



COUNTY COUNCIL FOR MONTGOMERY COUNTY, MARYLAND

APPROVED

Tuesday, November 2, 2021

The County Council for Montgomery County, Maryland convened via video conference at 9:30 A.M. on Tuesday, November 2, 2021.

PRESENT

Councilmember Tom Hucker, President

Councilmember Andrew Friedson

Councilmember Will Jawando

Councilmember Nancy Navarro

Councilmember Gabe Albornoz, Vice President

Councilmember Evan Glass

Councilmember Sidney Katz

Councilmember Craig Rice

Councilmember Hans Riemer

The President in the Chair.

PRESENTATIONS

- A. Proclamation was presented by Mr. Rice and County Executive Elrich recognizing Carbon Monoxide Awareness Month
- B. Proclamation was presented by Mr. Hucker honoring Susan Kenedy's service to the Montgomery County Council.

GENERAL BUSINESS

- A. Announcements – Agenda and Calendar Changes

- (1) [The Council is seeking applicants for the Charter Review Commission](#)
Ms. Singleton, Clerk of the Council, announced that the Council is seeking applications for the Charter Review Commission.

In anticipation of the transmission of the Report from the Redistricting Commission, the Council has tentatively scheduled a briefing on November 9, 2021, at 2:00 P.M.

(2) B. **Acknowledgement – Receipt of Petitions**

No petitions were received this week.

C. **Action – Approval of Minutes**

Approved the minutes of September 28 and October 5, 2021, without objection. Mr. Jawando and Mr. Riemer were temporarily absent.

(3) **DISTRICT COUNCIL SESSION**

A. **Introduction - Resolution to approve use of Advance Land Acquisition Revolving Fund (ALARF) for acquisition of real property from Imperial Investment Company to create a South Silver Spring Urban Recreational Park**

Introduced a resolution to approve use of Advance Land Acquisition Revolving Fund (ALARF) for acquisition of real property from Imperial Investment Company to create a South Silver Spring Urban Recreational Park, sponsored by the District Council at the request of the Planning Board. Action is tentatively scheduled for November 9, 2021.

(4) **CONSENT CALENDAR**

Approved the following consent calendar items listed below. Mr. Katz made the motion, which carried without objection.

- A. Adopted **Resolution 19-1035**, confirming the County Executive's appointment to the Adult Public Guardianship Review Board: Ellen Franks.
- B. Adopted **Resolution 19-1036**, confirming the County Executive's appointments to the Pedestrian, Bicycle and Traffic Safety Advisory Committee: Tomas Bridle, David Helms, John Kellenberg, Zachary Weinstein, Fabiola A. Yurcisin.
- C. Adopted **Resolution 19-1037**, confirming the County Executive's appointment to the Revenue Authority: Stephen Edwards.
- D. Adopted **Resolution 19-1038 and Resolution 19-1039**, FY22 Supplemental Appropriations and Amendments to the Montgomery County Public School's (MCPS) FY 21-26 Capital Improvements Program (CIP) Transfer of Funds - Capital Projects.

- E. Adopted **Resolution 19-1040 and Resolution 19-1041**, FY22 Capital Budget and Amendments to the MCPS FY21-26 CIP Transfer of Funds for the Charles W. Woodward High School Reopening Project.
- F. **Received and Released** the Office of Legislative Oversight (OLO) Report 2021-11, Transportation Barriers to Medical Appointments.
- G. Adopted **Resolution 19-1042**, confirming the County Executive's appointment to the Washington Suburban Transit Commission: Christopher Zappi.

(4.5)

COUNCIL SITTING AS BOARD OF HEALTH

Introduced a resolution to adopt an Amended Board of Health Regulation to prevent the spread of COVID-19, and indoor mask guidance in Montgomery County. Action is scheduled for later in the meeting.

Participating in the discussion were Dr. Bridgers, Acting Chief Public Health Officer and Dr. Stoddard, Assistant Chief Administrative Officer.

Mr. Friedson proposed two new amendments to the resolution to establish December 31, 2021, as the end date of the mandate, and to include reporting requirements from the Health Officer to the Board of Health regarding various COVID-19 data points. The Health Officer is also tasked with providing recommendations at that time. Mr. Friedson later withdrew these amendments.

The Council recessed at 10:40 A.M. and reconvened at 1:31 P.M.

(5)

PUBLIC HEARING - Bill 35-21, Prevailing Wage Requirements - Construction Contracts - Amendments

The public hearing was conducted. Additional material for the Council's consideration should be submitted by the close of business on November 9, 2021. A Government Operations & Fiscal Policy (GO) committee worksession will be scheduled at a later date.

