the
9 enforcing agency may enter, examine and survey, at all
10 reasonable times, all dwellings, ~~nonresidential structures~~,
11 and premises. Before an inspection, the enforcing agency
12 must give notice either orally or in writing of the day of
13 the inspection and obtain the consent of the owner,
14 operator or occupant to the inspection, *which consent may*
15 *not be unreasonably withheld, delayed, or conditioned.*

16 Sec. 2. Section 26-12 is amended as follows:

17 26-12. Designation of unfit dwellings and ~~unsafe nonresidential~~
18 ~~structures~~; legal procedure of condemnation.

19 The designation of dwellings or dwelling units as unfit for
20 human habitation ~~and the designation of nonresidential structures as~~
21 ~~unsafe for human occupancy or use~~ under this Chapter, and the
22 condemnation and placarding of unfit dwellings or dwelling units ~~and~~
23 ~~unsafe nonresidential structures~~, must comply with the following
24 requirements:

25 (a) Any dwelling or dwelling unit ~~and any nonresidential~~
26 ~~structure~~ which has any of the following defects may be
27 condemned as unfit for human habitation ~~or unsafe for human~~

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Emergency Bill No. 3-93

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occupancy or use by the enforcing agency:

- (1) One which is, entirely or in part, so damaged, decayed, dilapidated, unsanitary, unsafe or vermin-infested that it creates a serious hazard to the health or safety of the occupants or of the public.
- (2) One which lacks, entirely or in part, illumination, ventilation, heating, water supply, or sanitation facilities adequate to protect the health or safety of the occupants or of the public, as required in this Chapter.
- (3) One which because of its general condition is, entirely or in part, unsanitary or otherwise dangerous to the health or safety of the occupants or the public.
- (4) One which contains unsafe equipment, including any boiler, heating equipment, elevator, moving stairway, electrical wiring or device, flammable liquid containers or other equipment, on the premises or in the structure which is in such disrepair or condition that it is a hazard to the life, health, property or safety of the occupants or the public.

(b) The enforcing agency must ^{provide written notice to} notify the owner of every dwelling or dwelling unit and every nonresidential structure condemned for human habitation, occupancy or use, ^{indicating the general conditions which have resulted in such determination.} [and] The enforcing agency must post a warning placard on the property.

(c) (1) Any person occupying a dwelling or dwelling unit when it is condemned as unfit for human habitation must

The enforcement agency shall forward a copy of such notice to the Historic Preservation Commission and the Host Pass Commission shall determine if the structure is subject to Chapter 24A. The HPC shall provide written notice to the enforcing agency concerning whether the structure is subject to Chapter 24A within 30 days.

Emergency Bill No. 3-93

35 vacate the dwelling unit within a reasonable time as
36 ordered by the enforcing agency.

37 (2) Any person occupying or using a nonresidential
38 structure when it is condemned as unsafe for human use
39 or occupancy must vacate the building or structure

60 immediately after a warning placard is posted and surrender
61 any valid use and occupancy permit.

61 [(2)](3) A person must not occupy or use and an owner must not
62 permit a person to occupy or use a dwelling [or], a
63 dwelling unit, or a nonresidential structure which has
64 been condemned as unfit for human habitation or unsafe
65 for human occupancy or use until the enforcing agency
66 approves the occupancy or use and removes the
67 placard. The enforcing agency may remove the placard
68 if all defects upon which the condemnation was based
69 have been eliminated.

70 (d) A person must not deface or remove a placard from any
71 dwelling [or], dwelling unit, or nonresidential structure,
72 except as authorized by the enforcing agency.

73 (e) Every owner of a condemned or abandoned structure must
74 secure all windows and doors that are accessible from the
75 ground, from an adjacent structure, or by the reasonably
76 foreseeable use of a ladder, table or other device, and
77 must keep them secured against unauthorized entry.

78 Sec. 3. Section 26-18 is amended as follows:

79 26-18. Repair or removal of condemned buildings or structures.

80 (a) If the owner of any building or structure or part of a
81 building or structure condemned under this Chapter [fails

not subject to Chapter 24A or released from
coverage upon a determination by the HRC

(4)

Emergency Bill No. 5-93

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Nothing contained in this Chapter, (b) is intended to override or modify the requirements under Chapter 25A of the county code or Article 3 section 9-24

to] does not remedy in a manner satisfactory to the enforcing agency the [condition or] conditions which led to the condemnation by [failing to cause such] causing the building or structure or part of a building or structure to be put into [sanitary condition] full compliance with this Chapter, or to be demolished and removed, within the time specified by the enforcing agency in the order of condemnation or any extension [thereof], the enforcing agency may, after [thirty (30)] 30 days' written notice to the owner, order the demolition of the building or structure, the filling of any excavation and the clearing of the property so that it will be in a safe condition. The County ^{shall} may charge the cost of removal [by the County shall be charged] to the owner of the property and collect ~~it as taxes on real property or other debts are collected.~~ [in the manner of taxes, and] Any such charge [shall be] is a lien on the property. [The cost to the County of removal may also be collected as other debts.]
(b) Any person aggrieved by an order of the enforcing agency under this Section may appeal [such] the order to the County Board of Appeals [under section 55-2].

Approved:

Marilyn J. Prauser, President, County Council

Date

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SENT BY:
RCV BY:

2- 9-93 ; 11:14 ;
2 5-93 ; 9:15 ;

GULC-
02/14/1993

3014951320:# 9/11

Emergency Bill No. 5-79

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Approved:

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Neal Foster, County Executive

Date

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This is a correct copy of Council action.

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Kathleen A. Freedman, OMC

Date

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Secretary of the Council

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529/LAW/1-6

6

LEGISLATIVE REQUEST REPORT

BILL NO. 5-93

Condemnation and Removal of Nonresidential Structures

- 1) **DESCRIPTION:** The Bill establishes authority for the condemnation and removal of unsafe nonresidential buildings.
- 2) **PROBLEM:** Vacant commercial buildings which have become dangerous and unsafe are being entered and occupied by homeless persons and others. Repeated orders to the property owners have resulted in the installation of locks and plywood across the windows. Nevertheless, vandalism and unsafe occupancy continues to reoccur. Chapter 26, the Housing and Building Maintenance Standards, contains a procedure for the demolition of dwellings after they have been condemned, but lacks the authorization to condemn and demolish nonresidential buildings.
- 3) **GOALS AND OBJECTIVES:** To authorize the Department of Housing and Community Development to condemn unsafe nonresidential buildings or structures as a first step toward demolition and removal.
- 4) **COORDINATION:** The legislation will be coordinated with other sections of Chapter 26 which first require maintenance of commercial properties. Condemnation and demolition will be invoked only when properties are not maintained. Existing demolition procedures have established coordination for historic site determination.
- 5) **FISCAL IMPACT:** The operating budget for the first and succeeding years will be increased by \$100,000. Existing procedures provide for recovery of demolition expenses. The actual cost of removal is charged to the owner of the property in the manner of taxes and becomes a lien on the property. Thus, all expenses connected with the demolition and removal of nonresidential buildings will be recovered.
- 6) **ECONOMIC IMPACT:** The removal of blighting influences will benefit neighboring properties and the surrounding community. Customers and employees of nearby businesses would no longer be frightened away.

- 7) **EVALUATION:** The legislation will be evaluated by its effectiveness in removing unsafe commercial buildings. The evaluation of future needs will occur during annual budget decisions.
- 8) **EXPERIENCE ELSEWHERE:** Similar programs or legislation in other jurisdictions have not come to our attention.
- 9) **SOURCES OF INFORMATION:** Melvin E. Tull
Chief, Division of Code Enforcement
(301) 217-3725
- 10) **APPLICATION WITHIN MUNICIPALITIES:** Chapter 26 applies within Barnesville, Brookeville, the Village of Martin's Addition, Chevy Chase Sec. 3, the Town of Chevy Chase, Chevy Chase Sec. 5, Glen Echo, Kensington, Somerset, Washington Grove, and Laytonsville. This Bill has not been proposed as a Board of Health regulation.
- 11) **PEXALTIES:** Class A penalties apply.

SENT BY:
RCV BY:

2- 9-93 : 11:11 :
2- 8-93 : 9:12 :

GULC-
301217/385-

3014951320:# 4/11
C.M.A. P. 03

Emergency Bill No. 9-93
Concerning: Nonresidential
Structures - condemnation
Draft No. & Date: 2 1/22/93
Introduced: January 26, 1993
Expires: July 26, 1994
Enacted: _____
Executive: _____
Effective: _____
Sunset Date: None
Ch. _____, Laws of Mont. Co. _____

COUNTY COUNCIL
FOR MONTGOMERY COUNTY, MARYLAND

By: The Council President at the Request of the County Executive
and Councilmember Berlage

AN EMERGENCY ACT to:

- (1) modify housing code inspection procedures to include nonresidential structures;
- (2) extend housing code condemnation procedures to cover unsafe nonresidential structures, and redefine the standards for condemnation of residential and nonresidential structures;
- (3) provide for the demolition of condemned nonresidential structures; and
- (4) generally amend the law that establishes housing and building maintenance standards.

By amending

Montgomery County Code
Chapter 26, Housing and Building Maintenance Standards
Sections 26-4, 26-12 and 26-18

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Underlining indicates text that is added to existing law by the original bill
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[[Double boldface brackets]] indicate text that is deleted from existing law or the bill by amendment
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The County Council for Montgomery County, Maryland, approves the following act:

①

Emergency Bill No. 5-93

1 Sec. 1. Section 26-4 is amended as follows:

2 26-4. Inspections generally; when warrants required; right of entry
3 of inspectors and owners.

4 (a) The enforcing agency may inspect the condition of
5 dwellings, ~~nonresidential structures~~, and premises located
6 [within] in the County to safeguard the health and safety
7 of the occupants [of dwellings] and [of] the general
8 public. For the purpose of making such inspections, the
9 enforcing agency may enter, examine and survey, at all
10 reasonable times, all dwellings, ~~nonresidential structures~~,
11 and premises. Before an inspection, the enforcing agency
12 must give notice either orally or in writing of the day of
13 the inspection and obtain the consent of the owner,
14 operator or occupant to the inspection, *which consent may*
15 *not be unreasonably withheld, delayed, or conditioned.*

16 Sec. 2. Section 26-12 is amended as follows:

17 26-12. Designation of unfit dwellings and ~~unsafe nonresidential~~
18 ~~structures~~ legal procedure of condemnation.

