



## COUNTY COUNCIL FOR MONTGOMERY COUNTY, MARYLAND

**APPROVED**

Tuesday, September 24, 2019

The County Council for Montgomery County, Maryland convened in the Council Hearing Room, Stella B. Werner Council Office Building, Rockville, Maryland, at 9:36 A.M. on Tuesday, September 24, 2019.

### PRESENT

Councilmember Nancy Navarro, President  
Councilmember Gabe Albornoz  
Councilmember Evan Glass  
Councilmember Will Jawando

Councilmember Sidney Katz, Vice President  
Councilmember Andrew Friedson  
Councilmember Tom Hucker  
Councilmember Craig Rice

Councilmember Hans Riemer

The President in the Chair.

The invocation was given by Rabbi Abbi Sharofsky, Jewish Community Relations Council of Greater Washington.

### GENERAL BUSINESS

A. **Announcements** - Agenda and Calendar Changes

Ms. Lauer, Office of the Clerk of the Council, announced that the Council is seeking applicants for the Merit System Protection Board by the September 25, 2019, deadline.

(1) B. **Receipt of Petitions**

There were no petitions received this week.

C. **Approved** the minutes of September 4, 2019, and the closed session minutes of September 4, 2019, without objection. Mr. Rice was temporarily absent.

(2) **CONSENT CALENDAR**

Approved the following consent calendar items listed below.

Mr. Katz made the motion, which carried without objection. Mr. Rice was temporarily absent. Later in the meeting, Mr. Rice stated that had he been present, he would have voted in the affirmative.

- A. **Introduced** a supplemental appropriation to the County Government's FY20 Capital Budget and amendment to the FY19-24 Capital Improvements Program (CIP), Department of Transportation (DOT) - \$3,050,000 for Snouffer School Road.
- B. **Introduced** transfer of funds within the Montgomery County Public School's (MCPS) FY20 Capital Budget - \$295,000 from the North Bethesda Middle School Addition project to the Capital Budget Unliquidated Surplus Account.
- C. **Introduced** transfer of funds within the MCPS' FY20 Capital Budget - \$295,000 from MCPS' Unliquidated Surplus Account to the Bethesda-Chevy Chase High School Addition project.
- D. Adopted **Resolution 19-234**, approving an extension until March 30, 2020, of the appointment of Acting Director, Department of Finance: Michael Coveyou.
- E. Adopted **Resolution 19-235**, amending Resolution 19-128, Section G, FY20 Designation of Entities for Non-Competitive Award Status: Lt. Joseph P. Kennedy Institute, Inc.
- F. Adopted **Resolution 19-236**, confirming the County Executive's appointments to the Alcohol and Other Drug Abuse Advisory Council: Evelyn Saim-Lobos, Elyse Grossman.
- G. Adopted **Resolution 19-237**, confirming the County Executive's appointments to the Citizens Review Panel for Children: Laura Coyle, George Gabel, Jane Steinberg.
- H. Adopted **Resolution 19-238**, confirming the County Executive's appointment to the Dickerson Area Facilities Implementation Group: Paula Jensen.
- I. Adopted **Resolution 19-239**, confirming the County Executive's appointments to the Domestic Violence Coordinating Council: Spencer Cantrell, Laurie Duker, Izola Shaw, Lilah Katz.
- J. Adopted **Resolution 19-240**, confirming the County Executive's appointments to the Early Childhood Coordinating Council: Kimberly Rusnak, Taniesha Myles.

