AGENDA ITEM 4C & 6A October 2, 2018 Introduction

MEMORANDUM

September 28, 2018

TO:

County Council

FROM:

Amanda Mihill, Legislative Attorney Christie

SUBJECT:

Bill 35-18, Health and Sanitation - Smoking - Outdoor Serving Areas

Resolution to adopt Bill 35-18, Health and Sanitation - Smoking - Outdoor Serving

Areas as a Board of Health Regulation.

PURPOSE:

Introduction - no Council votes required

Bill 35-18, Health and Sanitation – Smoking – Outdoor Serving Areas, sponsored by Lead Sponsor Councilmember Katz and Co-Sponsors Council President Riemer and Councilmembers Elrich and Rice, is scheduled to be introduced on October 2. A public hearing is tentatively scheduled for October 23, 2018 at 1:30 p.m. A companion Board of Health regulation is also scheduled to be introduced.

Bill 35-18 and the Board of Health regulation would prohibit smoking in certain outdoor serving areas.

This packet contains:	<u>Circle #</u>
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Bill No35-	-18
Concerning: Health	and Sanitation -
	oor Serving Areas
Revised: 8/22/2018	B Draft No. 1
Introduced: Octob	
Expires: April 2	
Enacted:	
Executive:	
Effective:	<u> </u>
Sunset Date:	
Ch Laws of M	Mont. Co.

COUNTY COUNCIL FOR MONTGOMERY COUNTY, MARYLAND

Lead Sponsor: Councilmember Katz

Co-Sponsors: Council President Riemer and Councilmembers Elrich and Rice

AN ACT to:

- (1) prohibit smoking in certain outdoor serving areas; and
- (2) generally amend County law on smoking.

By amending

Montgomery County Code Chapter 24, Health and Sanitation Section 24-9

Boldface Heading or defined term.

<u>Underlining</u>
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:

1	Sec. 1	. Section 24-9 is amended as follows
2	24-9. Smoki	ing in public places.
3	(a)	Definitions. In this Section, the following words and phrases have the
4		meanings indicated:
5		* * *
6		Eating and drinking establishment means an establishment regulated
7		under Chapter 15.
8		* * *
9		Outdoor serving area means a patio, deck, porch, or other outdoor
10		seating or serving area, whether partially enclosed or open to the sky,
11		that is permitted for outdoor eating or drinking under the control of an
12		eating and drinking establishment.
13		* * *
14	(b)	Smoking prohibited in certain public places. A person must not smoke
15		in or on any:
16		* * *
17		(10) enclosed auditorium, concert or lecture hall; [or]
18		(11) property that is owned or leased by the County, including a bus
19		shelter or bus stop area, but excluding any other part of a County
20		right-of-way[.]; or
21		(12) outdoor serving area, except while actively passing on the way to
22		another destination.
23		* * *
24	(f)	Duty to prevent smoking in certain areas. The owner or person in
25		control of a building or area covered by this Section must refuse to serve
26		or seat any person who smokes or vapes where smoking or vaping is

prohibited, and must ask	the person to leave the building or area if the	
person continues to smoke or vape after proper warning.		
Approved:		
Hans D. Riemer, President, County Council	Date	
Approved:		
Isiah Leggett, County Executive	Date	
This is a correct copy of Council action.		
Megan Davey Limarzi, Esq., Clerk of the Co	uncil Date	

LEGISLATIVE REQUEST REPORT

Bill 35-18

Health and Sanitation - Smoking - Outdoor Serving Areas

DESCRIPTION:

Bill 35-18 would prohibit smoking in certain outdoor serving areas.

PROBLEM:

According to the Centers for Disease Control, there is no risk-free level

of secondhand smoke exposure; even brief exposure can be harmful to

health.

GOALS AND OBJECTIVES: To protect the health of residents.

COORDINATION:

Health and Human Services

FISCAL IMPACT:

To be requested

ECONOMIC IMPACT:

To be requested

EVALUATION:

To be requested.

EXPERIENCE

To be researched.

ELSEWHERE:

SOURCE OF **INFORMATION:** Amanda Mihill, Legislative Attorney 240-777-7815

APPLICATION

WITHIN

MUNICIPALITIES:

To be researched.

PENALTIES:

N/A

Resolution No.:	
Introduced:	
Adopted:	

COUNTY COUNCIL FOR MONTGOMERY COUNTY, MARYLAND SITTING AS THE MONTGOMERY COUNTY BOARD OF HEALTH

Lead Sponsor: Councilmember Katz Co-Sponsors: Council President Riemer and Councilmembers Elrich and Rice

SUBJECT: Resolution to adopt Bill 35-18, Health and Sanitation – Smoking – Outdoor Serving Areas as a Board of Health Regulation.

Background

- 1. County Code §2-65, as amended, provides that the County Council is, and may act as, the County Board of Health, and in that capacity may adopt any regulation which a local Board of Health is authorized to adopt under state law.
- 2. Maryland Code Health-General Article §3-202 authorizes the County Board of Health to adopt rules and regulations regarding any nuisance or cause of disease in the County.
- 3. On [Date], the County Council enacted Bill 35-18, Health and Sanitation Smoking Outdoor Serving Areas. Bill 35-18 prohibited smoking in certain outdoor serving areas.
- 5. On [Date], the Council held a public hearing on this regulation. As required by law, each municipality in the County and the public were properly notified of this hearing.
- 6. The County Council, sitting as the Board of Health, finds after reviewing the evidence in the record that prohibiting smoking in outdoor serving areas required by this Regulation is necessary to protect the health of County residents.

Action

The County Council for Montgomery County, Maryland, sitting as the County Board of Health, approves the following resolution:

1. The provisions of Section 24-9 of the Montgomery County Code, entitled "Smoking and using electronic cigarettes in public places.", as amended by Bill 35-18, Health and

Sanitation – Smoking – Outdoor Serving Areas, are adopted as a Board of Health regulation. A copy of Bill 35-18 is attached to this resolution.

2. This resolution takes effect on [100 days after adoption].

This is a correct copy of Council action.

Megan Davey Limarzi, Esq. Clerk of the Council

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