

Resolution No.: 19-1061  
Introduced: November 30, 2021  
Adopted: November 30, 2021

**COUNTY COUNCIL  
FOR MONTGOMERY COUNTY, MARYLAND**

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Lead Sponsor: Council President at the request of the County Executive

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**SUBJECT:** Approval of Executive Regulation 11-21, Landlord-Tenant Relations - Obligations of Landlord – Window Guards

**Background**

1. On October 29, 2021, the County Council received Executive Regulation 4-21, Landlord-Tenant Relations - Obligations of Landlord – Window Guard.
2. This regulation implements the requirements for window guards in certain rental housing that were enacted in Bill 51-20, Landlord-Tenant Relations – Window Guards, also known as Ezechiel’s Law.
3. The Council must review the regulation under Method (2) of Section 2A-15 of the County Code. Under Method (2), if the Council does not approve or disapprove a regulation within 60 calendar days after the Council receives the regulation, it automatically takes effect.
4. On November 15, 2021, the Planning, Housing, and Economic Development Committee reviewed the proposed regulation and recommended approval.

**Action**

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

Executive Regulation 11-21, Landlord-Tenant Relations - Obligations of Landlord – Window Guards, is approved.

This is a correct copy of Council action.



Selena Mendy Singleton, Esq.  
Clerk of the Council



# MONTGOMERY COUNTY EXECUTIVE REGULATION

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

Subject Landlord-Tenant Relations – Obligations of Landlord – Window Guards	Number 11-21
Originating Department Housing and Community Affairs	Effective Date: 1/1/2022

Department of Housing and Community Affairs

Montgomery County Regulation on:

## **Landlord-Tenant Relations – Obligations of Landlord – Window Guards**

Issued By: County Executive

Regulation Number: 11-21

Authority: Montgomery County Code, 2014, Section 29-30(a)(11) and Section 29-35D

Supersedes: N/A

Council Review: Method Two (2) under Code Section 2A-15

Register: Volume 38, Issue 9

Comment Deadline: September 30, 2021

Effective Date: January 1, 2022

Sunset Date: None

**SUMMARY:** This regulation implements the requirements of Section 29-35D of the Montgomery County Code regarding the requirement that landlords install and maintain window guards in certain multi-family rental housing.

**ADDRESSES:** Information and copies of this regulation are available from the Department of Housing and Community Affairs (DHCA), 1401 Rockville Pike, Fourth Floor, Rockville, MD 20852.

**STAFF**

**CONTACT:** Daniel McHugh, Manager  
Housing Code Enforcement  
Department of Housing and Community Affairs  
Telephone Number 240-777-3735



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## MONTGOMERY COUNTY CODE CHAPTER 29, SEC. 29-35D LANDLORD-TENANT RELATIONS – WINDOW GUARDS

### COMCOR 29.35D.01 Window Guards Required

#### 29.35D.01.01 Purpose

This regulation provides minimum safety standards and administrative procedures under Section 29-35D of the Code concerning the installation and maintenance of Window Guards in certain multi-family rental housing (i) occupied by children under the age of 11 or (ii) when a tenant makes a written request that Window Guards be installed in the tenant's unit. A multi-family housing unit is considered occupied by a child under the age of 11 if the child is physically present in an apartment or condominium rental unit, either on a permanent or semi-permanent basis as a member of the tenant's household, or on a non-permanent but re-occurring or frequent basis.

#### 29.35D.01.02 Definitions

All terms herein have the same meanings as those in Chapter 29 of the Code and are included here for convenience.

- (a) *Department* means the Department of Housing and Community Affairs.
- (b) *Director* means the Director of the Department of Housing and Community Affairs or the Director's designee.
- (c) *Landlord* means the owner, the owner's agent, lessor, or sublessor of the dwelling unit authorized to exercise any aspect of the management of the premises, except persons engaged solely in custodial and maintenance functions.
- (d) *Window Guard* means a physical barrier, or limiting device such as a window stop, attached to a window to prevent occupants from falling out of the window, as further specified in this regulation.

#### 29.35D.01.03 Technical Specifications for all Window Guards

- (a) *Building Code and permits.* All construction, reconstruction, installation, or other work associated with this regulation must be done in accordance with all applicable building codes adopted by Montgomery County and all applicable permits must be obtained prior to commencing work.
- (b) *Installation.* A Landlord must strictly follow the instructions accompanying Window Guards to ensure the proper and safe installation of the Window Guards for each specific type of window for which the Window Guard is intended, including the manufacturer's width and height specifications for the window and the Window Guard.
- (c) *Window Guard condition.* All Window Guards used must be in like-new, undamaged condition at the time of installation.



