



COUNTY COUNCIL FOR MONTGOMERY COUNTY, MARYLAND

APPROVED

Tuesday, October 6, 2020

The County Council for Montgomery County, Maryland convened via video conference at 9:13 A.M. on Tuesday, October 6, 2020.

PRESENT

Councilmember Sidney Katz, President
Councilmember Gabe Albornoz
Councilmember Evan Glass
Councilmember Nancy Navarro

Councilmember Tom Hucker, Vice President
Councilmember Andrew Friedson
Councilmember Will Jawando
Councilmember Craig Rice
Councilmember Hans Riemer

The President in the Chair.

PRESENTATIONS

- A. Proclamation was presented by Mr. Albornoz commemorating the 25th Anniversary of the Second Chance Wildlife Center.
- B. Proclamation was presented by Mr. Rice and Mr. Jawando recognizing Bullying Prevention Awareness.

- (1) [Hispanic Heritage Month Commemoration, Latinx Heroes: Leading, Healing and Providing Hope during the Pandemic](#)

Viewed a special video tribute highlighting the leadership of some of Montgomery County's Latinx community in response to the global pandemic.

GENERAL BUSINESS

- A. **Announcements** - Agenda and Calendar Changes
- (2) [The Council is seeking applicants for 11 positions on the County's 11-member Commission on Redistricting. The deadline to apply for consideration is Monday, October 26, 2020, at 5 P.M.](#)

(3) B. **Acknowledgement -**

[Receipt of Petitions](#)

Acknowledged receipt of petitions from residents of Montgomery County opposing Zoning Text Amendment (ZTA) 20-01, Solar Collection System - AR Zone Standards; and from residents supporting the adoption of ER 12-20, the 2018 versions of the International Green Construction Code (IgCC2018) for new commercial buildings.

C. **Action - Approval of Minutes**

Approved the minutes of June 9 and August 4, 2020; and the closed session minutes of September 15, 2020, without objection.

(4) **CONSENT CALENDAR**

Approved the following consent calendar items listed below.

Mr. Riemer made the motion, which carried without objection.

- A. **Introduced** a supplemental appropriation to the County Government's FY21 Operating Budget, Department of Environmental Protection - \$372,079 for Naval Support Activity - Bethesda - Military Installation Resiliency Review Grant. A public hearing and action are scheduled for October 20, 2020 at 1:30 P.M.
- B. **Received and Released** the Office of Legislative Oversight (OLO) Report 2020-10, Ride On Bus Routes and Services.
- C. **Approved** appointment of special counsel to assist the Office of the County Attorney to represent Montgomery County and the members of the County's Self-Insurance Fund (and their employees) on an as-needed basis in Self-Insurance Fund and other related litigation: Lerch, Early & Brewer and Miller, Miller & Canby.
- D. Adopted **Resolution 19-619**, Executive Regulation 26-19, Employee Compensation.
- E. Adopted **Resolution 19-620**, confirming the County Executive's appointments to the Commission for Women: Tiffany Boiman, Tonia Bui, Arlinda Clark, Donna Rojas, Chaitra Shenoy.

Because it was ahead of schedule, the Council recessed at 10:15 A.M. and reconvened at 10:30 A.M.

(5) **Update - [Novel Coronavirus \(COVID-19\) and County Public Health Planning](#)**

Participating in the discussion were Dr. Gayles, County Health Officer and Chief, Public Health Services, Department of Health and Human Services (DHHS); and Dr. Stoddard, Director, Office of Emergency Management and Homeland Security (OEMHS).

Dr. Gayles expressed concern about COVID-related rhetoric at the federal level, and stated that it is his job to put forth public health guidance to keep residents safe. If someone tests positive for the virus, it is the expectation and legal requirement to quarantine based upon guidance given from health officials. Current data shows 53 new cases and a positivity rate of 2.6 percent, and 8.9 cases per 100,000 people, and a three-day average of 90-99 cases. Dr. Gayles indicated they are making strides in testing capacity and are working with the State regarding the distribution of rapid test kits. He noted challenges associated with the failure of some clinics/venues not reporting rapid test results to the State, which is a requirement. They are continuing to investigate cases in both public and non-public schools, and related to youth sports, particularly soccer. Over four cases identified to date were associated with club and school-related soccer, with 30 people now under quarantine. They met with non-public school officials last week to provide guidance for their reopening efforts, and to continue to work with Montgomery County Public Schools (MCPS) in efforts to do the best for students to keep them safe.

Dr. Stoddard indicated they are continuing to meet with partners, and an in-person walk-through of the SoccerPlex was conducted to determine possible accommodations to allow tournaments to be hosted. He noted that modified hockey was added to the State's list of medium-risk sports, so clubs that meet the safety requirements may resume their activities. They also met with escape room operators to address cleaning requirements, and with live theaters and movie theaters to discuss possible accommodations for opening. Dr. Stoddard provided an update on enforcement of late-night alcohol permits, noting that 153 business received permits, no complaints have been received, and that the team has conducted on-site visits, most recently in Bethesda and North Bethesda. They are working on an appeal process which would allow businesses that were prohibited from obtaining a late-night permit due to a previous citation to be reassessed on a case-by-case basis. They have met with Chief Equity Officer Ward regarding methodologies to ensure all businesses are treated equally.

Regarding Halloween, Dr. Stoddard said the holiday is not regulated by the County, but guidance has been provided on the website with recommendations for safe activities.