- K. Adopted **Resolution 19-241**, confirming the County Executive's appointment to the Fire and Emergency Services Commission: Scott Emmons.
  - L. Adopted **Resolution 19-242**, confirming the County Executive's appointments to the Committee Against Hate Violence: Patricia Alexander, Pablo Blank, Kelly Cooper, Sanjeet Dey, Samantha Jones, Stephanie Troyer.
  - M. Adopted **Resolution 19-243**, confirming the County Executive's appointments to the Human Trafficking Prevention Committee: Patricia Polimadei, Marirose Ungerman.
  - N. Adopted **Resolution 19-244**, confirming the County Executive's appointment to the Rustic Roads Advisory Committee: Kamran Sadeghi.
  - O. Adopted **Resolution 19-245**, confirming the County Executive's appointments to the Solid Waste Advisory Committee: Adam Diamond, Gina Angiola, Paula Jenson, Jelena Krstic, Ellen Ryan, Candy Schimming, Sara Bixby.
  - P. Adopted **Resolution 19-246**, confirming the County Executive's appointment to the Commission for Women: Adrienne Prentice.
  - Q. Adopted **Resolution 19-247**, confirming the County Executive's appointments to the Board of Education Compensation Commission: Ting Chau, Jennifer Sawin, Mark Spradley, Jaye Espy, Jason Washington.
  - R. **Received and Released** the Office of Legislative Oversight (OLO) Report 2019-16 - Findings from 2019 Racial Equity and Social Justice Community Conversations.
- (3) **ACTION** - Confirmation of the County Executive's appointee, Director, Montgomery County Public Libraries: Anita Vassallo

Adopted **Resolution 19-248**, confirming the County Executive's appointment of Anita Vassallo as Director, Montgomery County Public Libraries.

Mr. Jawando made the motion, which carried without objection. Mr. Rice was temporarily absent.

Later in the meeting, Mr. Rice stated that had he been present, he would have voted in the affirmative.

**COUNTY COUNCIL  
FOR MONTGOMERY COUNTY, MARYLAND  
IN LEGISLATIVE SESSION - Day #22**

(7) **Introduction of Bills:**

- A. **Bill 30-19, Human Rights and Civil Liberties - Race Discrimination - Protective Hairstyles (CROWN Act)**

Introduced draft #2 of the subject bill, sponsored by Councilmember Jawando and Council President Navarro, and co-sponsored by Councilmembers Riemer and Hucker. Councilmembers Albornoz and Glass requested to be added as co-sponsors. A public hearing is scheduled for October 15, 2019, at 1:30 P.M.

- B. **Bill 31-19, Health and Sanitation - Electronic Cigarettes - Distribution, Use, and Possession**

Introduced draft #2 of the subject bill, sponsored by Councilmembers Hucker and Albornoz. Councilmembers Rice, Katz, Riemer, Glass, Jawando and Navarro requested to be added as co-sponsors. A public hearing is scheduled for November 5, 2019, at 7:30 P.M.

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

- A. **Bill 22-19, Accessory Dwelling Units - Licensing - Requirements - Amendments**

Mr. Riemer, Chair of the Planning, Housing and Economic Development (PHED) Committee, reviewed the Committee's recommendations, as contained in the staff report.

Enacted draft #9 of **Bill 22-19**, as contained at the end of these minutes.

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

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

Because the meeting was ahead of schedule, the Council recessed at 9:55 A.M. until 11:05 A.M.

(4) **COMMEMORATION** - [Hispanic Heritage Month](#)

Council President Navarro and Councilmember Albornoz welcomed attendees and commented on the contributions made to the County by members of the Hispanic community. A video was presented celebrating the accomplishments of the following Montgomery County residents: Jonathan Acosta, singer and writer; Claudia Campos Galván, Program Director, Nueva Vida; the Honorable Ana Sol Gutiérrez, former Maryland State Delegate; Moisés Linares, Sports Anchor, Telemundo-NBC; Ricardo Loaiza, Executive Director, After School Dance Fund; the Honorable Maricé Morales, former Maryland State Delegate; Javier Solís, entrepreneur, Toro Taxes; and Maria Jose Solís, Toro Taxes. Mr. Acosta presented a musical performance.

Awards were presented to the interviewed in the video in appreciation for their service to the community.

The meeting recessed at 12:20 P.M. and reconvened at 1:30 P.M.

(5) **PUBLIC HEARING** - [FY21 Washington Suburban Sanitary Commission \(WSSC\) Spending Control Limits](#)

The public hearing was conducted. Mr. Albornoz, Mr. Hucker and Mr. Riemer were temporarily absent. Additional material for the Council's consideration should be submitted by the close of business on October 7, 2019.