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- (d) *Material.* Window Guards must be constructed of rigid metal, free of sharp projections, edges, or rough surfaces, and must permit natural light and ventilation to pass through it.
- (e) *Limitations on opening.*
  - (1) Window Guards must be constructed and installed to prevent the passage of a solid sphere four (4) inches in diameter at every space and interval, including between rails, bars, slats, and the around the perimeter of the Window Guard.
  - (2) Limiting devices must be installed to prevent a window from opening more than four (4) inches.
- (f) *Minimum weight resistance.* At a minimum, Window Guards must bear a one hundred and fifty pound (150 lb.) load at its center span when extended to its maximum width, as specified by the manufacturer.
- (g) *Screws.* All Window Guards must be secured with screws made of metal supplied by, or specified by, the manufacturer in order to safely and properly install the Window Guard. Screws must be counter-sunk flush with the stile or stopping device.
- (h) *Coating.* The coating on Window Guards must not contain lead-based paint, as certified by the manufacturer.
- (i) *Non-telescoping bars.* For Window Guards utilizing non-telescoping bars, there must be a permanent spot weld on at least two (2) of the horizontal bars in order to provide a minimum of two (2) inches overlap when the Window Guard is fully extended.
- (j) *Telescoping bars.* For Window Guards utilizing telescoping bars:
  - (1) when the Window Guard is fully extended to the maximum allowable width, there must be a minimum overlap of five (5) inches, or one-third (1/3) of the length of the bar, whichever is greater; and
  - (2) there must be an additional stile or other approved support at the telescopic opening of the outer tubing of the bars that prevents the bars from spreading once the Window Guard is installed.
- (k) *Mounting holes.* The stiles must each have at least two (2) mounting holes. If Window Guards are more than fifteen (15) inches in height, additional mounting holes are required to provide a maximum interval of eighteen (18) inches between mounting holes.
- (l) *Fire escapes.* Window Guards must not be installed on windows providing access to fire escapes.
- (m) *Structurally sound installation.* Window Guards must be installed only in structurally sound (non-rotting) mountings or tracks.

### 29.35D.01.04 Additional Technical Specifications for Single/Double Hung Windows

- (a) *Window coverage.* Window Guards must regulate or control the full openable area of each window.



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- (b) *Mounting L stops.* Window Guards must be installed so that the bottom horizontal members are mounted a maximum of four (4) inches above the windowsill; and stops as specified in subsections (c), (d), and (e) below must be installed to limit the opening above the lowest section of the top horizontal bar of the Window Guard to four (4) inches when the bottom window is raised.
- (c) *Limiting devices/window stops.* Rigid metal "L" shaped stops must be a minimum of one-half (1/2) the width of the window track. Each side of the "L" shaped stop must be at least two (2) inches long with one side securely fastened to the upper tracks on each side of the bottom window to prevent the bottom window from being raised more than four (4) inches above the lowest section of the top horizontal bar of the Window Guard.
- (d) *Metal strip installation.* Where "L" shaped stops cannot be placed in the window track without interfering with the normal operation of the window, a rigid metal strip may be securely fastened across the track of the bottom window to prevent the lower window from being raised more than four (4) inches above the lowest section of the top horizontal bar of the Window Guard.
- (e) *Rigid L stops.* In situations where the stops described in (c) and (d) above cannot be used, such as in ballast windows, rigid metal "L" shaped stops may be securely fastened to the frame of the window to prevent the lower window from being raised more than four (4) inches.

### 29.35D.01.05 Additional Technical Specifications for Other Common Window Types

- (a) *Casement and other types of windows.* Window Guards must be used on casement windows and must fill the entire window opening, limiting the passage of a solid sphere four (4) inches in diameter through every space or interval in the Window Guard.
- (b) *Sliding and pivoting windows.* Sliding windows and vertical pivoting windows may use stopping devices as follows:
  - (1) *Sliding windows.* A solid metal block, measuring at least one-half (1/2) the depth of the window track and one-half (1/2) the width, must be securely fastened to the bottom window track, and a solid metal block or an "L" shaped metal stop must be securely fastened into the upper window track, to prevent the window from opening more than four (4) inches.
  - (2) *Vertical pivoting windows.* Metal stopping devices must be securely fastened to the upper and lower window frames to prevent the window from pivoting open more than four (4) inches. The height of the stopping devices must extend no less than one (1) inch nor more than two (2) inches beyond the window frame, as needed, to stop the window from opening more than four (4) inches. The protruding edge of the stopping device must be smooth and rounded.
- (c) *Other window types.* A Landlord whose buildings include window types not specified in 29.35D.01.04 or 29.35D.01.05 must request a variance from the Department in accordance with 29.35D.02.07.