19 The designation of dwellings or dwelling units as unfit for
20 human habitation ~~and the designation of nonresidential structures as~~
21 ~~unsafe for human occupancy or use~~ under this Chapter, and the
22 condemnation and placarding of unfit dwellings or dwelling units ~~and~~
23 ~~unsafe nonresidential structures~~, must comply with the following
24 requirements:

25 (a) Any dwelling or dwelling unit ~~and any nonresidential~~
26 ~~structures~~ which has any of the following defects may be
27 condemned as unfit for human habitation ~~or unsafe for human~~

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Emergency Bill No: 3-93

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occupancy or use by the enforcing agency:

- (1) One which is, entirely or in part, so damaged, decayed, dilapidated, unsanitary, unsafe or vermin-infested that it creates a serious hazard to the health or safety of the occupants or of the public.
- (2) One which lacks, entirely or in part, illumination, ventilation, heating, water supply, or sanitation facilities adequate to protect the health or safety of the occupants or of the public, as required in this Chapter.
- (3) One which because of its general condition is, entirely or in part, unsanitary or otherwise dangerous to the health or safety of the occupants or the public.
- (4) One which contains unsafe equipment, including any boiler, heating equipment, elevator, moving stairway, electrical wiring or device, flammable liquid containers or other equipment, on the premises or in the structure which is in such disrepair or condition that it is a hazard to the life, health, property or safety of the occupants or the public.

(b) The enforcing agency must ^{provide written notice to} notify the owner of every dwelling or dwelling unit and every nonresidential structure condemned for human habitation, occupancy or use. ^{indicating the general conditions which have resulted in such determination.} ~~The enforcing agency must post a warning placard on the property.~~

(c) (1) Any person occupying a dwelling or dwelling unit when it is condemned as unfit for human habitation must

The enforcement agency shall forward a copy of such notice to the Historic Preservation Commission and the Heat Pans Com. shall determine if the structure is subject to Chapter 24A. The HPC shall provide written notice to the enforcing agency concerning whether the structure is subject to Chapter 24A within 30 days.

Emergency Bill No. 3-93

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vacate the dwelling unit within a reasonable time as ordered by the enforcing agency.

(2) Any person occupying or using a nonresidential structure when it is condemned as unsafe for human use or occupancy must vacate the building or structure immediately after a warning placard is posted and surrender any valid use and occupancy permit.

[(2)](3) A person must not occupy or use and an owner must not permit a person to occupy or use a dwelling [or], a dwelling unit, or a nonresidential structure which has been condemned as unfit for human habitation or unsafe for human occupancy or use until the enforcing agency approves the occupancy or use and removes the placard. The enforcing agency may remove the placard if all defects upon which the condemnation was based have been eliminated.

(d) A person must not deface or remove a placard from any dwelling [or], dwelling unit, or nonresidential structure, except as authorized by the enforcing agency.

(e) Every owner of a condemned or abandoned structure must secure all windows and doors that are accessible from the ground, from an adjacent structure, or by the reasonably foreseeable use of a ladder, table or other device, and must keep them secured against unauthorized entry.

Sec. 3. Section 26-18 is amended as follows:

26-18. Repair or removal of condemned buildings or structures.

(a) If the owner of any building or structure or part of a building or structure condemned under this Chapter [fails

not subject to Chapter 24A or released from coverage upon a determination by the HAC

Emergency Bill No. 5-93

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Nothing contained in this Chapter is intended to override or modify the requirements under Chapter 24A of the county code or Article 3 section 3-24

to] ~~does not~~ remedy in a manner satisfactory to the enforcing agency the [condition or] conditions which led to the condemnation by [failing to cause such] ~~causing the~~ building ~~or structure~~ or part of a building ~~or structure~~ to be put into [sanitary condition] ~~full compliance with this Chapter~~, or to be demolished and removed, within the time specified by the enforcing agency in the order of condemnation or any extension [thereof], the enforcing agency may, after [thirty (30)] 30 days' written notice to the owner, order the demolition of the building ~~or structure~~, the filling of any excavation and the clearing of the property so that it will be in a safe condition. The County ^{shall} ~~may charge~~ the cost of removal [by the County shall be charged] to the owner of the property and collect ~~it as taxes on real property or other debts are collected~~. [in the manner of taxes, and] Any such charge [shall be] in a lien on the property. [The cost to the County of removal may also be collected as other debts.]

(b) Any person aggrieved by an order of the enforcing agency under this Section may appeal [such] the order to the County Board of Appeals [under section 55-2].

Approved:

Marilyn J. Praiser, President, County Council

Date

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SENT BY:
RCV BY:

2- 9-93 ; 11:14 ;
2 5-83 : 9:16 :

GULC-
02/14/1993

3014951320:# 9/11

Emergency Bill No. 5-93

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Approved:

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Neal Potter, County Executive

Date

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This is a correct copy of Council action.

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Kathleen A. Freedman, OMC

Date

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Secretary of the Council

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529/LAW/1-6

LEGISLATIVE REQUEST REPORT

BILL NO. 5-93

Condemnation and Removal of Nonresidential Structures

- 1) **DESCRIPTION:** The Bill establishes authority for the condemnation and removal of unsafe nonresidential buildings.
- 2) **PROBLEM:** Vacant commercial buildings which have become dangerous and unsafe are being entered and occupied by homeless persons and others. Repeated orders to the property owners have resulted in the installation of locks and plywood across the windows. Nevertheless, vandalism and unsafe occupancy continues to reoccur. Chapter 26, the Housing and Building Maintenance Standards, contains a procedure for the demolition of dwellings after they have been condemned, but lacks the authorization to condemn and demolish nonresidential buildings.
- 3) **GOALS AND OBJECTIVES:** To authorize the Department of Housing and Community Development to condemn unsafe nonresidential buildings or structures as a first step toward demolition and removal.
- 4) **COORDINATION:** The legislation will be coordinated with other sections of Chapter 26 which first require maintenance of commercial properties. Condemnation and demolition will be invoked only when properties are not maintained. Existing demolition procedures have established coordination for historic site determination.
- 5) **FISCAL IMPACT:** The operating budget for the first and succeeding years will be increased by \$100,000. Existing procedures provide for recovery of demolition expenses. The actual cost of removal is charged to the owner of the property in the manner of taxes and becomes a lien on the property. Thus, all expenses connected with the demolition and removal of nonresidential buildings will be recovered.
- 6) **ECONOMIC IMPACT:** The removal of blighting influences will benefit neighboring properties and the surrounding community. Customers and employees of nearby businesses would no longer be frightened away.

- 7) **EVALUATION:** The legislation will be evaluated by its effectiveness in removing unsafe commercial buildings. The evaluation of future needs will occur during annual budget decisions.
- 8) **EXPERIENCE ELSEWHERE:** Similar programs or legislation in other jurisdictions have not come to our attention.
- 9) **SOURCES OF INFORMATION:** Melvin E. Tull
Chief, Division of Code Enforcement
(301) 217-3725
- 10) **APPLICATION WITHIN MUNICIPALITIES:** Chapter 26 applies within Barnesville, Brookeville, the Village of Martin's Addition, Chevy Chase Sec. 3, the Town of Chevy Chase, Chevy Chase Sec. 5, Glen Echo, Kensington, Somerset, Washington Grove, and Laytonsville. This Bill has not been proposed as a Board of Health regulation.
- 11) **PENALTIES:** Class A penalties apply.

Emergency Bill No. 5-93
Concerning: Nonresidential
Structures - condemnation
Draft No. & Date: 2 1/22/93
Introduced: January 26, 1993
Expires: July 26, 1994
Enacted: _____
Executive: _____
Effective: _____
Sunset Date: None
Ch. _____, Laws of Mont. Co. _____

COUNTY COUNCIL
FOR MONTGOMERY COUNTY, MARYLAND

By: The Council President at the Request of the County Executive
and Councilmember Berlage

AN EMERGENCY ACT to:

- (1) modify housing code inspection procedures to include nonresidential structures;
- (2) extend housing code condemnation procedures to cover unsafe nonresidential structures, and redefine the standards for condemnation of residential and nonresidential structures;
- (3) provide for the demolition of condemned nonresidential structures; and
- (4) generally amend the law that establishes housing and building maintenance standards.

By amending

Montgomery County Code
Chapter 26, Housing and Building Maintenance Standards
Sections 26-4, 26-12 and 26-18

EXPLANATION: **Boldface** indicates a heading or a defined term
Underlining indicates text that is added to existing law by the original bill
[Single boldface brackets] indicate text that is deleted from existing law by the original bill
Double underlining indicates text that is added to the bill by amendment
[[Double boldface brackets]] indicate text that is deleted from existing law or the bill by amendment
* * * indicates existing law unaffected by the bill

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

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Sec. 1. Section 26-4 is amended as follows:

26-4. Inspections generally; when warrants required; right of entry of inspectors and owners.

(a) The enforcing agency may inspect the condition of dwellings, nonresidential structures, and premises located [within] in the County to safeguard the health and safety of the occupants [of dwellings] and [of] the general public. For the purpose of making such inspections, the enforcing agency may enter, examine and survey, at all reasonable times, all dwellings, nonresidential structures, and premises. Before an inspection, the enforcing agency must give notice either orally or in writing of the day of the inspection and obtain the consent of the owner, operator or occupant to the inspection.

* * *

Sec. 2. Section 26-12 is amended as follows:

26-12. Designation of unfit dwellings and unsafe nonresidential structures; legal procedure of condemnation.

The designation of dwellings or dwelling units as unfit for human habitation and the designation of nonresidential structures as unsafe for human occupancy or use under this Chapter, and the condemnation and placarding of unfit dwellings or dwelling units and unsafe nonresidential structures, must comply with the following requirements:

(a) Any dwelling or dwelling unit and any nonresidential structure which has any of the following defects may be condemned as unfit for human habitation or unsafe for human

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occupancy or use by the enforcing agency:

(1) One which is, entirely or in part, so damaged, decayed, dilapidated, unsanitary, unsafe or vermin-infested that it creates a serious hazard to the health or safety of the occupants or of the public.

(2) One which lacks, entirely or in part, illumination, ventilation, heating, water supply, or sanitation facilities adequate to protect the health or safety of the occupants or of the public, as required in this Chapter.

(3) One which because of its general condition is, entirely or in part, unsanitary or otherwise dangerous to the health or safety of the occupants or the public.