Dr. Stoddard said the number of food boxes received through the USDA Food Box program was reduced from 26,000 to 4,000, and that the cost for the County

to replicate those 22,000 boxes would be \$750,000 per week. In order to bridge the gap, they are purchasing bulk produce for distribution to food providers, providing credits to food access providers to shop for bulk produce at local distributors, connecting providers to other sources of foods, and are developing an agreement with Manna and the Capital Area Food Bank to provide credits for purchases of additional supplies and produce. The 4,000 food boxes received are rotated to different providers each week, and Dr. Stoddard noted that the boxes are improving in quality and now include meat and dairy products. They are working to build out service hubs and create pop-up locations for food distribution and coordination of services. The Food Access Call Center has taken over 3,000 calls this year to provide referrals to residents.

Mr. Katz expressed appreciation to Senator Kagan for her efforts to provide testing in the Gaithersburg and Germantown areas. He noted that testing sites are needed in Rockville, particularly in the Twinbrook area, and that the City of Rockville is willing to have its facilities used for testing sites.

Councilmembers spoke to the lack leadership at the federal level in addressing the pandemic, and commended Dr. Gayles for proceeding with caution to help keep residents safe. In order to move forward, Dr. Gayles said they are looking for continued decrease in test positivity rates, in the number of new cases, and cases per 100,000 residents. For schools to reopen, they want a lower risk of transmission of the virus and a stable or decreasing hospitalization rate. He stated that young people are effective carriers and transmitters of the virus and could pass it on to older, more susceptible persons, which in turn leads to increased hospitalization rates. Dr. Stoddard explained that they want to be in a better situation to enter Phase 3 of reopening than the County was upon entering Phase 2, expressing the view that the current case rate is too high to comfortably move to Phase 3. Regarding indoor live performances, they are monitoring the District of Columbia's pilot program and will receive an update next week.

Ms. Navarro said hubs as service delivery models are a good way to centralize the County's efforts, and that she previously suggested MCPS meet with DHHS to leverage resources and combine their efforts. She expressed concern that when schools open in a hybrid model, school buildings won't be used as distribution points, and that steps should be taken to prioritize the use of other public facilities.

Mr. Friedson requested information on whether flag football was included in the State's return-to-play guidelines.

Mr. Riemer commented on MCPS' inability to implement a plan to mitigate the virus to allow schools to safely reopen. Dr. Gayles reiterated that the most important variable to the reopening of schools is a demonstrated lower-level rate of community transmission.

The meeting recessed at 11:33 A.M. and reconvened at 1:35 P.M.

- (6) **PUBLIC HEARING/ACTION** - [Supplemental Appropriation to the County Government's FY21 Operating Budget, Montgomery County Fire and Rescue Service \(MCFRS\) - \\$273,482 for FY19 Assistance to Firefighters Grant](#)

The public hearing was conducted and the record closed.

Adopted **Resolution 19-621**, approving the subject supplemental appropriation.

Mr. Rice made the motion, which carried without objection.

- (7) **PUBLIC HEARING** - [Supplemental Appropriation to the County Government's FY21 Operating Budget, Department of Health and Human Services \(DHHS\) - \\$864,029 to Increase Somatic and Mental Health Services at MCPS](#)

The public hearing was conducted. Additional material for the Council's consideration should be submitted by the close of business on October 9, 2020. A joint Health and Human Services (HHS) and Education and Culture Committee (E&C) meeting is scheduled for October 15, 2020.

**COUNTY COUNCIL
FOR MONTGOMERY COUNTY, MARYLAND
IN LEGISLATIVE SESSION - Day #29**

- (8) **Call of Bills for Final Reading**

- A. [Bill 14-20, Human Rights and Civil Liberties - Discriminatory Employment Practices - Workplace Harassment](#)

Mr. Alborno, Chair of the HHS Committee, provided an overview of the subject bill.

Mr. Jawando, lead sponsor of the bill, said the goal of the bill is to define sexual harassment in County code and to remove the standard of "severe and pervasive" to prove sexual harassment, and to make the workplace more professional, safe, and welcoming for everybody.

Ms. Wellons, Legislative Attorney, reviewed the Committee's recommendation, as contained in the staff report.

Enacted draft #3 of **Bill 14-20**, as introduced.

The HHS Committee made the motion and the bill was enacted by a roll call vote:

YEAS: Glass, Jawando, Riemer, Navarro, Albornoz, Rice, Friedson, Hucker, Katz.

B. [Bill 28-20, Human Rights and Civil Liberties - Discrimination in Public Accommodations - LGBTQ Bill of Rights](#)

Mr. Albornoz reviewed the HHS Committee's recommendation, including two amendments, as contained in the staff report. Mr. Glass, lead sponsor of the bill, said this bill affords protection to all residents, including the County's increasing senior population, noting the need to protect everyone's civil liberties.

Enacted draft #5 of **Bill 28-20**, as shown at the end of these minutes.

The HHS Committee made the motion and the bill was enacted by a roll call vote:

YEAS: Glass, Jawando, Riemer, Navarro, Albornoz, Rice, Friedson, Hucker, Katz.

C. [Bill 29-20, Taxation - Payment in Lieu of Taxes - WMATA Property - Established](#)

Participating in the discussion were Mr. Madaleno, Chief Administrative Officer (CAO); Mr. Nigam, Director, Department of Housing and Community Affairs (DHCA); and Mr. Drummer, Senior Legislative Attorney.

Mr. Katz provided brief comments, clarifying that WMATA property is property that surrounds Metro stations and would be used to provide more housing.

Mr. Riemer, Co-Chair of the joint Planning, Housing and Economic Development (PHED) and Government Operations and Fiscal Policy (GO) Committee, reviewed the purpose of the subject bill, as contained in the staff report, and also commented on housing goals, fiscal impact, and the need for a significant incentive to develop Metro sites.

