

MEMORANDUM

October 19, 2018

TO: County Council

FROM: Amanda Mihill, Legislative Attorney *AM*

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:	<u>Circle #</u>
Bill 35-18	1
Legislative Request Report	4
Board of Health Regulation	5

Bill No. 35-18
Concerning: Health and Sanitation -
Smoking - Outdoor Serving Areas
Revised: 8/22/2018 Draft No. 2
Introduced: October 2, 2018
Expires: April 2, 2020
Enacted: _____
Executive: _____
Effective: _____
Sunset Date: _____
Ch. _____, Laws of 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

Underlining

[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:

27 prohibited, and must ask the person to leave the building or area if the
28 person continues to smoke or vape after proper warning.

29 *Approved:*

30 _____
Hans D. Riemer, President, County Council Date

31 *Approved:*

32 _____
Isiah Leggett, County Executive Date

33 *This is a correct copy of Council action.*

34 _____
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 ELSEWHERE: To be researched.

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.

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

F:\LAW\Resolutions\Board Of Health\Smoking In Outdoor Dining Areas\Board Of Health Regulation.Docx