(4) One which contains unsafe equipment, including any boiler, heating equipment, elevator, moving stairway, electrical wiring or device, flammable liquid containers or other equipment, on the premises or in the structure which is in such disrepair or condition that it is a hazard to the life, health, property or safety of the occupants or the public.

(b) The enforcing agency must notify the owner of every dwelling or dwelling unit and every nonresidential structure condemned for human habitation, occupancy or use. [and] The enforcing agency must post a warning placard on the property.

(c). (1) Any person occupying a dwelling or dwelling unit when it is condemned as unfit for human habitation must

55 vacate the dwelling unit within a reasonable time as
56 ordered by the enforcing agency.

57 (2) Any person occupying or using a nonresidential
58 structure when it is condemned as unsafe for human use
59 or occupancy must vacate the building or structure
60 immediately after a warning placard is posted.

61 ~~[(2)]~~(3) A person must not occupy or use and an owner must not
62 permit a person to occupy or use a dwelling [or], a
63 dwelling unit, or a nonresidential structure which has
64 been condemned as unfit for human habitation or unsafe
65 for human occupancy or use until the enforcing agency
66 approves the occupancy or use and removes the
67 placard. The enforcing agency may remove the placard
68 if all defects upon which the condemnation was based
69 have been eliminated.

70 (d) A person must not deface or remove a placard from any
71 dwelling [or], dwelling unit, or nonresidential structure.
72 except as authorized by the enforcing agency.

73 (e) Every owner of a condemned or abandoned structure must
74 secure all windows and doors that are accessible from the
75 ground, from an adjacent structure, or by the reasonably
76 foreseeable use of a ladder, table or other device, and
77 must keep them secured against unauthorized entry.

78 **Sec. 3. Section 26-18 is amended as follows:**

79 **26-18. Repair or removal of condemned buildings or structures.**

80 (a) If the owner of any building or structure or part of a
81 building or structure condemned under this Chapter [fails

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82 to] does not remedy in a manner satisfactory to the
 83 enforcing agency the [condition or] conditions which led to
 84 the condemnation by [failing to cause such] causing the
 85 building or structure or part of a building or structure to
 86 be put into [sanitary condition] full compliance with this
 87 Chapter, or to be demolished and removed, within the time
 88 specified by the enforcing agency in the order of
 89 condemnation or any extension [thereof], the enforcing
 90 agency may, after [thirty (30)] 30 days' written notice to
 91 the owner, order the demolition of the building or
 92 structure, the filling of any excavation and the clearing
 93 of the property so that it will be in a safe condition.
 94 The County may charge the cost of removal [by the County
 95 shall be charged] to the owner of the property and collect
 96 it as taxes on real property or other debts are collected.
 97 [in the manner of taxes, and] Any such charge [shall be] is
 98 a lien on the property. [The cost to the County of removal
 99 may also be collected as other debts.]

100 (b) Any person aggrieved by an order of the enforcing agency
 101 under this Section may appeal [such] the order to the
 102 County Board of Appeals [under section 55-2].

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Approved:

Marilyn J. Praisner, President, County Council

Date

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Approved:

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Neal Potter, County Executive

Date

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This is a correct copy of Council action.

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Kathleen A. Freedman, CMC

Date

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Secretary of the Council

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529/LAW/1-6

(6)

LEGISLATIVE REQUEST REPORT

BILL NO. 5-93

Condemnation and Removal of Nonresidential Structures

- 1) DESCRIPTION: The Bill establishes authority for the condemnation and removal of unsafe nonresidential buildings.
- 2) PROBLEM: Vacant commercial buildings which have become dangerous and unsafe are being entered and occupied by homeless persons and others. Repeated orders to the property owners have resulted in the installation of locks and plywood across the windows. Nevertheless, vandalism and unsafe occupancy continues to reoccur. Chapter 26, the Housing and Building Maintenance Standards, contains a procedure for the demolition of dwellings after they have been condemned, but lacks the authorization to condemn and demolish nonresidential buildings.
- 3) GOALS AND OBJECTIVES: To authorize the Department of Housing and Community Development to condemn unsafe nonresidential buildings or structures as a first step toward demolition and removal.
- 4) COORDINATION: The legislation will be coordinated with other sections of Chapter 26 which first require maintenance of commercial properties. Condemnation and demolition will be invoked only when properties are not maintained. Existing demolition procedures have established coordination for historic site determination.
- 5) FISCAL IMPACT: The operating budget for the first and succeeding years will be increased by \$100,000. Existing procedures provide for recovery of demolition expenses. The actual cost of removal is charged to the owner of the property in the manner of taxes and becomes a lien on the property. Thus, all expenses connected with the demolition and removal of nonresidential buildings will be recovered.
- 6) ECONOMIC IMPACT: The removal of blighting influences will benefit neighboring properties and the surrounding community. Customers and employees of nearby businesses would no longer be frightened away.

- 7) EVALUATION: The legislation will be evaluated by its effectiveness in removing unsafe commercial buildings. The evaluation of future needs will occur during annual budget decisions.
- 8) EXPERIENCE ELSEWHERE: Similar programs or legislation in other jurisdictions have not come to our attention.
- 9) SOURCES OF INFORMATION: Melvin E. Tull
Chief, Division of Code Enforcement
(301) 217-3725
- 10) APPLICATION WITHIN MUNICIPALITIES: Chapter 26 applies within Barnesville, Brookeville, the Village of Martin's Addition, Chevy Chase Sec. 3, the Town of Chevy Chase, Chevy Chase Sec. 5, Glen Echo, Kensington, Somerset, Washington Grove, and Laytonsville. This Bill has not been proposed as a Board of Health regulation.
- 11) PENALTIES: Class A penalties apply.



RECEIVED JOURNAL

Montgomery County Government

92 DEC 21 P 3 : 01

ROCKVILLE, MARYLAND 20850

Neal Potter
County Executive
(301) 217-2500
TTY 217-6505

MEMORANDUM

December 21, 1992



015524

MF
CC
HAVE SBF
MK
RW

BILL-

TO: Marilyn Praisner, President
Montgomery County Council

FROM: Neal Potter, County Executive *NP*

SUBJECT: Recommended Amendment for Authority to Condemn and
Demolish Unsafe Nonresidential Buildings

DISK TO CHRIST

This proposed legislation would amend Chapter 26 of the Montgomery County Code, the Housing and Building Maintenance Standards, to provide for the condemnation and removal of unsafe nonresidential buildings. Authority and procedures already exist for the demolition of condemned dwellings but not for nonresidential buildings.

The ability to demolish unsafe commercial and other nonresidential buildings is essential to the control of blight and decay. We plan to focus our initial efforts on vacant buildings in the Silver Spring Central Business District which have been allowed to decay and which have been open to vandalism and illegal entry; however, the law will apply to all commercial and industrial areas.

Demolition costs for the first year are expected to be in the range of \$100,000. Thereafter, the annual budget will be \$100,000. Existing procedures provide for recovery of demolition expenses. The actual cost of removal is charged to the owner of the property in the manner of taxes and becomes a lien on the property. All expenses connected with the demolition and removal of nonresidential buildings will be recovered.

NP:mmr

SENT BY:
RCV. BY:

2- 9-93 ; 11:10 ;
2- 9-93 ; 9:12 ;

GULC-

3014951320:# 3/11



Montgomery County Government

ROCKVILLE, MARYLAND 20850

RECEIVED COUNCIL

92 DEC 21 PS: 01

Neal Potter
County Executive
CFO: 217-2600
TTY 217-4608

MEMORANDUM

December 21, 1992

BILL-

015524



MF
CC
HAVE SOP
MK
RW

TO: Marilyn Praisner, President
Montgomery County Council

FROM: Neal Potter, County Executive

SUBJECT: Recommended Amendment for Authority to Condemn and
Demolish Unsafe Nonresidential Buildings

DISK TO CHRIST

This proposed legislation would amend Chapter 26 of the Montgomery County Code, the Housing and Building Maintenance Standards, to provide for the condemnation and removal of unsafe nonresidential buildings. Authority and procedures already exist for the demolition of condemned dwellings but not for nonresidential buildings.

The ability to demolish unsafe commercial and other nonresidential buildings is essential to the control of blight and decay. We plan to focus our initial efforts on vacant buildings in the Silver Spring Central Business District which have been allowed to decay and which have been open to vandalism and illegal entry; however, the law will apply to all commercial and industrial areas.

Demolition costs for the first year are expected to be in the range of \$100,000. Thereafter, the annual budget will be \$100,000. Existing procedures provide for recovery of demolition expenses. The actual cost of removal is charged to the owner of the property in the manner of taxes and becomes a lien on the property. All expenses connected with the demolition and removal of nonresidential buildings will be recovered.

MP:zmr

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Emergency Bill No. 5-93
Concerning: Nonresidential
Structures - condemnation
Draft No. & Date: 2 1/22/93
Introduced: January 26, 1993
Expires: July 26, 1994
Enacted: _____
Executive: _____
Effective: _____
Sunset Date: None
Ch. _____, Laws of Mont. Co. _____

COUNTY COUNCIL
FOR MONTGOMERY COUNTY, MARYLAND

By: The Council President at the Request of the County Executive
and Councilmember Berlage

AN EMERGENCY ACT to:

- (1) modify housing code inspection procedures to include nonresidential structures;
- (2) extend housing code condemnation procedures to cover unsafe nonresidential structures, and redefine the standards for condemnation of residential and nonresidential structures;
- (3) provide for the demolition of condemned nonresidential structures; and
- (4) generally amend the law that establishes housing and building maintenance standards.

By amending

Montgomery County Code
Chapter 26, Housing and Building Maintenance Standards
Sections 26-4, 26-12 and 26-18

EXPLANATION:

Boldface indicates a heading or a defined term
Underlining indicates text that is added to existing law by the original bill
[Single boldface brackets] indicate text that is deleted from existing law by the original bill
Double underlining indicates text that is added to the bill by amendment
[[Double boldface brackets]] indicate text that is deleted from existing law or the bill by amendment
* * * indicates existing law unaffected by the bill

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

Emergency Bill No. 5-93

1 Sec. 1. Section 26-4 is amended as follows:

2 26-4. Inspections generally; when warrants required; right of entry
3 of inspectors and owners.