Ms. Navarro, Co-Chair, presented a regional view on housing needs and noted the opportunity the legislation presents for transit-oriented development, the ability to build more affordable housing, attract new residents, and increase revenue for the County.

Mr. Drummer presented background on the original bill and reviewed the joint Committee recommendations and five amendments, as contained in the staff report.

Unanimously supported Mr. Jawando's motion to add an amendment, which had originally been offered in committee, that would amend the definition of "qualifying development" as follows:

A qualifying development must include at least 25% of the moderately priced dwelling units required by Chapter 25A affordable to households at 50% of the area median income.

Defeated 3-6 Mr. Jawando's motion regarding the below text, which had originally been offered in committee, to amend lines 20-29 to delegate authority to the Finance Director to offer a PILOT for a range of benefit between 80-100 percent deferral for between 10 and 15 years. Mr. Jawando made an additional amendment to his motion, after hearing from Mr. Nigam, to add the below last sentence in section (c).

YEAS: Jawando, Hucker, Katz

NAYS: Rice, Albornoz, Friedson, Riemer, Navarro, Glass.

- (b) When authorized by state law, the Director must offer a payment in lieu of taxes for a qualifying development after consulting with the Director of the Department of Housing and Community Affairs on the value of the public benefit of the project.
- (c) The payment in lieu of taxes must exempt between 80 and 100% of the real property tax that would otherwise be levied for a period of between 10 and 15 years beginning in the year a use and occupancy permit is issued for the qualifying development, regardless of subleases executed by the lessee. The Director of Finance must decide on the amount of the PILOT within 90 days after receiving a request with complete documentation.

Defeated 4-5 Mr. Jawando's motion for an amendment regarding fair wages, which had originally been offered in committee, to include the below language.

YEAS: Jawando, Hucker, Glass, Katz

NAYS: Albornoz, Friedson, Riemer, Navarro, Rice.

All contractors and subcontractors working on the project must: Comply with prevailing wage requirements in the same way they are required to do on other public works projects; have no violations of wage and hour laws in the preceding three years; be licensed, and that the project developer has copies of the licenses on file; have general liability

insurance and surety bonds and the project developer has copies of these certificates on file.

The project developer will provide any records requested by the County to enforce these requirements.

Failure to comply with these requirements will result in the termination of the PILOT.

Unanimously supported Mr. Albornoz's motion for an amendment, that was distributed to Councilmembers earlier, that would amend section (d), lines 30-40 by adding:

(2) at least 25% of the workers constructing the qualifying project were residents of the County while performing the work.
The regulation must also require the developer to provide quarterly reports to the Executive during construction demonstrating compliance with the conditions for receiving a payment in lieu of taxes.

Unanimously supported Mr. Friedson's motion to add an amendment to include a sunset provision:

A qualifying development is eligible and includes all buildings within its preliminary plan so long as the preliminary plan's approval occurs before December 31, 2032. For single buildings not part of a multi-building preliminary plan, the building is eligible so long as the sketch or site plan approval occurs before December 31, 2032.

Councilmembers noted that the bill will make a significant impact on the viability of building new housing on Metro station property. Presently, there are no high-rise developments underway on any Metro station property in Montgomery County, nor have there been for many years. The high-rise buildings also would include between 1,200 to 1,300 units for the County's Moderately Priced Dwelling Unit (MPDU) affordable housing set-aside programs. The legislation seeks to change the economics of high-rise Metro station development and deliver the essential housing on top of Metro that the County needs to fight climate change, promote housing affordability and spur economic growth.

Mr. Hucker expressed the view that projects should be reviewed on a case-by-case basis, and that it would be better to postpone consideration of long-range incentives until after the November election, when more would be known about the County's future budget outlook. Mr. Jawando expressed concerns about the bill, including the amount of tax revenue that would be foregone, the lack of a prevailing wage requirement, and lack of opportunity for DCHA to review proposed incentives for each project.

Enacted draft #6 of **Bill 29-20**, as amended, and contained at the end of these minutes.

The joint GO and PHED Committee made the motion and the bill was enacted by a roll call vote:

YEAS: Glass, Riemer, Navarro, Albornoz, Rice, Friedson, Katz

NAYS: Jawando, Hucker.

- (9) **INTERVIEW** - [County Executive's appointee as Chief of Behavioral Health and Crisis Services, Department of Health and Human Services \(DHHS\): Rolando Santiago](#)

Interviewed Mr. Rolando Santiago, the County Executive's appointee as Chief of Behavioral Health and Crisis Services, DHHS.

- (10) **INTERVIEWS** - [Nominating Committee for the Montgomery College Board of Trustees](#)

Interviewed Dr. Cherise Hunter and Ms. Althea Lloyd-White, applicants for appointment to the Nominating Committee for the Montgomery College Board of Trustees.

- (11) **DISTRICT COUNCIL SESSION**

A. Worksession - [ZTA 20-01, Solar Collection System - AR Zone Standards](#)

This item was postponed to October 13, 2020.

**COUNTY COUNCIL
FOR MONTGOMERY COUNTY, MARYLAND
IN LEGISLATIVE SESSION - Day #29 (continued)**

- (8) **Call of Bills for Final Reading (continued)**

D. [Bill 31-20, Public Campaign Financing - Amendments](#)

Ms. Navarro stated that the GO Committee reviewed the bill and recommended changes prior to its introduction before the Council. She reviewed the purpose of the bill, which amends current public campaign

finance law as a result of feedback from participants and non-participants in the campaign financing program, and from community groups.

Ms. Navarro reviewed three amendments, supported by the GO Committee, to require the County Executive to designate an employee to serve as a liaison for the public campaign finance program; increase the match to \$250; and a technical correction to the definition of “contribution,” as included in the staff report. She commented that Council staff is working with the Office of Intergovernmental Relations on State legislation needed to address special accounts for a recount situation, and requested that a letter be drafted to the State requesting more resources for the Board of Elections and for improved software.