(6)

PUBLIC HEARING - Zoning Text Amendment 21-06, Exemptions - Density Transfer and Historic Resources

The public hearing was conducted. Additional material for the Council's consideration should be submitted by the close of business on November 9, 2021. A Planning, Housing & Economic Development (PHED) committee worksession will be scheduled at a later date.

- (7) **PUBLIC HEARING** - Special Appropriation to the County Government's FY22 Operating Budget, Guaranteed Income Non-Departmental Account (NDA) - Guaranteed Income Pilot Program - \$1,993,832

The public hearing was conducted. Additional material for the Council's consideration should be submitted by the close of business on November 2, 2021.

COUNCIL SITTING AS THE BOARD OF HEALTH

- (7.5) **PUBLIC HEARING** Resolution to adopt an Amended Board of Health Regulation to prevent the spread of COVID-19, and indoor mask guidance in Montgomery County

The public hearing was conducted.

- (7.6) **ACTION** - Resolution to adopt an Amended Board of Health Regulation to prevent the spread of COVID-19, and indoor mask guidance in Montgomery County.

In response to concerns expressed by Mr. Riemer, Mr. Rice shared that personal protective equipment (PPE) with clear face windows should be utilized for special needs and language instruction and that he would follow up with Dr. McKnight, Montgomery County Public Schools (MCPS) Acting Superintendent, to ensure that they have and are using this PPE as much as possible.

At Mr. Jawando's request, Mr. Friedson confirmed that approximately 85% of the population would need to be fully vaccinated in order to rescind the indoor mask mandate, which requires approximately 75% of the 5-11-year-old population to be vaccinated.

Mr. Glass requested more information on plans to provide a timeline to vaccinate 100% of the adult population.

Adopted Resolution **19-1043**, approving the Amended Board of Health Regulation to prevent the spread of COVID-19 and provide indoor mask guidance.

Mr. Albornoz made the motion and the Resolution was adopted by a roll call vote:

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

Before voting on the resolution, Mr. Hucker reiterated the Board of Health's intention to protect the health and safety of the County. He also shared that vaccinating the youth is the key to keeping schools open and continuing in-person learning.

(8)

UPDATE - MCPS COVID-19 Health Planning and Efforts to Address Pandemic Related Learning Loss

Received an update on updated quarantine guidance, an overview of the COVID-19 Operations Advisory Group, pediatric vaccine distribution efforts, and how Montgomery County Public Schools (MCPS) is addressing pandemic-related learning disruption.

MCPS staff participating in the discussion included Mr. D'Andrea, Chief of Staff, Ms. Iszard, Coordinator of Student Health and Wellness, Office of Student and Family Support and Engagement, Mr. Everett Davis, Associate Superintendent, Office of Student and Family Support and Engagement, Ms. Dublinksy, MCPS Systemwide COVID-19 Coordinator. Also participating in the discussion was Dr. Bridgers, Acting Chief Health Officer.

Mr. Hucker requested clarification as to the number of elementary schools that will have vaccination clinics and shared his preference to increase the number of elementary schools used, rather than bussing students to middle school sites.

Mr. Hucker requested a timeline for MCPS' new COVID-19 quarantine guidelines and requested that MCPS ensure that their COVID Dashboard is updated with accurate data. Mr. D'Andrea reported that this information will be shared on November 3, 2021.

Ms. Navarro requested that MCPS begin targeted outreach to families now for the pediatric vaccine, specifically to Black and Brown communities, using the same model that was successful in helping increase adult vaccination rates in these communities. Ms. Navarro requested an update in one week.

Mr. Rice requested a focus on and assistance provided to those in need, as well as communities of color. Additionally, he supports continued efforts to provide transportation to families to access vaccines.

Mr. Friedson also noted the MCPS COVID-19 Dashboard data concerns. Mr. D'Andrea expects that the data will be corrected by approximately November 12, 2021, at the latest. Mr. Friedson requested that a statement noting the data error should be noted on the dashboard until it is corrected.

Mr. Friedson requested that Dr. Bridgers provide clarification in writing to the Council regarding what the rules are, who is responsible, and what needs to be

done for the Test to Stay program. Additionally, Mr. Friedson requested that non-public school providers be included in communications from DHHS regarding COVID-19 guidelines and Test to Stay program requirements.