4 (a) The enforcing agency may inspect the condition of
5 dwellings, ~~nonresidential structures~~, and premises located
6 [within] in the County to safeguard the health and safety
7 of the occupants [of dwellings] and [of] the general
8 public. For the purpose of making such inspections, the
9 enforcing agency may enter, examine and survey, at all
10 reasonable times, all dwellings, ~~nonresidential structures~~,
11 and premises. Before an inspection, the enforcing agency
12 must give notice either orally or in writing of the day of
13 the inspection and obtain the consent of the owner,
14 operator or occupant to the inspection.

15 * * *

16 Sec. 2. Section 26-12 is amended as follows:

17 26-12. Designation of unfit dwellings and ~~unsafe nonresidential~~
18 ~~structures~~; legal procedure of condemnation.

19 The designation of dwellings or dwelling units as unfit for
20 human habitation ~~and the designation of nonresidential structures as~~
21 ~~unsafe for human occupancy or use~~ under this Chapter, and the
22 condemnation and placarding of unfit dwellings or dwelling units ~~and~~
23 ~~unsafe nonresidential structures~~, must comply with the following
24 requirements:

25 (a) Any dwelling or dwelling unit ~~and any nonresidential~~
26 ~~structure~~ which has any of the following defects may be
27 condemned as unfit for human habitation ~~or unsafe for human~~

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Emergency Bill No. 5-93

- 28 occupancy or use by the enforcing agency:
- 29 (1) One which is, entirely or in part, so damaged,
- 30 decayed, dilapidated, unsanitary, unsafe or
- 31 vermin-infested that it creates a serious hazard to
- 32 the health or safety of the occupants or of the public.
- 33 (2) One which lacks, entirely or in part, illumination,
- 34 ventilation, heating, water supply, or sanitation
- 35 facilities adequate to protect the health or safety of
- 36 the occupants or of the public, as required in this
- 37 Chapter.
- 38 (3) One which because of its general condition is,
- 39 entirely or in part, unsanitary or otherwise dangerous
- 40 to the health or safety of the occupants or the public.
- 41 (4) One which contains unsafe equipment, including any
- 42 boiler, heating equipment, elevator, moving stairway,
- 43 electrical wiring or device, flammable liquid
- 44 containers or other equipment, on the premises or in
- 45 the structure which is in such disrepair or condition
- 46 that it is a hazard to the life, health, property or
- 47 safety of the occupants or the public.
- 48 (b) The enforcing agency must notify the owner of every
- 49 dwelling or dwelling unit and every nonresidential
- 50 structure condemned for human habitation, occupancy or
- 51 use. [and] The enforcing agency must post a warning
- 52 placard on the property.
- 53 (c). (1) Any person occupying a dwelling or dwelling unit when
- 54 it is condemned as unfit for human habitation must

Emergency Bill No. 3-73

- 55 vacate the dwelling unit within a reasonable time as
56 ordered by the enforcing agency.
- 57 ~~(2) Any person occupying or using a nonresidential~~
58 ~~structure when it is condemned as unsafe for human use~~
59 ~~or occupancy must vacate the building or structure~~
60 ~~immediately after a warning placard is posted.~~
- 61 ~~[(2)](3) A person must not occupy or use and an owner must not~~
62 ~~permit a person to occupy or use a dwelling [or], a~~
63 ~~dwelling unit, or a nonresidential structure which has~~
64 ~~been condemned as unfit for human habitation or unsafe~~
65 ~~for human occupancy or use until the enforcing agency~~
66 ~~approves the occupancy or use and removes the~~
67 ~~placard. The enforcing agency may remove the placard~~
68 ~~if all defects upon which the condemnation was based~~
69 ~~have been eliminated.~~
- 70 (d) A person must not deface or remove a placard from any
71 dwelling [or], dwelling unit, or nonresidential structure,
72 except as authorized by the enforcing agency.
- 73 (e) Every owner of a condemned or abandoned structure must
74 secure all windows and doors that are accessible from the
75 ground, from an adjacent structure, or by the reasonably
76 foreseeable use of a ladder, table or other device, and
77 must keep them secured against unauthorized entry.
- 78 Sec. 3. Section 26-18 is amended as follows:
- 79 26-18. Repair or removal of condemned buildings or structures.
- 80 (a) If the owner of any building or structure or part of a
81 building or structure condemned under this Chapter [fails

(4)

Emergency Bill No. 5-93

82 to] ~~does not~~ remedy in a manner satisfactory to the
 83 enforcing agency the [condition or] conditions which led to
 84 the condemnation by [failing to cause such] ~~causing the~~
 85 ~~building or structure~~ or part of a building or structure to
 86 be put into [sanitary condition] ~~full compliance with this~~
 87 ~~Chapter~~, or to be demolished and removed, within the time
 88 specified by the enforcing agency in the order of
 89 condemnation or any extension [thereof], the enforcing
 90 agency may, after [thirty (30)] ~~30~~ days' written notice to
 91 the owner, order the demolition of the building or
 92 ~~structure~~, the filling of any excavation and the clearing
 93 of the property so that it will be in a safe condition.
 94 ~~The County may charge the cost of removal [by the County~~
 95 ~~shall be charged] to the owner of the property and collect~~
 96 ~~it as taxes on real property or other debts are collected.~~
 97 [in the manner of taxes, and] Any such charge [shall be] in
 98 a lien on the property. [The cost to the County of removal
 99 may also be collected as other debts.] *No part of this section*
 100 (b) Any person aggrieved by an order of the enforcing agency *is intended*
 101 under this Section may appeal [such] the order to the *to override*
 102 County Board of Appeals [under section 53-2]. *or modify*
 103 *the*
 104 *requirements*
 105 *under*

Approved:

Marilyn J. Fraiser, President, County Council

Date

Article III
Section 9-24
and Chapter
24A of the
5
Montgomery
County
Code.

SENT BY:
RCV BY:

2- 9-93 ; 11:14 ;
2 6-93 : 9:15 :

GULC-
MAY 21 1993

3014951320:# 9/11

Emergency Bill No. 5-77

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Approved:

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Neal Potter, County Executive

Date

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This is a correct copy of Council action.

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Kathleen A. Freedman, CMC

Date

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Secretary of the Council

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529/LAW/1-6



LEGISLATIVE REQUEST REPORT

BILL NO. 5-93

Condemnation and Removal of Nonresidential Structures

- 1) **DESCRIPTION:** The Bill establishes authority for the condemnation and removal of unsafe nonresidential buildings.
- 2) **PROBLEM:** Vacant commercial buildings which have become dangerous and unsafe are being entered and occupied by homeless persons and others. Repeated orders to the property owners have resulted in the installation of locks and plywood across the windows. Nevertheless, vandalism and unsafe occupancy continues to reoccur. Chapter 26, the Housing and Building Maintenance Standards, contains a procedure for the demolition of dwellings after they have been condemned, but lacks the authorization to condemn and demolish nonresidential buildings.
- 3) **GOALS AND OBJECTIVES:** To authorize the Department of Housing and Community Development to condemn unsafe nonresidential buildings or structures as a first step toward demolition and removal.
- 4) **COORDINATION:** The legislation will be coordinated with other sections of Chapter 26 which first require maintenance of commercial properties. Condemnation and demolition will be invoked only when properties are not maintained. Existing demolition procedures have established coordination for historic site determination.
- 5) **FISCAL IMPACT:** The operating budget for the first and succeeding years will be increased by \$100,000. Existing procedures provide for recovery of demolition expenses. The actual cost of removal is charged to the owner of the property in the manner of taxes and becomes a lien on the property. Thus, all expenses connected with the demolition and removal of nonresidential buildings will be recovered.
- 6) **ECONOMIC IMPACT:** The removal of blighting influences will benefit neighboring properties and the surrounding community. Customers and employees of nearby businesses would no longer be frightened away.

- 7) **EVALUATION:** The legislation will be evaluated by its effectiveness in removing unsafe commercial buildings. The evaluation of future needs will occur during annual budget decisions.
- 8) **EXPERIENCE ELSEWHERE:** Similar programs or legislation in other jurisdictions have not come to our attention.
- 9) **SOURCES OF INFORMATION:** Melvin E. Tull
Chief, Division of Code Enforcement
(301) 217-3725
- 10) **APPLICATION WITHIN MUNICIPALITIES:** Chapter 26 applies within Barnesville, Brocokville, the Village of Martin's Addition, Chevy Chase Sec. 3, the Town of Chevy Chase, Chevy Chase Sec. 5, Glen Echo, Kensington, Somerset, Washington Grove, and Laytonsville. This Bill has not been proposed as a Board of Health regulation.
- 11) **PENALTIES:** Class A penalties apply.

ROUTING SLIP
MONTGOMERY COUNTY PLANNING BOARD
CHAIRMAN'S OFFICE

FILE NUMBER: 930206 DATE RECEIVED: 02/16/93

CORRESPONDENCE TYPE: letter(c) DATE OF LETTER: 02/11/93

AGENDA DATE:

TO: Councilmember Derick Berlage

FROM: Wendy Perdue

SUBJECT:

Copy letter to Berlage from Silver Spring-Takoma Traffic Coalition states concerns re Emergency Bill No. 5-93, Authority to Condemn Unsafe Nonresidential Buildings.

TRANSMITTED TO: Pl.Dept./GB

COPIES TO: Marcus/Legal

DATE DUE:

[] PREPARE REPLY FOR CHAIRMAN'S SIGNATURE

[] REPLY; CC TO CHAIRMAN

REMARKS FROM CHAIRMAN'S OFFICE:

PLANNING DIRECTOR'S OFFICE

DATE RECEIVED BY PDO: DATE SENT TO DIVISION:

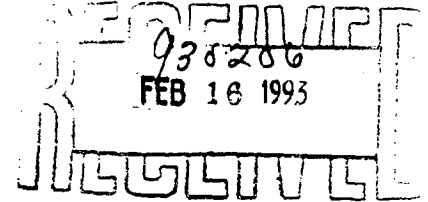
RESPONSIBLE STAFF:

DIVISION:

REMARKS FROM DIRECTOR'S OFFICE:

SILVER SPRING-TAKOMA TRAFFIC COALITION

CSP1
OFFICE OF THE CHAIRMAN
THE MARYLAND NATIONAL CAPITAL
PARK AND PLANNING COMMISSION



SILVER SPRING, MD.