A Transportation and Environment (T&E) Committee worksession is tentatively scheduled for October 10, 2019.

(6) **PUBLIC HEARING/ACTION** - [Supplemental appropriation to the County Government's FY20 Operating Budget, DOT - \\$98,150 for Streets and Roads - Roadside Trees - Protection](#)

The public hearing was held and the record closed.

Adopted **Resolution 19-249**, approving the subject supplemental appropriation.

Mr. Katz made the motion, which carried without objection. Mr. Hucker and Mr. Riemer were temporarily absent.

The meeting adjourned at 1:42 P.M.

This is a correct copy of Council action.

*Approved/Signed by the Clerk*

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Mary Anne Paradise  
Acting Clerk of the Council

Bill No. 22-19  
 Concerning: Accessory Dwelling Unit –  
Licensing – Requirements –  
Amendments  
 Revised: 09/11/2019 Draft No. 9  
 Introduced: July 16, 2019  
 Enacted: September 24, 2019  
 Executive: \_\_\_\_\_  
 Effective: December 31, 2019  
 Sunset Date: None  
 Ch. \_\_\_\_\_, Laws of Mont. Co. \_\_\_\_\_

**COUNTY COUNCIL  
 FOR MONTGOMERY COUNTY, MARYLAND**

Lead Sponsors: Councilmembers Riemer, Friedson, Jawando and Council President Navarro  
 Co-sponsors: Councilmembers Alborno, and Hucker

**AN ACT to:**

- (1) replace the phrase “accessory apartment” with “accessory dwelling unit”;
- (2) amend the standards for minimum ceiling heights for basements or cellars used for accessory dwelling;
- (3) amend the accessory dwelling unit licensing procedures concerning ownership and common ownership associations;
- (4) require information and notice concerning common ownership communities in the application and review of an accessory dwelling unit license;
- (5) require reporting by the Executive of accessory dwelling unit problems and planned solutions; and
- (6) generally amend the law governing accessory dwelling units and habitable space.

By amending

Montgomery County Code  
 Chapter 2, Administration  
 Section 2-140  
 Chapter 26, Housing and Building Maintenance Standards  
 Section 26-5  
 Section 26-18A  
 Chapter 29, Landlord–Tenant Relations  
 Sections 29-1, 29-19, 29-20, 29-24, 29-26, 29-27, and 29-28

<b>Boldface</b>	<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:*



49 (d) an individual living unit.

50 \* \* \*

51 **29-19. Licensing procedures.**

52 (a) To obtain a rental housing license, the prospective operator must apply on a form  
53 furnished by the Director and must pay the required fee. If the Director notifies  
54 the applicant of any violation of law within 30 days, the Director may issue a  
55 temporary license for a period of time the Director finds necessary to achieve  
56 compliance with all applicable laws.

57 (b) Accessory [apartment]dwelling unit rental license.

58 (1) An owner of a lot or parcel in a zone that permits accessory  
59 [apartments]dwelling units [[may]] must obtain a license to operate an  
60 accessory [apartment]dwelling unit to live in or to rent if:

61 (A) the owner places a sign provided by the Director on the lot of the  
62 proposed accessory [apartment]dwelling unit within 5 days after  
63 the Director accepts an application license. The sign must identify  
64 any requested waivers under Section 29-26(b). The sign provided  
65 by the Director must remain in place on the lot for a period of time  
66 and in a location determined by the Director.