Legislative Attorney Mihill noted that the issue of informal slates of candidates would be addressed in the executive regulation pertaining to the bill.

Mr. Albornoz expressed the view that the program’s staffing capacity should be increased, given the number of candidates participating in the last election.

Enacted draft #1 of **Bill 31-20**, as amended, and shown at the end of these minutes.

Ms. Navarro made the motion and the bill was enacted by a roll call vote:

YEAS: Glass, Jawando, Riemer, Navarro, Albornoz, Rice, Friedson, Hucker, Katz.

The meeting adjourned at 5:40 P.M.

This is a correct copy of Council action.

Approved/Signed by Clerk of the Council

Selena Mendy Singleton, Esq.
Clerk of the Council

Bill No. 28-20
 Concerning: Human Rights and Civil Liberties – Discrimination in Public Accommodations – LGBTQ Bill of Rights
 Revised: 10/06/2020 Draft No. 6
 Introduced: July 7, 2020
 Enacted: October 6, 2020
 Executive: _____
 Effective: _____
 Sunset Date: None
 Ch. _____, Laws of Mont. Co. _____

**COUNTY COUNCIL
 FOR MONTGOMERY COUNTY, MARYLAND**

Lead Sponsor: Councilmember Glass
 Co-Sponsors: Council President Katz, Councilmember Jawando, Council Vice-President Hucker,
 Councilmembers Riemer, Alborno, Friedson, Navarro and Rice

AN ACT to:

- (1) prohibit discriminatory practices against certain individuals in places of public accommodation, including nursing homes and other facilities;
- (2) require certain notices to individuals; and
- (3) generally amend the laws regarding prohibited discrimination in places of public accommodation.

By amending

Chapter 27, Human Rights and Civil Liberties
 Sections 27-6, 27-10, and 27-11

By adding

Chapter 27, Human Rights and Civil Liberties
 Section 27-11A

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

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

Sec. 1. Sections 27-6, 27-10, and 27-11 are amended, and Section 27-11A is added, as follows:

27-6. Definitions.

The following words and phrases have the following meanings, unless the context indicates otherwise:

* * *

Family responsibilities means the state of being financially or legally responsible for the support or care of a person or persons, regardless of the number of dependent persons or the age of any dependent person.

Gender expression includes gender as expressed by an individual’s name, pronouns, clothing, hairstyle, behavior, voice, or similar characteristics.

Gender identity means an individual’s actual or perceived gender, including

a

person’s gender-related appearance, expression, image, identity, or behavior, whether or not those gender-related characteristics differ from the characteristics customarily associated with the person’s assigned sex at birth.

Gender-nonconforming means gender expression that does not conform to stereotypical expectations of how a male or female should appear or act.

* * *

Source of income means any lawful source of money, paid directly or indirectly

to a renter or buyer of housing, including income from:

- (1) any lawful profession or occupation;
- (2) any government or private assistance, grant, or loan program;
- (3) any gift, inheritance, pension, annuity, alimony, child support, or other lawful compensation or benefit; or
- (4) any sale or pledge of any property or interest in property.

Transgender individual means an individual whose gender identity differs from the individual's assigned or presumed sex at birth.

Undue hardship means an action requiring significant difficulty or expense.

In determining whether an accommodation would impose an undue hardship, the decision maker must consider:

- (1) the nature and cost of the accommodation needed to comply with this article;
- (2) the overall financial resources of the person who would provide the accommodation; and
- (3) the impact of the accommodation on other persons.

* * *

27-10. Scope.

- (a) This division applies to every public accommodation of any kind in the County whose facilities, accommodations, services, commodities, or use are offered to or enjoyed by the general public either with or without charge, such as:
 - (1) restaurants, soda fountains, and other eating or drinking places, and all places where food is sold for consumption either on or off the premises;
 - (2) inns, hotels, and motels, whether serving temporary or permanent patrons;
 - (3) retail stores and service establishments;
 - (4) hospitals, health care institutions, domiciliary care homes, nursing homes, personal care homes, and clinics;

- (5) motion picture, stage, and other theaters and music, concert, or meeting halls;
- (6) circuses, exhibitions, skating rinks, sports arenas and fields, amusement or recreation parks, picnic grounds, fairs, bowling alleys, golf courses, gymnasiums, shooting galleries, billiard and pool rooms, and swimming pools;
- (7) public conveyances, such as automobiles, buses, taxicabs, trolleys, trains, limousines, boats, airplanes, and bicycles;
- (8) utilities, such as water and sewer service, electricity, telephone, and cable television;
- (9) streets, roads, sidewalks, other public rights-of-way, parking lots or garages, marinas, airports, and hangars; and
- (10) places of public assembly and entertainment of every kind.

27-11. Discriminatory practices – in general.

- (a) An owner, lessee, operator, manager, agent, or employee of any place of public accommodation in the County must not, with respect to the accommodation:
 - (1) make any distinction with respect to any person based on race, color, sex, marital status, religious creed, ancestry, national origin, disability, sexual orientation, gender expression, HIV status, or gender identity in connection with:
 - (A) admission;
 - (B) service or sales; or
 - (C) price, quality, or use of any facility or service;
 - (2) display, circulate or publicize or cause to be displayed, circulated or publicized, directly or indirectly, any notice, communication, or advertisement that states or implies:

- (A) any distinction in the availability of any facility, service, commodity, or activity related to the accommodation that would violate paragraph (1), or
- (B) that the patronage or presence of any person is unwelcome, objectionable, unacceptable, or not desired or solicited on account of any person’s race, color, sex, marital status, religious creed, ancestry, national origin, disability, sexual orientation, gender expression, HIV status, or gender identity;

* * *

27-11A. Discriminatory practices – specific protections for LGBTQ individuals in care facilities.