February 11, 1993

Derick Berlage
Montgomery County Council
Council Building
100 Maryland Ave.
Rockville, MD 29850

Re: Emergency Bill No. 5-93 (Authority to Condemn Unsafe Nonresidential Buildings)

Dear Derick:

I received the draft of the above referenced legislation and have now had a chance to review it. There are several issues that I believe need to be addressed with respect to this statute.

Obviously, there has to be protection of historic buildings. As you know, I have already alerted your office, Neal Potter's office, and Park and Planning concerning this issue. The potential interplay between this and the historic preservation provisions is complicated. It may not be adequate simply to require that all necessary permits (including historic permits) be secured. Suppose the County orders an historic building removed. The owner must still go to the Historic Preservation Commission, but would that Commission be able to order something different than the building inspectors ordered? We must be very careful that owners of historic properties are not able to circumvent the full force of the Historic Preservation Ordinance by allowing their property to deteriorate and then inviting the County to condemn it.

The proposal also has several other drafting problems. Section 26-12 (a) appears to allow a nonresidential building to be condemned as unfit for human habitation. The obvious problem is that nonresidential buildings are not required to be fit for human habitation. The second problem is that although 26-18(a) gives the County authority to order demolition of the building, it does not give authority to order something less than demolition. This seems like overkill. The County ought to have the power to fix problems through mechanisms less drastic than demolition. For example, if the building has too much trash in and around it, the County ought to be able to clean up the trash and bill the owner for that.

I will be out of town next week and therefore will not be able to testify on the bill. I expect someone from the Traffic Coalition will testify. We of course share your concern about moving forward promptly to clean up Silver Spring. But we also believe this is very significant legislation that must be done with care, even at the risk of moving more slowly.

Sincerely,

Wendy Perdue
Wendy Perdue

cc: Bruce Adams
✓Gus Bauman
Nancy Dacek
Betty Ann Krahnke
Jane Lawton
Gwen Marcus
Marilyn Praisner

ROUTING SLIP
MONTGOMERY COUNTY PLANNING BOARD
CHAIRMAN'S OFFICE

FILE NUMBER: 930195 DATE RECEIVED: 02/11/93

CORRESPONDENCE TYPE: letter(c) DATE OF LETTER: 02/11/93

AGENDA DATE:

TO: Derick Berlage

FROM: Wendy Perdue

SUBJECT:

Copy letter to Councilmember Berlage from Silver Spring-Takoma
Traffic Coalition states concerns re Emergency Bill No. 5-93 re
Authority to Condemn Unsafe Nonresidential Buildings.
(MCC agenda 2/16, 1:30)

TRANSMITTED TO: Pl. Dept./MCPB

COPIES TO:

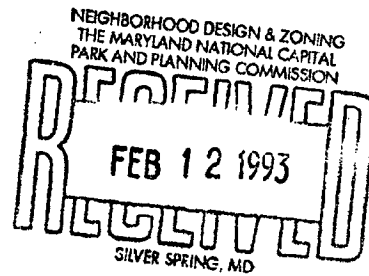
Marcus

DATE DUE:

[] PREPARE REPLY FOR CHAIRMAN'S SIGNATURE

[] REPLY; CC TO CHAIRMAN

REMARKS FROM CHAIRMAN'S OFFICE:



PLANNING DIRECTOR'S OFFICE

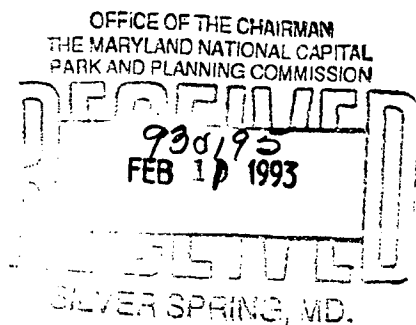
DATE RECEIVED BY PDO:

DATE SENT TO DIVISION:

RESPONSIBLE STAFF:

DIVISION:

REMARKS FROM DIRECTOR'S OFFICE:

SILVER SPRING-TAKOMA TRAFFIC COALITION

February 11, 1993

Derick Berlage
Montgomery County Council
Council Building
100 Maryland Ave.
Rockville, MD 29850

Re: Emergency Bill No. 5-93 (Authority to Condemn Unsafe Nonresidential Buildings)

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The proposal also has several other drafting problems. Section 26-12 (a) appears to allow a nonresidential building to be condemned as unfit for human habitation. The obvious problem is that nonresidential buildings are not required to be fit for human habitation. The second problem is that although 26-18(a) gives the County authority to order demolition of the building, it does not give authority to order something less than demolition. This seems like overkill. The County ought to have the power to fix problems through mechanisms less drastic than demolition. For example, if the building has too much trash in and around it, the County ought to be able to clean up the trash and bill the owner for that.

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Sincerely,

Wendy Perdue
Wendy Perdue

cc: Bruce Adams
Gus Bauman
Nancy Dacek
Betty Ann Krahnke
Jane Lawton
Gwen Marcus
Marilyn Praisner

SILVER SPRING-TAKOMA TRAFFIC COALITION

rec'd
2-16-93

February 11, 1993

Derick Berlage
Montgomery County Council
Council Building
100 Maryland Ave.
Rockville, MD 29850

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cc: Bruce Adams
Gus Bauman
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Betty Ann Krahnke
Jane Lawton
✓Gwen Marcus
Marilyn Praisner



MONTGOMERY COUNTY COUNCIL
ROCKVILLE, MARYLAND

DERICK BERLAGE
DISTRICT 5

February 16, 1993

Ms. Wendy Perdue
9105 Alton Parkway
Silver Spring, Maryland 20910

Dear Wendy:

Thank you for your recent letter regarding Bill 5-93, Authority to Condemn Unsafe Nonresidential Buildings.

Susan had made me aware of your concern regarding the impact this legislation might have on the preservation of historic resources. We had a lengthy conversation with Gwen Marcus. She assures us that the similar authority for residential buildings has not caused any significant problems with preservation goals or activities. Nevertheless, I will bring this issue up for discussion during the Committee worksession on the legislation. Mike Faden, the Council's staff attorney, is reviewing the County Code and will provide an analysis of this legislation and the impact on the preservation of historic resources. He has been in touch with the Art Deco Society's attorney to better understand their concerns. Susan has also spoken with Richard Striner and Alice Gilson.

With respect to your point of less drastic measures, the County does have the authority to require property owners to keep their property clean, secure and in general "up to Code." In fact, several property owners in Silver Spring were told to secure their buildings and failure to do so would involve the County securing the building at their cost. However, there are instances where simply securing a building is not sufficient to safeguard the community's health and general welfare.

Again, let me reassure you I understand your concerns with regard to historic resources. We will address them during the Committee worksession. I'll let you know the date of the worksession once it is scheduled.

Sincerely,

A handwritten signature in cursive script, appearing to read "Derick", written in black ink.

Derick Berlage
Councilmember

DB:ckm

cc: Councilmembers
Gus Bauman
Jane Lawton
Gwen Marcus
Mike Faden

SILVER SPRING-TAKOMA TRAFFIC COALITION

February 11, 1993

Derick Berlage
Montgomery County Council
Council Building
100 Maryland Ave.
Rockville, MD 29850

Re: Emergency Bill No. 5-93 (Authority to Condemn Unsafe Nonresidential Buildings)

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26-19-

I will be out of town next week and therefore will not be able to testify on the bill. I expect someone from the Traffic Coalition will testify. We of course share your concern about moving forward promptly to clean up Silver Spring. But we also believe this is very significant legislation that must be done with care, even at the risk of moving more slowly.

Sincerely,

Wendy Perdue
Wendy Perdue

cc: Bruce Adams
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Nancy Dacek
Betty Ann Krahnke
Jane Lawton
Gwen Marcus
Marilyn Praisner

AGENDA ITEM #13
EMERGENCY BILL 5-93
NON-RESIDENTIAL STRUCTURES - CONDEMNATION

	<u>Time</u>	<u>Speaker</u>	<u>Representing</u>
1.	8	Vic Brescia	County Executive
2.	3	Fayez Hanna	Individual
3.	5	Richard Striner	Art Deco Society of Washington
4.	5	Alice Gilson	Silver Spring/Takoma Park Traffic Coalition
5.	3	Nancy Baird	Individual

NOTE TO SPEAKERS:

If you have brought copies of your testimony to distribute to Councilmembers, please hand them to the secretary seated at the podium (on your left as you face it). You may do this before the hearing begins or on your way to the speakers' table.

Before beginning your presentation, please state your name and address clearly for the record and spell any unusual names.

The white light at the base of the microphone in front of you will be turned on when you have 30 seconds left in which to finish your presentation. A tone will sound and the red light will come on when your time is up and will stay on should you run over.

Should you wish to leave the hearing before you have an opportunity to speak, you may leave written testimony with the secretary.

Chapter 19A of the Montgomery County Code requires lobbyists to register with the Montgomery County Ethics Commission. You MAY be a lobbyist if you communicate with one or more officials or employees for the purpose of influencing executive, legislative or administrative action and you incur expenses or receive compensation. The Council Secretary has a supply of information sheets regarding lobbying activity requirements. For further information, call the Montgomery County Ethics Commission, 217-1041.

A person who wishes to cede time to another speaker must be present at the hearing. If you wish to cede your time to another speaker, please indicate when your name is called.



County Council Agenda

MONTGOMERY COUNTY, MARYLAND

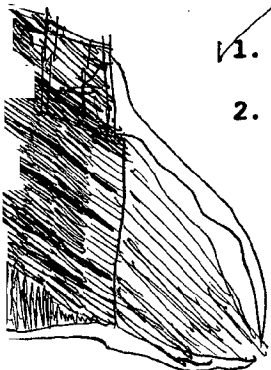
COUNCIL HEARING ROOM, 100 MARYLAND AVENUE, ROCKVILLE, MARYLAND 20850, 301/217-7900, TTY 217-6505

The Council Agenda is subject to change any time after printing or during the Council meeting. Please contact the Council Office to obtain current information.