MCPS presented a report on the Evidence of Learning study results. Topics of the presentation included readiness levels, overall mathematics readiness, overall literacy readiness, mitigation plans to address learning disruptions, school improvement planning, instructional and professional learning priorities, areas of work to meet district goals, examples of assessments of and for learning, acceleration of learning, tutoring and intervention support, and professional learning.

Participants in the discussion were Dr. Addison, Director of the Office of Shared Accountability, Ms. Hazel, Associate Superintendent, Office of Curriculum and Instructional Programs.

Noting the teacher shortage, Mr. Hucker asked MCPS for an update on teacher recruitment efforts, including efforts to recruit within Montgomery County. Mr. D'Andrea shared that the Office of Human Resources and Development is working to fill the immediate needs and thinking creatively and strategically on recruiting efforts. More information will be shared with the Board of Education on Tuesday, November 9, 2021 and will be shared with Council as well. In response to Mr. Hucker's question, Mr. D'Andrea will provide the Council with the number of teacher substitute positions unfilled each day, but noted that compensation is subject to negotiations with Montgomery County Education Association (MCEA).

Mr. Jawando requested specific information regarding teacher vacancies, citing approximately 325 current vacancies. Mr. D'Andrea stated that MCPS is actively recruiting teachers and will follow up with a report that will be presented to the Board of Education next week.

**COUNTY COUNCIL
FOR MONTGOMERY COUNTY, MARYLAND
IN LEGISLATIVE SESSION - Day #30**

(9) Introduction of Bills:

A. **Bill 40-21, Individual Water Supply and Sewage Disposal Systems - Amendments**

Introduced draft #1 of **Bill 40-21**, sponsored by County Executive at the request of the Council President. A public hearing is scheduled for November 30, 2021, at 1:30 P.M.

(10) **Call of Bills for Final Reading:**

A. **Motion under Council Rule of Procedure 10(d)/Action on Expedited Bill**
[Expedited Bill 30-21, Landlord-Tenant Relations - Restrictions During Emergencies - Extended Limitations Against Rent Increases and Late Fees](#)

Approved without objection Mr. Albornoz's motion to remove the subject Expedited Bill from the table.

Mr. Riemer moved to include an amendment to keep the PHED Committees' recommendation, with the addition of changing the expiration date from August 2022 to May 2022, and to include the clarifications recommended by the Department of Housing and Community Affairs (DHCA), as supported by the PHED Committee. DHCA recommended that a tenant may qualify for a waiver of late fees by submitting an attestation, without DHCA's oversight, and that the landlord must not require proof, or challenge the veracity of, a tenant's attestation.

Mr. Jawando seconded the motion.

Mr. Friedson requested that the proposed amendment be split into two separate amendments to allow a vote on the late fee and end date and another regarding the DHCA enforcement. Mr. Riemer had no objections to this suggestion.

Approved Mr. Riemer's motion to amend the bill to establish the late fee and end date, without objection.

Approved Mr. Riemer's motion regarding DHCA enforcement by a vote of 8 to 1. Mr. Friedson was opposed.

Enacted draft #7 of **Bill 30-21** as amended and shown at the end of these minutes.

Mr. Jawando made the motion and bill was enacted unanimously by a roll call vote:

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

A. **Bill 45-20, Police - [Bill 45-20, Police - Community Policing - Data](#)**

Enacted draft #7 of **Bill 45-20**.

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

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

(11) Miscellaneous Business

- A. Action - [Resolution to extend expiration date until January 21, 2023 for Expedited Bill 34-20, Police - Disciplinary Procedures - Police Labor Relations - Duty to Bargain - Amendments](#)

Adopted Resolution **19-1044**, extending the expiration date until January 21, 2023, for **Expedited Bill 34-20**.

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

The meeting adjourned at 5:42 P.M.

This is a correct copy of Council action.



Selena Mendy Singleton, Esq.
Clerk of the Council

Expedited Bill No. 30-21
Concerning: Landlord-Tenant Relations –
Restrictions During Emergencies –
Extended Limitations Against Rent
Increases and Late Fees
Revised: 11/2/2021 Draft No. 7
Introduced: July 13, 2021
Enacted: November 2, 2021
Executive: _____
Effective: _____
Sunset Date: _____
Ch. , Laws of Mont. Co.

**COUNTY COUNCIL
FOR MONTGOMERY COUNTY, MARYLAND**

Lead Sponsor: Councilmember Jawando

AN EXPEDITED ACT to:

- (1) prohibit fees for [[the]] late rent payments during certain emergencies;
- (2) extend the time after an emergency during which rent increases must not exceed certain guidelines; and
- (3) generally amend the law regarding rents and fees for rental housing, and regarding landlord-tenant relations.

