MEMORANDUM

October 19, 2018

TO:

County Council

FROM:

Amanda Mihill, Legislative Attorney

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:

Public Hearing - 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, was introduced on October 2. A Health and Human Services Committee worksession is tentatively scheduled for November 1, 2018 at 9:30 a.m. A companion Board of Health regulation is also scheduled for public hearing.

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

This packet contains:	Circle #
Bill 35-18	1
Legislative Request Report	4
Board of Health Regulation	5

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Bill No.	35	<u>-18</u>	
Concerning:	Health	and	Sanitation -
Smoking	– Outdo	or Se	rving Areas
Revised: 8	/22/2018	3	Draft No2
Introduced:	Octob	er 2.	2018
Expires:	April	2. 202	0
Enacted:			
Executive:			
Effective:			
Sunset Date			
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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

<u>Underlining</u>

[Single boldface brackets]

Double underlining

[[Double boldface brackets]]

Heading or defined term.

Added to existing law by original bill.

Deleted from existing law by original bill.

Added by amendment.

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. Smoking and using electronic cigarettes 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 and vaping are prohibited in certain public places. A person
15	must not smoke or use any electronic cigarette 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 is
25	control of a building or area covered by this Section must refuse to serv
26	or seat any person who smokes or vapes where smoking or vaping i

	prohibited, and must ask the person to I	eave the building or area if the	
	person continues to smoke or vape after proper warning.		
Approv	ved:		
Hans D	D. Riemer, President, County Council	Date	
Approv	ved:		
Isiah L	eggett, County Executive	Date	
This is	a correct copy of Council action.		
Megan	Davey Limarzi, Esq., Clerk of the Council	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:

A violation of Section 24-9 is a Class C violation.

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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