**PUBLIC HEARING - February 16, 1993
1:30 p.m.**

**7th Floor Council
Hearing Room**

**AGENDA ITEM #11
EMERGENCY BILL 2-93
ART IN PUBLIC FACILITIES**



	<u>Time</u>	<u>Speaker</u>	<u>Representing</u>
1.	8	Shelia Haggerty	County Executive
2.	5	Dianna Souder	Arts Council of Montgomery County

**AGENDA ITEM #12
EMERGENCY BILL 4-93
PARKING LOTS DISTRICTS - MIXED USE PROJECTS**

	<u>Time</u>	<u>Speaker</u>	<u>Representing</u>
1.	8	Thomas Huff	County Executive
2.	5	Robert Brewer, Jr.	Greater Bethesda-Chevy Chase Chamber of Commerce
3.	3	Craig Hedberg	Individual

PUBLIC HEARINGS 2/16/03

① Feb 26, 1993 - record closed

② VIC PROSECUTOR EXEC. OFFICE

• Send materials to VIC

(a) Background on residential bill

(b) Use similar approach

(c) will confer with ZBA

- however if property is in Atlas, then F.B. will be notified

- if planning board says Atlas property should be saved then we work with HPR

Derek "lets get together and amend legislation if required" (meet with groups)

↳ Can we modify residential language as well?
Yes.

③ Fayer Hanna - delete from buildings (non-residential) from bill

④ Rick Sinner - the term is the problem

⑤ Nancy Pared - follow planning board policy and testimony

⑥ Mona Gilman - supports Port New Society
need ordinance? via lesser remedy (we remain stuck) for lesser problems?

PHOP Committee Date → ?
will know soon

TESTIMONY OF PLANNING DIRECTOR ROBERT W. MARRIOTT, JR.

FEBRUARY 16, 1993

COUNCIL PUBLIC HEARING ON THE RECOMMENDED AMENDMENT FOR AUTHORITY TO CONDEMN AND DEMOLISH UNSAFE NON-RESIDENTIAL BUILDINGS

For the record, my name is Robert W. Marriott, Jr., Planning Director of Montgomery County. ~~I am here this afternoon to express to you the concerns of the Planning Department regarding the proposed legislation.~~ The Planning Department fully supports the concept of providing the county with the authority to condemn and remove unsafe nonresidential buildings. Certainly the revitalization of our older business districts, such as Silver Spring, is dependent upon the county's ability to control the blight and decay that is associated with unsafe commercial buildings.

The specific legislation, however, must be carefully crafted to ensure that other important public interests are not inadvertently compromised in the process. In this respect the Planning Department feels that the proposed legislation does not provide adequate safeguards to protect historic resources. The Planning ^{department} staff has prepared modifications to the proposed legislation that would provide appropriate safeguards. It is the Planning Department's belief that the proposed modifications to this legislation ^{would} ~~could~~ not undermine its purpose nor hinder its effectiveness ~~in addressing its important objectives.~~

c:doug.5/ft

We welcome the opportunity to work with you on this worthwhile legislative initiative.


We have provided these suggestions to council staff.



The Maryland-National Capital Park and Planning Commission
8787 Georgia Avenue Silver Spring, Maryland 20910

Douglas M. Wrenn
Coordinator, Community Planning Division

495-2172

* Christie


~~Tom Kennedy~~
~~686~~

Neuf Bird → Virginia
(202) 371-7830
legislation
for # 2
for 903-215(h)
(202) 373-5760

Wrenn Proctor
217-7959

Gun's
+ BIG - NO back up

for 217-7959

TOM * WHO IS Bob
DRAFTING TESTIMONY ?
DOUG WRE
Bob MARLOT
RECEIVED COUNCIL

Montgomery County Government
ROCKVILLE, MARYLAND 20850
92 DEC 21 PS: 01

Neal Potter
County Executive
C/O: 317-3800
T/T: 337-4600

MEMORANDUM

December 21, 1992

BILL

015524



MF
CE
HAVE SOP
MK
RW

TO: Marilyn Praiser, President
Montgomery County Council

FROM: Neal Potter, County Executive NP

SUBJECT: Recommended Amendment for Authority to Condemn and
Demolish Unsafe Nonresidential Buildings

DISK TO CHART

This proposed legislation would amend Chapter 26 of the Montgomery County Code, the Housing and Building Maintenance Standards, to provide for the condemnation and removal of unsafe nonresidential buildings. Authority and procedures already exist for the demolition of condemned dwellings but not for nonresidential buildings.

The ability to demolish unsafe commercial and other nonresidential buildings is essential to the control of blight and decay. We plan to focus our initial efforts on vacant buildings in the Silver Spring Central Business District which have been allowed to decay and which have been open to vandalism and illegal entry; however, the law will apply to all commercial and industrial areas.

Demolition costs for the first year are expected to be in the range of \$100,000. Thereafter, the annual budget will be \$100,000. Existing procedures provide for recovery of demolition expenses. The actual cost of removal is charged to the owner of the property in the manner of taxes and becomes a lien on the property. All expenses connected with the demolition and removal of nonresidential buildings will be recovered.

NP:ner

9

Emergency Bill No. 4-93
Concerning: Nonresidential
Structures - condemnation
Draft No. & Date: 2 1/22/93
Introduced: January 26, 1993
Expires: July 26, 1994
Enacted: _____
Executive: _____
Effective: _____
Sunset Date: None
Ch. _____, Laws of Mont. Co. _____

COUNTY COUNCIL
FOR MONTGOMERY COUNTY, MARYLAND

By: The Council President at the Request of the County Executive
and Councilmember Berlage

AN EMERGENCY ACT to:

- (1) modify housing code inspection procedures to include nonresidential structures;
- (2) extend housing code condemnation procedures to cover unsafe nonresidential structures, and redefine the standards for condemnation of residential and nonresidential structures;
- (3) provide for the demolition of condemned nonresidential structures; and
- (4) generally amend the law that establishes housing and building maintenance standards.

By amending

Montgomery County Code
Chapter 26, Housing and Building Maintenance Standards
Sections 26-4, 26-12 and 26-18

EXPLANATION:

Boldface indicates a heading or a defined term
Underlining indicates text that is added to existing law by the original bill
[Single boldface brackets] indicate text that is deleted from existing law by the original bill
Double underlining indicates text that is added to the bill by amendment
[[Double boldface brackets]] indicate text that is deleted from existing law or the bill by amendment
* * * indicates existing law unaffected by the bill

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

Emergency Bill No. 5-93

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Sec. 1. Section 26-4 is amended as follows:

26-4. Inspections generally; when warrants required; right of entry of inspectors and owners.

(a) The enforcing agency may inspect the condition of dwellings, ~~nonresidential structures~~, and premises located [within] in the County to safeguard the health and safety of the occupants [of dwellings] and [of] the general public. For the purpose of making such inspections, the enforcing agency may enter, examine and survey, at all reasonable times, all dwellings, ~~nonresidential structures~~, and premises. Before an inspection, the enforcing agency must give notice either orally or in writing of the day of the inspection and obtain the consent of the owner, operator or occupant to the inspection, *which consent may not be unreasonably withheld, delayed, or conditioned.*

Sec. 2. Section 26-12 is amended as follows:

26-12. Designation of unfit dwellings and ~~unsafe nonresidential structures~~; legal procedure of condemnation.

The designation of dwellings or dwelling units as unfit for human habitation ~~and the designation of nonresidential structures as unsafe for human occupancy or use~~ under this Chapter, and the condemnation and placarding of unfit dwellings or dwelling units ~~and unsafe nonresidential structures~~, must comply with the following requirements:

(a) Any dwelling or dwelling unit ~~and any nonresidential structure~~ which has any of the following defects may be condemned as unfit for human habitation ~~or unsafe for human~~

Emergency Bill No. 3-93

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occupancy or use by the enforcing agency:

- (1) One which is, entirely or in part, so damaged, decayed, dilapidated, unsanitary, unsafe or vermin-infested that it creates a serious hazard to the health or safety of the occupants or of the public.
- (2) One which lacks, entirely or in part, illumination, ventilation, heating, water supply, or sanitation facilities adequate to protect the health or safety of the occupants or of the public, as required in this Chapter.
- (3) One which because of its general condition is, entirely or in part, unsanitary or otherwise dangerous to the health or safety of the occupants or the public.
- (4) One which contains unsafe equipment, including any boiler, heating equipment, elevator, moving stairway, electrical wiring or device, flammable liquid containers or other equipment, on the premises or in the structure which is in such disrepair or condition that it is a hazard to the life, health, property or safety of the occupants or the public.

(b) The enforcing agency must ^{provide written notice to} notify the owner of every dwelling or dwelling unit and every nonresidential structure condemned for human habitation, occupancy or use, ^{indicating the general conditions which have resulted in such determination} [and] The enforcing agency must post a warning placard on the property.

(c). (1) Any person occupying a dwelling or dwelling unit when it is condemned as unfit for human habitation must

Forward a copy of such notice to the Historic Preservation Commission and the Heat Pvc Com shall determine if the structure is subject to Chapter 24A. The HE shall provide written notice to the enforcing agency concerning violation. The structure is subject to Chapter 24A with in 30 days.

Emergency Bill No. 1-93

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vacate the dwelling unit within a reasonable time as ordered by the enforcing agency.

(2) Any person occupying or using a nonresidential structure when it is condemned as unsafe for human use or occupancy must vacate the building or structure immediately after a warning placard is posted and surrender any valid use and occupancy permit.

[(2)](3) A person must not occupy or use and an owner must not permit a person to occupy or use a dwelling [or], a dwelling unit, or a nonresidential structure which has been condemned as unfit for human habitation or unsafe for human occupancy or use until the enforcing agency approves the occupancy or use and removes the placard. The enforcing agency may remove the placard if all defects upon which the condemnation was based have been eliminated.

(d) A person must not deface or remove a placard from any dwelling [or], dwelling unit, or nonresidential structure, except as authorized by the enforcing agency.

(e) Every owner of a condemned or abandoned structure must secure all windows and doors that are accessible from the ground, from an adjacent structure, or by the reasonably foreseeable use of a ladder, table or other device, and must keep them secured against unauthorized entry.

Sec. 3. Section 26-18 is amended as follows:

26-18. Repair or removal of condemned buildings or structures.

(a) If the owner of any building or structure or part of a building or structure condemned under this Chapter [fails

not subject to Chapter 24A or released from coverage upon a determination by the HPC

Emergency Bill No. 5-93

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Nothing contained in this Chapter is intended to override or modify the requirements under Chapter 22A of the early code or Article 3 Section 9-24

to] does not remedy in a manner satisfactory to the enforcing agency the [condition or] conditions which led to the condemnation by [failing to cause such] causing the building or structure or part of a building or structure to be put into [sanitary condition] full compliance with this Chapter, or to be demolished and removed, within the time specified by the enforcing agency in the order of condemnation or any extension [thereof], the enforcing agency may, after [thirty (30)] 30 days' written notice to the owner, order the demolition of the building or structure, the filling of any excavation and the clearing of the property so that it will be in a safe condition. The County may charge the cost of removal [by the County shall be charged] to the owner of the property and collect it as taxes on real property or other debts are collected, [in the manner of taxes, and] Any such charge [shall be] in a lien on the property. [The cost to the County of removal may also be collected as other debts.]