By amending

Montgomery County Code
Chapter 29, Landlord-Tenant Relations
Section 29-55

Laws of Montgomery County 2020
Chapter 14

Boldface

Heading or defined term.

Underlining

Added to existing law by original bill.

[Single boldface brackets]

Deleted from existing law by original bill.

Double underlining

Added by amendment.

[[Double boldface brackets]]

Deleted from existing law or the bill by amendment.

* * *

Existing law unaffected by bill.

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

Sec. 1. Section 29-55 is amended as follows:

29-55. Rent increases and late fees [[during]] following the COVID-19 state of emergency – prohibited.

- (a) *Definitions.* In this Section, the following terms have the meanings indicated.
- Emergency* means the catastrophic health emergency declared by the Governor of Maryland on March 5, 2020, as amended or extended by the Governor, under Section 14-3A-02 of the Public Safety Article of the Maryland Code.
- Tenant* has the meaning stated in Section 29-1. Tenant includes an existing tenant. Tenant does not include a prospective tenant.
- (b) *Rent increases above guidelines – when prohibited.* A landlord must not increase a tenant's rent to an amount that exceeds the voluntary rent guidelines under Section 29-53 if:
- (1) the rent increase would take effect during [[an]] the emergency; or
 - (2) notice of the rent increase does not comply with subsection (c) and Section 29-54.
- (c) *Notices of rent adjustments.*
- (1) During [[an]] the emergency and [[within]] until [[August]] May 15, 2022 [90 days] [[1 year after the expiration of an emergency]], a landlord must not notify a tenant of a rent increase if the increase would exceed the voluntary rent guidelines under Section 29-53.
 - (2) If a landlord provided notice of a rent increase to a tenant prior to the emergency and the increase would exceed the voluntary rent guidelines under Section 29-53, the landlord must inform the tenant in writing:
 - (A) to disregard the notice; or
 - (B) that the increase is amended to be less than or equal to the voluntary rent guidelines under Section 29-53.
- (d) *Late fees – when prohibited.* A landlord must not charge a fee to a tenant for the nonpayment or late payment of rent due during [[an]] the emergency, or due [[within 1 year after the expiration of the emergency]] between the expiration of the emergency and [[August]] May 15, 2022, unless the landlord first provides to the tenant, in a form prescribed by the Director:
- (1) a notification that the tenant may qualify for the waiver of late fees under subsection (e); and
 - (2) an [[application form]] attestation [[to apply]] for the tenant to [[apply for]] sign to receive the waiver.
- [(d)] (e) A landlord must waive late fees for the nonpayment or late payment of rent due during the emergency, or due between the expiration of the emergency and [[August]] May 15, 2022, if a tenant attests, in the application [[form]] prescribed by the Director under subsection (d), that the tenant:
- (1) has experienced a COVID-19 related financial hardship;
 - (2) has a gross household income at or below 50% of the area median income for the previous 30 days, or for the 2020 tax year; and
 - (3) has been a Montgomery County resident since August 2020 or earlier[[]]; and

- (4) owes \$1,000 or more to the landlord]].
- (f) A landlord must not require proof of, or challenge the veracity of, a tenant's attestation under this Section.
- (g) *Notice of expiration of emergency.* The Department must post on its website information about the requirements of this Section, including the date that [[an]] the emergency [[expires]] expired, and the date that [[is]] [90 days] [1 year after the expiration of the emergency]] requirements under this section expire.

Sec. 2. Expedited Effective Date. The Council declares that this legislation is necessary for the immediate protection of the public interest. This Act takes effect on the date on which it becomes law.

Sec. 3. Application of Late Fee Restrictions. Section 22-55(d), added under section 1 of this Act: (1) applies to any uncollected late fee for rent that became due on or after the date of the emergency, including rent that became due on or after the date of the emergency and before the effective date of this Act; but (2) does not require a landlord to refund to a tenant any payment received by the landlord prior to the effective date of this Act.

Sec. 4. Section 3 of Chapter 14 of the Laws of Montgomery County 2020 is amended as follows:

Sec. 3. Sunset date. This Act must expire, and must have no further force or effect, upon [the 181st day] [18 months following the expiration of the catastrophic health emergency declared by the Governor of Maryland on March 5, 2020, as amended or extended by the Governor]] February 15, 2023.