67 (B) [the principal dwelling on the lot or parcel required for the  
68 proposed accessory apartment is the owner’s primary residence.]  
69 the principal dwelling or accessory dwelling unit [[must be]] is the  
70 primary residence of the applicant for an accessory dwelling unit  
71 rental license. Evidence of primary residence includes:

- 72 (i) the owner’s most recent Maryland income tax return;
- 73 (ii) the owner’s current Maryland driver’s license; or
- 74 (iii) the owner’s real estate tax bill for the address of the  
75 proposed accessory [apartment]dwelling unit; [and]

76 (C) the applicant certifies to the Director that an accessory dwelling  
77 unit is not prohibited by any common ownership community  
78 [[bylaws or rules, or a rental lease]] governing documents and any  
79 common ownership community fees for the dwelling unit are no  
80 more than 30 days past due; and

81 (D) the Director finds that:

82 (i) the accessory [apartment]dwelling unit satisfies the  
83 standards for an accessory [apartment]dwelling unit in  
84 Section 59.3.3.3 and if needed, a Hearing Examiner granted  
85 a waiver under Section 29-26; or

86 (ii) the accessory [apartment]dwelling unit was approved under  
87 Article 59-G as a special exception under the Zoning  
88 Ordinance applicable before October 30, 2014 or [or] under  
89 2014 Zoning Ordinance §59.3.3.3 as a conditional use.

90 (2) Upon receipt of an application for an accessory [apartment]dwelling unit  
91 license, the Director must:

92 (A) send a copy of the application to the Office of Zoning and  
93 Administrative Hearings and the governing body for any  
94 applicable common ownership community, within 5 days after the  
95 date the application was accepted by the Director;



- 96 (B) inspect the lot or parcel identified in the application and the
- 97 proposed accessory [apartment]dwelling unit;
- 98 \* \* \*
- 99 (3) The Director may renew a license for an accessory [apartment]dwelling
- 100 unit at the request of the applicant if:
- 101 (A) the applicant:
- 102 (i) attests that the number of occupants will not exceed the
- 103 requirements of Section 26-5 and there will be no more
- 104 than 2 residents in the [apartment]dwelling unit who are
- 105 older than 18 years;
- 106 (ii) attests that one of the dwelling units on the lot or parcel
- 107 will be the primary residence of the owner; and
- 108 (iii) acknowledges that by obtaining a license the applicant
- 109 gives the Director the right to inspect the lot or parcel
- 110 including the accessory [apartment]dwelling unit.
- 111 (4) The Director may renew a Class 1 license for an accessory
- 112 [apartment]dwelling unit that was approved as a special exception, as a
- 113 Class 1 license if the conditions of the special exception remain in effect
- 114 and the applicant is in compliance with those conditions.
- 115 (5) The Director may transfer an accessory [apartment]dwelling unit license
- 116 to a new owner of a licensed [apartment]dwelling unit if the new owner
- 117 applies for the transfer. The conditions and fees for any transfer are the
- 118 same as the conditions and fees for a license renewal.
- 119 (6) The Director must maintain a public list and map showing each Class 3
- 120 license and each accessory [apartment]dwelling unit with a Class 1
- 121 license.
- 122 \* \* \*

**29-20. Fees.**

- 124 (a) Except as provided in subsections (b) and (c), the annual licensing fee per
- 125 dwelling unit is:
- 126 (1) for a Class 1 multi-family rental facility license:
- 127 (A) \$44.00 per dwelling unit in an apartment complex or an accessory
- 128 [[apartment]] dwelling unit approved by special exception; and
- 129 (B) \$59.00 per dwelling unit for all others;
- 130 (2) for a Class 2 single-family rental facility license, \$101.00 per dwelling unit;
- 131 (3) for a Class 3 accessory [[apartment]] dwelling unit license \$101.00 per unit.
- 132 (b) *Fee exemption for an accessory dwelling unit occupied by an individual with*
- 133 *disabilities.*
- 134 (1) A license applicant is exempt from any fee associated with the licensure of
- 135 an accessory [[apartment]] dwelling unit occupied by an individual with
- 136 disabilities.
- 137 (2) To establish that an individual with disabilities occupies an accessory
- 138 [[apartment]] dwelling unit, a license applicant annually must certify, on a
- 139 form provided by the Director, that an occupant of the accessory
- 140 [[apartment]] dwelling unit:
- 141 \* \* \*

**29-24. Transferability.**

\* \* \*

144 (b) Any person who takes over the operation of licensed rental housing may transfer  
 145 the license for the unexpired portion of the term for which it was issued by  
 146 applying to the Director within 15 days after taking over operation and paying a  
 147 license transfer fee of at least \$5 per dwelling unit, but not exceeding \$25.  
 148 Nothing in this Section affects the validity of any sale, transfer, or disposition of  
 149 any interest in real estate. This subsection does not apply to accessory  
 150 [apartments]dwelling units.