(a) *Legislative findings and statement of policy.*

(1) The County has a goal to ensure that every resident can live without fear of discrimination based on sex—including on the basis of gender identity or sexual orientation. To achieve this goal the county will:

- (A) protect LGBTQ community members from discrimination in all public facilities, including health and personal care facilities;
- (B) ensure medical providers respect the gender identity and pronouns of all patients;
- (C) strengthen access to care facilities for sexual minorities and all gender identities; and
- (D) ensure that all public accommodations in Montgomery County adhere to non-discrimination laws.

(2) The County Council finds that ending and preventing harassment among LGBTQ individuals requires substantial coordination and cooperation among federal, state, and local governments, as well as private sector service providers and community organizations.

(b) Definitions. In this Section, the following terms have the meanings indicated.

Care facility or facility means a place of public accommodation that provides direct personal care or health care to individuals, such as a hospital, clinic, nursing home, domiciliary care home, or personal care home.

Harass includes requiring an individual to show identity documents to gain entrance to a restroom available to other individuals of the same gender identity.

(c) Discriminatory practices prohibited under Section 27-11 include when an owner, lessee, operator, manager, agent, or employee of any care facility in the County, based on an individual's sexual orientation, gender identity, gender expression, or HIV status:

(1) denies admission to a facility, transfers or refuses to transfer the individual within a facility or to another facility, or discharges or evicts an individual from a facility;

(2) denies a request by individuals to share a room in a facility;

(3) if rooms are assigned by gender, assigns, reassigns, or refuses to assign a room to a transgender individual other than in accordance with the individual's gender identity, unless at the individual's request;

- (4) prohibits an individual from using, or harasses an individual who seeks to use or does use, a restroom available to other individuals of the same gender identity, regardless of whether the individual is making a gender transition or appears to be gender-nonconforming;
- (5) willfully and repeatedly [[fails to use]] uses an individual's [[s]] incorrect name or pronouns after being clearly informed of the correct name or pronouns;
- (6) denies an individual the right to wear or be dressed in clothing, accessories, or cosmetics that are allowed for any other individual;
- (7) restricts an individual's right to associate with other individuals, including the right to consensual sexual relations, unless the restriction uniformly applies to all individuals in a nondiscriminatory manner;
- (8) denies or restricts medical or nonmedical care; or
- (9) provides medical or nonmedical care in a manner that, to a similarly situated reasonable individual, unduly demeans the individual's dignity or causes avoidable discomfort.
- (d) Notice requirements. A facility must post prominently, and must include with any materials that describe the facility's nondiscrimination policies, a notice that:
 - (1) meets the requirements of subsection (e); and
 - (2) is in a form prescribed by the Director.
- (e) The notice required under subsection (d) must include:

- (1) a statement that the [[facility does not discriminate or allow]] law prohibits discrimination, including bullying, abuse, or harassment, on the basis of:
 - (A) actual or perceived sexual orientation, gender identity, gender expression, or HIV status; or
 - (B) an association with another individual on account of that individual's actual or perceived sexual orientation, gender identity, gender expression, or HIV status; and
- (2) information about filing a complaint with the Commission on Human Rights.

Bill No. 29-20
 Concerning: Taxation – Payments in
Lieu of Taxes – WMATA property -
Established
 Revised: October 6, 2020 Draft No. 7
 Introduced: July 7, 2020
 Enacted: October 6, 2020
 Executive: _____
 Effective: _____
 Sunset Date: _____
 Ch. _____, Laws of Mont. Co. _____

**COUNTY COUNCIL
 FOR MONTGOMERY COUNTY, MARYLAND**

Lead Sponsors: Councilmembers Riemer and Friedson
 Co-Sponsors: Councilmembers Glass, Navarro, Council President Katz, Councilmember Alborno, Council Vice
 President Hucker and Councilmember Rice

AN ACT to:

- (1) require the Director of Finance to negotiate a payment in lieu of taxes for certain property leased from WMATA;
- (2) establish the amount of the payment in lieu of taxes; and
- (3) generally amend the law governing payments in lieu of taxes.

By adding

Montgomery County Code
 Chapter 52, Taxation
 Section 52-24A

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

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

Sec. 1. Section 52-24A is added as follows:

52-24A. Payments in lieu of taxes for certain property leased from WMATA.

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

Director means the Director of the Department of Finance or the Director's designee.

High-rise residential apartment building means a multi-family building with an occupied floor that is more than 8 stories above ground level and is used primarily for dwelling units for rent to the public.

Metro station means a mass transit train station owned and operated by the Washington Metropolitan Area Transit Authority.

Qualifying development means a project [[to construct]] where at least 50% of the project consists of the construction of one or more high-rise residential apartment buildings located on land leased from WMATA at a metro station. A qualifying development must include at least 25% of the moderately priced dwelling units required by Chapter 25A affordable to households at 50% of the area median income.

Washington Metropolitan Area Transit Authority or WMATA means the regional transit instrumentality of the State of Maryland, Commonwealth of Virginia, and the District of Columbia created by Compact and described in Md. Transportation Code Ann. §10-204, as amended.

(b) When authorized by state law, the Director must offer a payment in lieu of taxes for a qualifying development.