(b) Any person aggrieved by an order of the enforcing agency under this Section may appeal [such] the order to the County Board of Appeals [under section 53-2].

Approved:

Marilyn J. Praisner, President, County Council

Date

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Emergency Bill No. 9-11

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Approved:

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Neal Potter, County Executive

Date

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This is a correct copy of Council action.

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Kathleen A. Freedman, OMC

Date

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Secretary of the Council

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529/LAW/1-6

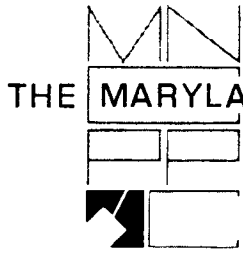
LEGISLATIVE REQUEST REPORT

BILL NO. 5-93

Condemnation and Removal of Nonresidential Structures

- 1) **DESCRIPTION:** The Bill establishes authority for the condemnation and removal of unsafe nonresidential buildings.
- 2) **PROBLEM:** Vacant commercial buildings which have become dangerous and unsafe are being entered and occupied by homeless persons and others. Repeated orders to the property owners have resulted in the installation of locks and plywood across the windows. Nevertheless, vandalism and unsafe occupancy continues to reoccur. Chapter 26, the Housing and Building Maintenance Standards, contains a procedure for the demolition of dwellings after they have been condemned, but lacks the authorization to condemn and demolish nonresidential buildings.
- 3) **GOALS AND OBJECTIVES:** To authorize the Department of Housing and Community Development to condemn unsafe nonresidential buildings or structures as a first step toward demolition and removal.
- 4) **COORDINATION:** The legislation will be coordinated with other sections of Chapter 26 which first require maintenance of commercial properties. Condemnation and demolition will be invoked only when properties are not maintained. Existing demolition procedures have established coordination for historic site determination.
- 5) **FISCAL IMPACT:** The operating budget for the first and succeeding years will be increased by \$100,000. Existing procedures provide for recovery of demolition expenses. The actual cost of removal is charged to the owner of the property in the manner of taxes and becomes a lien on the property. Thus, all expenses connected with the demolition and removal of nonresidential buildings will be recovered.
- 6) **ECONOMIC IMPACT:** The removal of blighting influences will benefit neighboring properties and the surrounding community. Customers and employees of nearby businesses would no longer be frightened away.

- 7) **EVALUATION:** The legislation will be evaluated by its effectiveness in removing unsafe commercial buildings. The evaluation of future needs will occur during annual budget decisions.
- 8) **EXPERIENCE ELSEWHERE:** Similar programs or legislation in other jurisdictions have not come to our attention.
- 9) **SOURCES OF INFORMATION:** Melvin E. Tull
Chief, Division of Code Enforcement
(301) 217-3725
- 10) **APPLICATION WITHIN MUNICIPALITIES:** Chapter 26 applies within Barnesville, Brookeville, the Village of Martin's Addition, Chevy Chase Sec. 3, the Town of Chevy Chase, Chevy Chase Sec. 5, Glen Echo, Kensington, Somerset, Washington Grove, and Laytonsville. This Bill has not been proposed as a Board of Health regulation.
- 11) **PENALTIES:** Class A penalties apply.



THE MARYLAND-NATIONAL CAPITAL PARK AND PLANNING COMMISSION
8787 Georgia Avenue • Silver Spring, Maryland 20910-3760

FAX TRANSMITTAL SHEET

Community Planning Division
(301) 495-4555 (Telephone)

(301) 495-1304 (Fax Number)

TO: NANCY BAIRD FAX NUMBER (202) 393-5760

FROM: DOUG WRENH PHONE NUMBER: (301) 495-2172

DATE: 2.12.93

NUMBER OF PAGES INCLUDING THIS TRANSMITTAL SHEET: 9

NOTE:

NANCY, THIS COMMENTS ARE FROM
TOM KENNEDY IN OUR LEGAL DEPT. YOU
CAN CALL HIM DIRECTLY IF YOU NEED TO.
THANKS,
Doug

Verification Report

Date: Feb 12

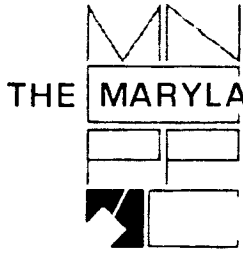
Time: 12:18PM

9 pages sent to:

92023935760

Transmission time: 00:04:15

Result: Transmission OK



THE MARYLAND-NATIONAL CAPITAL PARK AND PLANNING COMMISSION

8787 Georgia Avenue • Silver Spring, Maryland 20910-3760

FAX TRANSMITTAL SHEET

Community Planning Division
(301) 495-4555 (Telephone)

(301) 495-1304 (Fax Number)

TO: SUSAN MADDEN FAX NUMBER 217-7989

FROM: DOUG WREN PHONE NUMBER: 495-2172

DATE: 2.12.93

NUMBER OF PAGES INCLUDING THIS TRANSMITTAL SHEET: 9

NOTE:

SUSAN,
CALL ME IF YOU HAVE ANY QUESTIONS.

THE COMMENTS ARE TOM KENNEDY'S IN

OUR LEGAL DEPT. YOU CAN CALL HIM DIRECTLY.

THANKS.

Doug

Verification Report

Date: Feb 12

Time: 12:12PM

9 pages sent to:

92177989

Transmission time: 00:04:44

Result: Transmission OK



Montgomery County Government
ROCKVILLE, MARYLAND 20850

RECEIVED JOURNAL

92 DEC 21 PM 01

Neal Potter
County Executive
(301) 317-2100
TTY 317-4828

MEMORANDUM

December 21, 1992

BILL-

TO: Marilyn Praisner, President
Montgomery County Council

FROM: Neal Potter, County Executive *NP*

SUBJECT: Recommended Amendment for Authority to Condemn and
Demolish Unsafe Nonresidential Buildings

015524



MF
CE
HMS
SBF
MK
RW

DISK TO CHAIR

This proposed legislation would amend Chapter 26 of the Montgomery County Code, the Housing and Building Maintenance Standards, to provide for the condemnation and removal of unsafe nonresidential buildings. Authority and procedures already exist for the demolition of condemned dwellings but not for nonresidential buildings.

The ability to demolish unsafe commercial and other nonresidential buildings is essential to the control of blight and decay. We plan to focus our initial efforts on vacant buildings in the Silver Spring Central Business District which have been allowed to decay and which have been open to vandalism and illegal entry; however, the law will apply to all commercial and industrial areas.

Demolition costs for the first year are expected to be in the range of \$100,000. Thereafter, the annual budget will be \$100,000. Existing procedures provide for recovery of demolition expenses. The actual cost of removal is charged to the owner of the property in the manner of taxes and becomes a lien on the property. All expenses connected with the demolition and removal of nonresidential buildings will be recovered.

NP:amr

(9)

Emergency Bill No. 5-93
Concerning: Nonresidential
Structures - condemnation
Draft No. & Date: 2 1/22/93
Introduced: January 26, 1993
Expires: July 26, 1994
Enacted: _____
Executive: _____
Effective: _____
Sunset Date: None
Ch. _____, Laws of Mont. Co. _____

COUNTY COUNCIL
FOR MONTGOMERY COUNTY, MARYLAND

By: The Council President at the Request of the County Executive
and Councilmember Berlage

AN EMERGENCY ACT to:

- (1) modify housing code inspection procedures to include nonresidential structures;
- (2) extend housing code condemnation procedures to cover unsafe nonresidential structures, and redefine the standards for condemnation of residential and nonresidential structures;
- (3) provide for the demolition of condemned nonresidential structures; and
- (4) generally amend the law that establishes housing and building maintenance standards.

By amending

Montgomery County Code
Chapter 26, Housing and Building Maintenance Standards
Sections 26-4, 26-12 and 26-18

EXPLANATION:

Boldface indicates a heading or a defined term
Underlining indicates text that is added to existing law by the original bill
[Single boldface brackets] indicate text that is deleted from existing law by the original bill
Double underlining indicates text that is added to the bill by amendment
[[Double boldface brackets]] indicate text that is deleted from existing law or the bill by amendment
* * * indicates existing law unaffected by the bill

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

Emergency Bill No. 5-93

1 Sec. 1. Section 26-4 is amended as follows:

2 26-4. Inspections generally; when warrants required; right of entry
3 of inspectors and owners.

4 (a) The enforcing agency may inspect the condition of
5 dwellings, nonresidential structures, and premises located
6 [within] in the County to safeguard the health and safety
7 of the occupants [of dwellings] and [of] the general
8 public. For the purpose of making such inspections, the
9 enforcing agency may enter, examine and survey, at all
10 reasonable times, all dwellings, nonresidential structures,
11 and premises. Before an inspection, the enforcing agency
12 must give notice either orally or in writing of the day of
13 the inspection and obtain the consent of the owner,
14 operator or occupant to the inspection, *which consent may*
15 *not be unreasonably withheld, delayed, or conditioned.*

16 Sec. 2. Section 26-12 is amended as follows:

17 26-12. Designation of unfit dwellings and unsafe nonresidential
18 structures; legal procedure of condemnation.

19 The designation of dwellings or dwelling units as unfit for
20 human habitation and the designation of nonresidential structures as
21 unsafe for human occupancy or use under this Chapter, and the
22 condemnation and placarding of unfit dwellings or dwelling units and
23 unsafe nonresidential structures, must comply with the following
24 requirements:

25 (a) Any dwelling or dwelling unit and any nonresidential
26 structure which has any of the following defects may be
27 condemned as unfit for human habitation or unsafe for human

Emergency Bill No. 5-93

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occupancy or use by the enforcing agency:

- (1) One which is, entirely or in part, so damaged, decayed, dilapidated, unsanitary, unsafe or vermin-infested that it creates a serious hazard to the health or safety of the occupants or of the public.
- (2) One which lacks, entirely or in part, illumination, ventilation, heating, water supply, or sanitation facilities adequate to protect the health or safety of the occupants or of the public, as required in this Chapter.
- (3) One which because of its general condition is, entirely or in part, unsanitary or otherwise dangerous to the health or safety of the occupants or the public.
- (b) One which contains unsafe equipment, including any boiler, heating equipment, elevator, moving stairway, electrical wiring or device, flammable liquid containers or other equipment, on the premises or in the structure which is in such disrepair or condition that it is a hazard to the life, health, property or safety of the occupants or the public.