### 29.35D.01.06 Compliance Information

The Landlord must maintain onsite at the rental property, and have available for review by the Department, the following information: an up-to-date inventory of the model(s) of Window Guards used in the rental housing; the



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location of Window Guards by unit; the number of Window Guards installed in each unit; and a statement indicating that all Window Guards meet the requirements of this regulation.

## 29.35D.02.07 Variances

- (a) *Compliance is infeasible.* In limited situations in which a Landlord's compliance with the Window Guard technical requirements provided in this regulation are structurally infeasible, a Landlord may request that the Director grant a variance from the technical requirements.
- (b) *Requirements of proposed substituted device.* In order for a variance request to be considered, the Landlord must demonstrate that the substituted device or devices proposed by the Landlord meet the same criteria and standards of safety prescribed in this regulation, including but not limited to, installing the device safely and securely, limiting the opening of the window to no more than four (4) inches, and preventing the passage of a solid sphere four (4) inches in diameter at every space and interval of the device, including around its perimeter.
- (c) *Variance request in writing.* A Landlord must request a variance from the Director in writing.
- (d) *Variance request for multiple properties.* A Landlord desiring a variance for more than one property must submit a separate written request for each property.
- (e) *Variance request requirements.* The written request for a variance must be submitted to: Department of Housing and Community Affairs, 1401 Rockville Pike, 4<sup>th</sup> Floor, Rockville, Maryland 20852, Attn: Director. The written request must include the following information:
  - (1) the name, address, phone number, and email address of the Landlord;
  - (2) the rental license number, address or addresses of the multi-family rental housing for which a variance is being requested, and the type and number of windows involved;
  - (3) a detailed reason for the request, including a description of the condition or conditions warranting the request;
  - (4) a photo and/or mechanical drawing of the window or windows for which a variance is being requested depicting the structural issue necessitating the request;
  - (5) a description, and a photo and/or mechanical drawing, of the proposed alternative device; and
  - (6) if the Landlord is requesting the Director's consideration of a limiting device, the variance request must also include a sample of the alternative device, along with the hardware for installation.
- (f) *Contents of Landlord certification.* The written request must include the following certification, signed by the Landlord:



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“By submitting and signing this request for a variance under Section 29-35D of the Montgomery County Code, I/we certify that such a variance is necessary due to factors which make compliance with the County’s requirements infeasible. Furthermore, I/we certify that if a variance is approved by the Director, I/we will conduct annual inspections and ongoing monitoring of the device installed to ensure the device’s ongoing integrity and safety.”

- (g) *Director discretion.* Approval of a variance request is at the sole discretion of the Director. Approval will be granted only upon a satisfactory finding that a variance is justified and appropriate, and that the granting of a variance will ensure that all safety requirements herein are met.
- (h) *Limitations on variance.* If approved, a variance may be granted for a limited period of time. The continued appropriateness of the variance will be subject to review, renewal, or retraction by the Director at the expiration of the prescribed time period. The Director may require documentation from the Landlord supporting the Landlord’s request to continue the variance.

## 29.35D.02.08 Tenant Notification and Education

- (a) *Current tenant notification.* A Landlord must notify current tenants in writing of the tenants’ rights relating to Window Guards, on a form prescribed by the Department, by no later than February 1, 2022. Thereafter, tenants must be notified of their rights at least once annually at the earlier of lease renewal or notice of rent increase. The Landlord must inform tenants that they may request a Window Guard at any time, even if the tenant previously indicated that they did not want a Window Guard.
- (b) *New tenants.* New tenants must be notified of their rights relating to Window Guards at the time of lease signing.
- (c) *Delivery of tenant notification.* A Landlord may deliver the Window Guard notification by any of these delivery methods: in person, by hand delivery to a unit, or by mailing the notice to the unit. A Landlord must document the date and method of delivery of each notice.
- (d) *Tenant responsibility.* A tenant must complete, sign, and date the notification form (tenant-executed notification form) and return it to the Landlord within thirty (30) days of receipt. If the Landlord has not received the tenant-executed notification form from a tenant within the required timeframe, the Landlord must deliver an additional notification to the tenant. The Landlord must document the date and method of delivery for each attempted notice.



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- (e) *Removing Window Guards.* A Landlord may remove a Window Guard from an unoccupied unit, or upon the written request of a tenant if the unit is not occupied by a child under the age of 11.

Marc Elrich, County Executive

Date: 10/29/2021

Approved as to Form and Legality:

Office of the County Attorney

Date: 10-30-21