- (c) The payment in lieu of taxes must exempt 100% of the real property tax that would otherwise be levied for a period of 15 years. [[beginning]] The Director may begin the payment in lieu of taxes in the year a use and occupancy permit is issued for the qualifying development or in the second year property tax for the qualifying development is levied, regardless of subleases or assignments executed by the lessee. The payment in lieu of taxes must not include an exemption for any tax levied under an applicable special taxing area law.
- (d) Any payment accepted by the Director must conform to guidelines included in a regulation adopted by the Executive under method (1) to implement this Section. The regulation must require the developer of the qualifying project, as a condition of receiving a payment in lieu of taxes under subsection (c), to agree in writing that, to the best of its knowledge, information, and belief:
- (1) none of the contractors or subcontractors hired to perform work on the qualifying development site had three (3) or more final, non-appealable penalties assessed against it in the amount of \$5,000.00 or more in the 3 years prior to being hired for the project for violations of applicable wage and hour laws, including the County's prevailing wage law and any applicable Maryland wage and hour laws: and
 - (2) at least 25% of the workers constructing the qualifying project were residents of the County while performing the work.
- The regulation must also require the developer to provide quarterly reports to the Executive during construction demonstrating

compliance with the conditions for receiving a payment in lieu of taxes.

- (e) A developer of a qualifying project who violates the guidelines included in the regulation adopted under subsection (d) has committed a Class A violation.
- (f) This Act must be known as the “Housing at Metrorail Stations Act.”
- (g) Sunset. A qualifying development is eligible and includes all buildings within its preliminary plan so long as the preliminary plan’s approval occurs before December 31, 2032. For single buildings not part of a multi-building preliminary plan, the building is eligible so long as the sketch or site plan approval occurs before December 31, 2032.

Bill No. 31-20
 Concerning: Public Campaign
Financing - Amendments
 Revised: 10/7/2020 Draft No. 2
 Introduced: July 21, 2020
 Enacted: October 6, 2020
 Executive: _____
 Effective: _____
 Sunset Date: None
 Ch. _____, Laws of Mont. Co. _____

COUNTY COUNCIL FOR MONTGOMERY COUNTY, MARYLAND

Lead Sponsor: Councilmember Navarro, Council President Katz, and Councilmember Friedson (Government Operations and Fiscal Policy Committee)

AN ACT to:

- (1) amend the County public campaign financing system;
- (2) alter the maximum contribution limits;
- (3) allow participating candidates to carryover certain funds under certain circumstances;
- (4) require an audit of the public campaign financing system after the general election in an election cycle;
- (5) alter the penalties for willful violations of the public campaign financing system; and
- (6) generally amend the law governing elections for County elective offices.

By amending

Montgomery County Code
 Chapter 16, Elections
 Sections 16-18, 16-20, 16-21, 16-22, 16-23, 16-24, 16-25, 16-27, 16-28, 16-29, 16-30, ~~[[and]]~~ 16-31, and
16-32

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

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

Sec. 1. Sections 16-18, 16-20, 16-21, 16-22, 16-23, 16-24, 16-25, 16-27, 16-28, 16-29, 16-30, [[and]] 16-31, and 16-32 are amended as follows:

16-18. Definitions.

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

* * *

Campaign finance entity means a political committee established under Title 13 of the [State] Election Law Article of the Maryland Code [, as amended].

* * *

[*Committee to Recommend Funding for the Public Election Fund* means the Committee established in Section 16-27.]

* * *

Contribution means the gift or transfer, or promise of gift or transfer, of money or other thing of value to a campaign finance entity to promote or assist in the promotion of the success or defeat of a candidate, political party, or question. *Contribution* includes proceeds from the sale of tickets to a campaign fund-raising event as defined in Section 1-101 of the Election Law Article of the Maryland Code[, as amended].

* * *

Distribution period means the period of time beginning 365 days before the primary election for the office the candidate seeks and ending [15] 30 days after the date of the general election. The distribution period for a special election under Section 16-17 must be set by Council resolution.

* * *

Election cycle means the primary and general election for the same term of a covered office.

Eligible contribution means an aggregate donation in a 4-year election cycle of [150] 250 or less from an individual, including an individual who does not reside in the County.

* * *

Publicly funded campaign account means a campaign finance account established by a candidate for the exclusive purpose of receiving eligible contributions and spending funds in accordance with this Article.

Qualifying contribution means an eligible contribution of at least ~~[\$5.00]~~ \$5 but no more than ~~[\$150.00]~~ \$250 in support of an applicant candidate that is:

- (1) made by a County resident;
- (2) made after the beginning of the designated qualifying period, but no later than the respective election; and
- (3) acknowledged by a receipt that identifies the contributor's name and residential address and signed by the contributor directly or by a digital signature using a method approved by the Board.

Qualifying contribution does not include an in-kind contribution of property, goods, or services.

16-20. Collecting qualifying contributions.

- (a) Before raising any contribution governed by this Article, an applicant candidate must:
 - (1) file notice of intent with the Board on or before April 15 of the year of the election on a form prescribed by the Board; and
 - (2) establish a publicly funded campaign account for the candidate for the purpose of receiving eligible contributions and spending funds in accordance with this Article.
- (b) Other than a contribution from an applicant candidate or the candidate's spouse, an applicant candidate must not accept an eligible contribution from an individual greater than ~~[\$150]~~ \$250.
- (c) An applicant candidate must not accept a loan from anyone other than the candidate or the candidate's spouse. An applicant candidate and

the candidate's spouse together must not contribute or lend a combined total of more than \$12,000 to the candidate's publicly funded campaign account.

- (d) *Consumer Price Index adjustment.* The Chief Administrative Officer must adjust the contribution limit established in Subsection (b), effective July 1, [2018] 2022, and July 1 of each subsequent fourth year, by the annual average increase, if any, in the Consumer Price Index for the previous 4 calendar years. The Chief Administrative Officer must calculate the adjustment to the nearest multiple of [10 dollars] \$10, and must publish the amount of this adjustment not later than March 1 of each fourth year.

