Resolution No.: 18-478
Introduced: May 17, 2016
Adopted: May 17, 2016

COUNTY COUNCIL
FOR MONTGOMERY COUNTY, MARYLAND

Lead Sponsor: County Council

SUBJECT: Resolution to Extend Time for Council action on Executive Regulation 14-14, *Smoking, Tobacco and Nicotine Prohibitions and Restrictions* (Department of Health and Human Services)

Background

1. On April 6, 2016, the County Council received Executive Regulation 14-14, *Smoking, Tobacco and Nicotine Prohibitions and Restrictions.*

2. The Council must review the regulation under Method (2) of Section 2A-15 of the County Code.

3. Under Method (2), if the Council does not approve or disapprove a regulation with 60 calendar days after the Council receives the regulation, the regulation automatically takes effect.

4. Code Section 2A-15 allows the Council to extend the deadline for action on a regulation under Method (2).

Action

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

The time for consideration of Executive Regulation 14-14, *Smoking, Tobacco and Nicotine Prohibitions and Restrictions*, (Department of Health and Human Services), is extended to December 31, 2016.

This is a correct copy of Council action.

Linda M. Lauer

Linda M. Lauer, Clerk of the Council

MONTGOMERY COUNTY EXECUTIVE REGULATION

Offices of the County Executive • 101 Monroe Street • Rockville, Maryland 20850

Subject Smoking, Tobacco, and Nicotine Prohibitions and Restrictions	Number 14-14
Originating Department Department of Health and Human Services	Effective Date May 17, 2016

Montgomery County Regulation On:

SMOKING, TOBACCO, AND NICOTINE PROHIBITIONS AND RESTRICTIONS

Department of Health and Human Services

Issued by: County Executive
Regulation No. 14-14
COMCOR No. 24-9

Authority: Montgomery County Code (2014) Section 24-9
Supersedes: Executive Regulation 60-91
Council Review: Method (2) under Code Section 2A-15
Register Vol. 33 No. 2

Effective Date: May 17, 2016
Comment Deadline: March 1, 2016

SUMMARY: This regulation is established to coincide with changes to Montgomery County Code (2014) Section 24-9 as a result of Montgomery County Bill 33-12 prohibiting smoking on all County owned and leased property and bus stops or stands, Council Resolution 17-210 prohibiting smoking in indoor common spaces of multi-family residential property and within 25 feet of playgrounds on such property, and Montgomery County Bill 56-14 which places certain restrictions and controls on the use and sale of e-cigarettes and other electronic nicotine delivery devices.

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Licensure and Regulatory Services
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BACKGROUND INFORMATION: Executive Regulation 60-91, Smoking Regulations and Restrictions, has not been updated since the last quadrennial review in 1992. Public perception and acceptance of smoking in public places have evolved considerably over the past two decades, resulting in the enactment of several State and Local laws to restrict and prohibit smoking in certain places. Executive Regulation 60-91 was

outdated and partially preempted by laws enacted since 1992. Executive Regulation 14-14, Smoking, Tobacco, and Nicotine Prohibitions and Restrictions, will replace Executive Regulation 60-91. The Department of Transportation and Department of General Services participated in the development of this regulation.

24.09.01.01 Definitions

In these regulations, terms defined in Section 24-9 of the County Code are applicable and not redefined; the following words and phrases have the following meanings:

Director - The Director of the Department of Health and Human Services or the Director's designee

Employee - Any person who regularly provides services to a business for compensation. Employee includes a temporary or part-time employee, contractor, or consultant.

24.09.01.02 Exceptions

The exception stated in Section 24-9(c)(2) applies only to an individual's personal vehicle.

24.09.01.03 Inspections and Enforcement

A. Authority to Investigate

1. The Director may inspect or cause to be inspected during reasonable hours, any part of a public or private facility subject to the restrictions set forth by Section 24-9 in order to determine compliance with the designation and posting provisions of the law and regulations.

2. The Director may investigate, or cause to be investigated, any complaint against an individual violating these regulations or Sections 24-9.

3. Except for rail transit stations, the Director may investigate, or cause to be investigated, any complaint involving any of the above facilities alleging that the owner or operator of the facility permits any individual to smoke in areas posted as no smoking.

4. The Health Department will forward smoking complaints involving bus, pedestrian, and/or train facilities at rail transit stations to the agency responsible for facility operation. Complaints concerning facilities operated by the Washington Metropolitan Area Transit Authority (WMATA) will be forwarded to the Director General Manager of WMATA. Complaints concerning facilities operated by the Maryland

Transit Administration (MTA) will be forwarded to the MTA Administrator.

B. Enforcement

1. County employees should report violations of Montgomery County Code (2014) Section 24-9 and this regulation in County government workplaces and public areas directly to their immediate supervisors. Employees should report continued violations to the Director. The Director will then forward these complaints, and any documented evidence, to the director of the department where the alleged violation occurred, with a copy to the Chief Administrative Officer. The director of the department must investigate the alleged violation and take necessary corrective action.

2. Private sector employees should report violations of Montgomery County Code (2014) Section 24-9 and this regulation to their employer or the person designated in the employer's written workplace policy in order to resolve the complaint. Employers must attempt to resolve complaints at the workplace. In response to complaints, the Department of Health and Human Services will inspect the workplace for compliance with this section including examination of signage and the content, clarity, dissemination, and implementation of the smoking policy.

24.09.01.04 Severability

If a court holds that a portion of this regulation is invalid, the other portions remain in effect.

24.09.01.05 Effective Date

This regulation takes effect immediately after approval by the County Council.

Isiah Leggett
County Executive

Approved as to Form and Legality

Office of the County Attorney