\* \* \*

152 **29-26. Appeals, Waivers, and Objections.**

\* \* \*

153 (b) Waivers and objections concerning any new accessory [apartment]dwelling unit  
 154 license.

155 (1) The applicant for a new license for an accessory [apartment]dwelling unit  
 156 may request a waiver of a standard to the extent allowed by Section  
 157 59.3.3.3 or object to an adverse finding of fact by the Director by filing a  
 158 waiver or an objection and a request for a hearing with the Office of  
 159 Zoning and Administrative Hearings.

160 (2) Any other aggrieved person may file an objection and request for a  
 161 hearing with the Office of Zoning and Administrative Hearings by:

- 162 (A) objecting to any finding of fact by the Director; or
- 163 (B) alleging that on-street parking is inadequate.

164 (3) A request for a waiver or an objection must be submitted to the Office of  
 165 Zoning and Administrative Hearings within 30 days after the date of the  
 166 Director’s report and must state the basis for the waiver or objection.

167 (4) The Hearing Examiner must send notice of an adjudicatory hearing to the  
 168 applicant and any aggrieved person who filed an objection within 10 days  
 169 after the waiver or objection is received and conduct any such hearing  
 170 within 30 days of the date the objection is received unless the Hearing  
 171 Examiner determines that necessary parties are unable to meet that  
 172 schedule.

173 (5) The Hearing Examiner may only decide the issues raised by the waiver or  
 174 objection.

175 (6) The Hearing Examiner may waive [on-street] on-site parking standards if:

- 176 (A) the available on-street parking for residents within 300 feet of the  
 177 proposed accessory [apartment] dwelling unit would permit a  
 178 resident to park on-street near his or her residence on a regular  
 179 basis; and

- 180 (B) the proposed accessory [apartment] dwelling unit is not likely to  
 181 reduce the available on- street parking within 300 feet of the  
 182 proposed accessory apartment.

183 (7) The Hearing Examiner may find that more than the minimum on-site  
 184 parking must be required as a condition of the license and may impose  
 185 other conditions to assure adequate parking on granting the waiver.

186 [(8) The Hearing Examiner may waive the distance separation standards  
 187 between Accessory Apartments when the separation does not result in an  
 188 excessive concentration of similar uses, including other conditional uses,  
 189 in the general neighborhood of the proposed Accessory Apartment.]

190 **29-27. Contents of lease.**

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- (q) Permit the tenant to sublease the dwelling unit with the landlord's written permission, which the landlord must not unreasonably withhold. This subsection does not apply to:
  - (1) a rental dwelling unit in a common ownership community if a valid legal restriction prohibits subleasing;
  - (2) an accessory [apartment] dwelling unit;
  - (3) a mobile home under Section 29-66; or
  - (4) an individual living unit.

\* \* \*

**29-28. Leasing requirements generally.**

- (a) A copy of each written lease form used by a landlord must be filed with the Director.
- (b) Each landlord must give each prospective tenant a copy of the proposed lease. Prospective tenants must have the right to examine the proposed lease at any location the tenant chooses.
- (c) The landlord must offer each lease for an initial term of two years, and a two-year term at each renewal, unless the landlord has reasonable cause to offer a different term.
  - (1) This subsection does not apply to:
    - (A) a rental unit located in a common ownership community if an applicable legal restriction prohibits a 2-year lease;
    - (B) an accessory [apartment] dwelling unit;
    - (C) a mobile home under Section 29-66; or
    - (D) an individual living unit.

\* \* \*

**Sec. 2. Effective Date.**

This Act takes effect on December 31, 2019.