16-21. Requirements for certification.

* * *

- [(d) The Executive, after consulting with the Board, must adopt regulations under Method 1 that specify:
- (1) how and when receipts for qualifying contributions from contributors must be submitted to the Board;
 - (2) the documents that must be filed with the Board for certification;
 - (3) the allowable uses of money in a publicly funded campaign account; and
 - (4) other policies necessary to implement this Article.]

16-22. Board determination.

- (a) The Board must certify an applicant candidate if the Board finds that the candidate has received the required number of qualifying contributions and the required aggregate total dollars for the office no later than 10 business days after receiving:
 - (1) a declaration from the candidate agreeing to follow the regulations governing the use of a public contribution;
 - (2) a campaign finance report that includes:
 - (A) a list of each qualifying contribution received;
 - (B) a list of each expenditure made by the candidate during the qualifying period; and
 - (C) the receipt associated with each contribution and expenditure; and
 - (3) a certificate of candidacy for a covered office.
- (b) The decision by the Board whether to certify a candidate is final.
- (c) A candidate may submit only one application for certification for any election. A candidate may correct any mistakes in the application for certification or supplement their application with additional qualifying contributions within the earlier of:
 - (1) 10 business days after receiving notice that the Board denied the application; or
 - (2) the end of the qualifying period.
- (d) If the Board certifies a candidate, the Board must authorize the Director to disburse a public contribution to the candidate's publicly funded campaign account.

- (e) A candidate that submits a notice of intent under Section 16-20, but fails to qualify as a certified candidate is deemed a non-participating candidate and is not bound by the requirements of this Article.

16-23. Distribution of public contribution.

- (a) Matching amounts. The Director must distribute a public contribution from the Fund to each certified candidate in a contested election only during the distribution period as follows:

- (1) for a certified candidate for County Executive, the matching dollars must equal:

- (A) \$6 for each dollar of a qualifying contribution received for the first \$50 of each qualifying contribution;

- (B) \$4 for each dollar of a qualifying contribution received for the second \$50 of each qualifying contribution; [[and]]

- (C) \$2 for each dollar of a qualifying contribution received for the [remainder] third \$50 of each qualifying contribution; and

- (D) [[1]] 0 for each dollar of a qualifying contribution received for the remainder of each qualifying contribution.

- (2) for a certified candidate for County Council, the matching dollars must equal:

- (A) \$4 for each dollar of a qualifying contribution received for the first \$50 of each qualifying contribution;

- (B) \$3 for each dollar of a qualifying contribution received for the second \$50 of each qualifying contribution; [[and]]

(C) \$2 for each dollar of a qualifying contribution received for the [remainder] third \$50 of each qualifying contribution; and

(D) [[1]] 0 for each dollar of a qualifying contribution received for the remainder of each qualifying contribution.

(3) The total public contribution payable to a certified candidate for either a primary or a general election must not exceed:

(A) \$750,000 for a candidate for County Executive;

(B) \$250,000 for a candidate for At Large Councilmember;

and

(C) \$125,000 for a candidate for District Councilmember.

(b) Non-matchable contributions. The Director must not distribute matching dollars from the Fund to a certified candidate for:

(1) a contribution from the candidate or the candidate's spouse; or

(2) an in-kind contribution of property, goods, or services.

(c) Qualifying contribution limits. A certified candidate may continue to collect qualifying contributions and [receive] submit a request for a matching public contribution up to, and including, the day of a primary or a general election. A qualifying contribution must not exceed [~~\$150~~] \$250 from any individual in the aggregate during a 4-year election cycle.

(d) Availability of funds for distribution. On or before July 1 of the year preceding the primary election, the Director must determine if the amount in the Fund is sufficient to meet the maximum public contributions reasonably expected to be required during the next election cycle. If the Director determines that the total amount

available for distribution in the Fund is insufficient to meet the allocations required by this Section, the Director must reduce each public contribution to a certified candidate by the same percentage of the total public contribution.

(e) General election distributions. Within 3 business days after the County Board certifies the results of the primary election, the Board must authorize the Director to continue to disburse the appropriate public contribution for the general election to each certified candidate who is certified to be on the ballot for the general election.

(f) [Within 30 days after the County Board certifies the results of the primary election, a participating candidate who is not certified to be on the ballot for the general election must return any unspent money in the candidate's publicly funded campaign account to the Fund. Within 30 days after the County Board certifies the results of the general election, a participating candidate must return any unspent money in the candidate's publicly funded campaign account to the Fund.

(g) Petition candidates. A certified candidate nominated by petition may receive a public contribution for the general election if:

(1) the candidate's nomination is certified by the County Board;

and

(2) the candidate did not participate in a primary election.

[(h)] (g) Receipts required. A participating candidate must submit a receipt for each qualifying contribution to the Board to receive a public contribution. The Director must deposit the appropriate public contribution into a participating candidate's publicly funded campaign

account within 3 business days after the Board authorizes the public contribution.

- [(i)] (h) General election public contributions. A candidate may receive a matching public contribution during the general election for an unmatched qualifying contribution received during the primary election after the candidate has received the maximum public contribution for the primary election if the candidate is otherwise eligible to receive matching public contributions during the general election.
- [(j)] (i) Mistaken public contributions. If the Director mistakenly distributes a public contribution to a candidate greater than the candidate was entitled to receive, the candidate must repay the funds mistakenly distributed within 5 business days after being notified of the mistake. Any unspent funds returned to the County after an election may be used as a credit against any repayment required for a public contribution mistakenly received.
- [(k)] (j) Consumer Price Index adjustment. The Chief Administrative Officer must adjust the public contribution limits established in Subsection (a)(3) and the eligible contribution limit established in Subsection (c), effective July 1, [2018] 2022, and July 1 of each subsequent fourth year, by the annual average increase, if any, in the Consumer Price Index for the previous 4 calendar years. The Chief Administrative Officer must calculate the adjustment to the nearest multiple of [10 dollars] \$10, and must publish the amount of this adjustment not later than March 1 of each fourth year.