(b) The enforcing agency must ^{provide written notice to} ~~notify~~ the owner of every dwelling or dwelling unit and every nonresidential structure condemned for human habitation, occupancy or use. ^{indicating the general conditions which have resulted in such determination} ~~(and)~~ The enforcing agency must post a warning placard on the property.

(c). (1) Any person occupying a dwelling or dwelling unit when it is condemned as unfit for human habitation must

The enforcement agency shall forward a copy of such notice to the Historic Preservation Commission and the Historic Preservation Commission shall determine if the structure is subject to Chapter 21A. The HC shall provide written notice to the enforcing agency concerning whether the structure is subject to Chapter 21A within 30 days.

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Emergency Bill No. 3-93

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vacate the dwelling unit within a reasonable time as ordered by the enforcing agency.

(2) Any person occupying or using a nonresidential structure when it is condemned as unsafe for human use or occupancy must vacate the building or structure immediately after a warning placard is posted and surrender any valid use and occupancy permit.

[(2)](3) A person must not occupy or use and an owner must not permit a person to occupy or use a dwelling [or], a dwelling unit, or a nonresidential structure which has been condemned as unfit for human habitation or unsafe for human occupancy or use until the enforcing agency approves the occupancy or use and removes the placard. The enforcing agency may remove the placard if all defects upon which the condemnation was based have been eliminated.

(d) A person must not deface or remove a placard from any dwelling [or], dwelling unit, or nonresidential structure, except as authorized by the enforcing agency.

(e) Every owner of a condemned or abandoned structure must secure all windows and doors that are accessible from the ground, from an adjacent structure, or by the reasonably foreseeable use of a ladder, table or other device, and must keep them secured against unauthorized entry.

Sec. 3. Section 26-18 is amended as follows:

26-18. Repair or removal of condemned buildings or structures.

(a) If the owner of any building or structure or part of a building or structure condemned under this Chapter [fails

not subject to Chapter 24A or released from coverage upon a determination by the HAC

Emergency Bill No. 5-93

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Nothing contained in this Chapter is intended to override or modify the requirements under Chapter 23A of the county code or Article 3 section 9-24

to] does not remedy in a manner satisfactory to the enforcing agency the [condition or] conditions which led to the condemnation by [failing to cause such] causing the building or structure or part of a building or structure to be put into [sanitary condition] full compliance with this Chapter, or to be demolished and removed, within the time specified by the enforcing agency in the order of condemnation or any extension [thereof], the enforcing agency may, after [thirty (30)] 30 days' written notice to the owner, order the demolition of the building or structure, the filling of any excavation and the clearing of the property so that it will be in a safe condition. The County ^{shall} may charge the cost of removal [by the County shall be charged] to the owner of the property and collect it as taxes on real property or other debts are collected. [in the manner of taxes, and] Any such charge [shall be] in a lien on the property. [The cost to the County of removal may also be collected as other debts.]

(b) Any person aggrieved by an order of the enforcing agency under this Section may appeal [such] the order to the County Board of Appeals [under section 53-2].

Approved:

Marilyn J. Fraiser, President, County Council

Date

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SENT BY:
RCV BY:

2- 9-93 ; 11:14 ;
2 5-93 ; 9:16 ;

GULC-
MPLA / UNIT

3014951320:# 9/11

Emergency Bill No. 9-93

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Approved:

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Neal Potter, County Executive

Date

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This is a correct copy of Council action.

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Kathleen A. Freedman, OMC

Date

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Secretary of the Council

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529/LAW/1-6

LEGISLATIVE REQUEST REPORT

BILL NO. 5-93

Condemnation and Removal of Nonresidential Structures

- 1) **DESCRIPTION:** The Bill establishes authority for the condemnation and removal of unsafe nonresidential buildings.
- 2) **PROBLEM:** Vacant commercial buildings which have become dangerous and unsafe are being entered and occupied by homeless persons and others. Repeated orders to the property owners have resulted in the installation of locks and plywood across the windows. Nevertheless, vandalism and unsafe occupancy continues to reoccur. Chapter 26, the Housing and Building Maintenance Standards, contains a procedure for the demolition of dwellings after they have been condemned, but lacks the authorization to condemn and demolish nonresidential buildings.
- 3) **GOALS AND OBJECTIVES:** To authorize the Department of Housing and Community Development to condemn unsafe nonresidential buildings or structures as a first step toward demolition and removal.
- 4) **COORDINATION:** The legislation will be coordinated with other sections of Chapter 26 which first require maintenance of commercial properties. Condemnation and demolition will be invoked only when properties are not maintained. Existing demolition procedures have established coordination for historic site determination.
- 5) **FISCAL IMPACT:** The operating budget for the first and succeeding years will be increased by \$100,000. Existing procedures provide for recovery of demolition expenses. The actual cost of removal is charged to the owner of the property in the manner of taxes and becomes a lien on the property. Thus, all expenses connected with the demolition and removal of nonresidential buildings will be recovered.
- 6) **ECONOMIC IMPACT:** The removal of blighting influences will benefit neighboring properties and the surrounding community. Customers and employees of nearby businesses would no longer be frightened away.

- 2-
- 7) **EVALUATION:** The legislation will be evaluated by its effectiveness in removing unsafe commercial buildings. The evaluation of future needs will occur during annual budget decisions.
- 8) **EXPERIENCE ELSEWHERE:** Similar programs or legislation in other jurisdictions have not come to our attention.
- 9) **SOURCES OF INFORMATION:** Melvin E. Tull
Chief, Division of Code Enforcement
(301) 217-3725
- 10) **APPLICATION WITHIN MUNICIPALITIES:** Chapter 26 applies within Barnesville, Brookeville, the Village of Martin's Addition, Chevy Chase Sec. 3, the Town of Chevy Chase, Chevy Chase Sec. 5, Glen Echo, Kensington, Somerset, Washington Grove, and Laytonsville. This Bill has not been proposed as a Board of Health regulation.
- 11) **PENALTIES:** Class A penalties apply.

MEMORANDUM

February 11, 1993

TO: County Council

FROM: *MF* Michael Faden, Senior Legislative Attorney

SUBJECT: Public Hearing: Emergency Bill 5-93, Nonresidential Structures -
condemnation

Emergency Bill 5-93, Nonresidential Structures - condemnation, sponsored by the Council President at the request of the County Executive and Councilmember Derick Berlage, was introduced on January 26, 1993. A public hearing is scheduled for February 16, 1993.

This packet contains:	<u>Circle #</u>
Emergency Bill 5-93	1
Legislative Request Report	7
Memo from County Executive	9

529/LAW/7

Emergency Bill No. 5-93
Concerning: Nonresidential
Structures - condemnation
Draft No. & Date: 2 1/22/93
Introduced: January 26, 1993
Expires: July 26, 1994
Enacted: _____
Executive: _____
Effective: _____
Sunset Date: None
Ch. _____, Laws of Mont. Co. _____

COUNTY COUNCIL
FOR MONTGOMERY COUNTY, MARYLAND

By: The Council President at the Request of the County Executive
and Councilmember Berlage

AN EMERGENCY ACT to:

- (1) modify housing code inspection procedures to include nonresidential structures;
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- (3) provide for the demolition of condemned nonresidential structures; and
- (4) generally amend the law that establishes housing and building maintenance standards.

By amending

Montgomery County Code
Chapter 26, Housing and Building Maintenance Standards
Sections 26-4, 26-12 and 26-18

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

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(2) One which lacks, entirely or in part, illumination, ventilation, heating, water supply, or sanitation facilities adequate to protect the health or safety of the occupants or of the public, as required in this Chapter.

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(c) (1) Any person occupying a dwelling or dwelling unit when it is condemned as unfit for human habitation must

82 to] does not remedy in a manner satisfactory to the
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 84 the condemnation by [failing to cause such] causing the
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 86 be put into [sanitary condition] full compliance with this
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 88 specified by the enforcing agency in the order of
 89 condemnation or any extension [thereof], the enforcing
 90 agency may, after [thirty (30)] 30 days' written notice to
 91 the owner, order the demolition of the building or
 92 structure, the filling of any excavation and the clearing
 93 of the property so that it will be in a safe condition.
 94 The County may charge the cost of removal [by the County
 95 shall be charged] to the owner of the property and collect
 96 it as taxes on real property or other debts are collected.
 97 [in the manner of taxes, and] Any such charge [shall be] is
 98 a lien on the property. [The cost to the County of removal
 99 may also be collected as other debts.]

100 (b) Any person aggrieved by an order of the enforcing agency
 101 under this Section may appeal [such] the order to the
 102 County Board of Appeals [under section 55-2].

104 Approved:

106 _____
 107 Marilyn J. Praisner, President, County Council

_____ Date

LEGISLATIVE REQUEST REPORT

BILL NO. 5-93

Condemnation and Removal of Nonresidential Structures

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RECEIVED COUNCIL

Montgomery County Government

92 DEC 21 10:01

ROCKVILLE, MARYLAND 20850

Neal Potter
County Executive
(301) 217-2500
TTY 217-6505

MEMORANDUM

December 21, 1992

BILL

015524



*MF
CC
HAVE SBF
MK
RW*

TO: Marilyn Praisner, President
Montgomery County Council

FROM: Neal Potter, County Executive *NP*

SUBJECT: Recommended Amendment for Authority to Condemn and
Demolish Unsafe Nonresidential Buildings

DISK TO CHRISTY

This proposed legislation would amend Chapter 26 of the Montgomery County Code, the Housing and Building Maintenance Standards, to provide for the condemnation and removal of unsafe nonresidential buildings. Authority and procedures already exist for the demolition of condemned dwellings but not for nonresidential buildings.

The ability to demolish unsafe commercial and other nonresidential buildings is essential to the control of blight and decay. We plan to focus our initial efforts on vacant buildings in the Silver Spring Central Business District which have been allowed to decay and which have been open to vandalism and illegal entry; however, the law will apply to all commercial and industrial areas.

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NP:mmr