16-24. Use of public contribution.

- (a) [A] Except as provided in Section 16-27, a participating candidate may only use the eligible contributions and the matching public contribution for a primary or general election for expenses incurred for the election. A participating candidate must not pay in advance for goods and services to be used after certification with non-qualifying contributions received before applying for certification unless the expenditure is permitted by Executive regulation adopted under Section 16-21.
- (b) A complaint alleging an impermissible receipt or use of funds by a participating candidate must be filed with the Board.
- (c) A participating candidate must provide the Board with reasonable access to the financial records of the candidate's publicly funded campaign account, upon request.
- [(d) Within 30 days after the County Board certifies the results of the general election, a participating candidate must return to the Fund any unspent money in the candidate's publicly funded campaign account.]

16-25. Withdrawal.

- (a) A certified candidate may withdraw an application for a public contribution any time before the public contribution is received by the candidate's publicly funded campaign account.
- (b) A participating candidate may withdraw from participation if the candidate:
 - (1) files a statement of withdrawal with the Board on a form prescribed by the Board; and

- (2) repays to the Fund the full amount of the public contribution received, together with the applicable interest established by regulation.

16-27. Return of unspent funds; retention of funds.

- (a) Except as provided in subsection (b):
 - (1) within 90 days after the County Board certifies the results of the primary election, a participating candidate who is not certified to be on the ballot for the general election must return any unspent money in the candidate's publicly funded campaign account to the Fund; and
 - (2) within 90 days after the County Board certifies the results of the general election, a participating candidate must return any unspent money in the candidate's publicly funded campaign account to the Fund.
- (b) A certified candidate may retain funds to pay for post-election expenses if:
 - (1) the retained funds do not exceed \$5,000;
 - (2) the candidate files a new declaration of intent to participate in the public campaign financing system for the 4-year next election cycle by January 31 the year after the election; and
 - (3) keep the same campaign finance entity open.

16-28. Audit.

- (a) After a general election in an election cycle, the Executive must conduct an audit of the financial activity of the public campaign financing system, including publicly funded campaign accounts, to ensure publicly funded campaign accounts raised and spent funds in compliance with this Article.
- (b) The Executive must adopt regulations that specify the scope of the audit required by this Section.

16-29. Regulations.

The Executive, after consulting with the Board, must adopt regulations under Method 1 that specify:

- (a) how and when receipts for qualifying contributions from contributors must be submitted to the Board;
- (b) the documents that must be filed with the Board for certification;
- (c) the allowable uses of money in a publicly funded campaign account;
- (d) the scope of the audit required in Section 16-28; and
- (e) other policies necessary to implement this Article.

[16-28] 16-30. Penalties.

- (a) *Civil Violations.* Any violation of this Article is a Class A civil violation. Each day a violation exists is a separate offense.
- (b) *Payment.* A fine may be paid by the campaign only if all public contributions have been repaid to the Fund. Otherwise, the candidate or officer found to be responsible for the violation is personally liable for the fine.
- (c) *Additional penalties.*
 - (1) In addition to the penalty specified in Subsection 16-30(a), a certified or participating candidate must withdraw from the

public campaign financing system if the candidate intentionally or knowingly provides falsified information, misrepresents a material fact, or conceals relevant information to the Board or Director under this Article.

- (2) A candidate that must withdraw from the public campaign financing system under (c)(1) must abide by the withdrawal requirements in Section 16-25, including the repayment of any public contribution received.

[16-27. Committee to Recommend Funding for the] 16-31. Public Election Fund Committee; County liaison.

- (a) Committee established. The [Committee to Recommend Funding for the] Public Election Fund Committee [consists of 5] is 7 members appointed by the County Council for a [four] 4-year term beginning on May 1 of the first year of the Council's term of office. A vacancy occurring before the end of a term must be filled by appointment for the remainder of the term. The Council must ask the County Executive to recommend within 30 days one or more qualified applicants before making any appointment.
- (b) Membership; officers.
 - (1) Each member must be a resident of the County while serving on the Committee.
 - (2) No more than 3 members [must be of] may be from the same political party.
 - (3) The members should reflect the diversity of the County.
 - (4) The Council must designate the chair and vice-chair.

- (c) Compensation. Each member must serve without compensation, but may be reimbursed for [reasonable expenses] travel and dependent care expenses.
- (d) Duties. The Committee must [issue a report to the Council on or before March 1 of each year estimating]:
 - (1) estimate the funds necessary to implement the public campaign finance system [and recommending an appropriation to the Public Election Fund for the following fiscal year]; and
 - (2) conduct public outreach and education activities to raise awareness of the public campaign financing system.
- (e) Annual report. The Committee must issue a report to the Council on or before January 30 each year that:
 - (1) identifies the estimated funds necessary to implement the public campaign financing system;
 - (2) recommends an appropriation to the Public Election Fund for the following fiscal year; and
 - (3) the public outreach and education activities undertaken in the prior calendar year.
- (f) Staff support. The Executive Director of the Office of the County Council must provide staff support for the Committee.

16-32. County liaison.

The County Executive must designate an employee to serve as a liaison between County government and the public, candidates, and potential candidates on issues related to the public campaign finance program.