



MONTGOMERY COUNTY EXECUTIVE REGULATION

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

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| Subject Late-Night Business Safety Plan Program | Number 004-24 |
| Originating Department Montgomery County Police Department | Effective Date |

Montgomery County Regulation on:

Late-Night Safety Plan Program

Issued by: County Executive

Authority: Montgomery County Code Section 35-13D

Council Review: Method (2) Under Code Section 2

Register Vol.41, No. 2

Comment Deadline: March 1, 2024

Effective Date:

Sunset Date: None

SUMMARY: This regulation establishes the requirement of certain businesses to submit, receive approval for, and implement a Safety Plan.

STAFF CONTACT: For further information or to obtain a copy of this regulation, contact Earl Stoddard at Earl.Stoddard@montgomerycountymd.gov or 240-777-2469

ADDRESS: Written comments on this regulation should be sent to:
Earl P. Stoddard, PhD, MPH, CEM
Office of the County Executive
101 Monroe Street, 2nd floor
Rockville, Maryland 20850

BACKGROUND: The purpose of this regulation is to ensure a uniform process for those businesses in areas experiencing higher than normal call volume in the late night hours.

Section A. Definitions

Safety Plan- A business-specific written document that summarizes the establishment's efforts to safely conduct operations for patrons and employee(s) consistent with guidelines and training described in this Regulation.



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Serious Incidents - Criminal offenses investigated by a law enforcement agency that occur inside businesses open between 12:00am - 5:00am or criminal offenses investigated by a law enforcement agency that occur in immediate proximity to a business open between 12:00am - 5:00am where there is a direct and immediate nexus to events that occurred in the business, including:

- Distribution of narcotics or other controlled dangerous substances;
- A sexual offense in the third or fourth degree under § 3-307 or § 3-308 of the Criminal Law Article of the Maryland Code; or
- A crime of violence as defined in § 14-101 of the Criminal Law Article, including:
 - abduction;
 - kidnapping;
 - manslaughter, except involuntary manslaughter;
 - mayhem;
 - maiming;
 - murder;
 - rape;
 - robbery;
 - human trafficking;
 - sexual offense of any degree;
 - use of a handgun in the commission of a felony or other crime of violence;
 - an attempt to commit any of the crimes described in the preceding bullets of this list;
 - assault in the first degree;
 - assault against a law enforcement officer or emergency medical services provider in any degree; and,
 - assault with intent of any type in any degree.

Section B. Businesses Required to Submit, Receive Approval for, and Implement a Safety Plan

Businesses required to submit a safety plan are those that have a “other tobacco products retailer” license, food license, license for on-site cannabis consumption, or liquor license where the products sold are consumed on-site at tables or other areas designated for consumption by the business, and that:

- (a). Are open to patrons from 2:00am – 5:00am; or,



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(b). Are open to patrons from 12:00am – 5:00am and have had two serious incidents within the previous 12 months.

Businesses that are required (by hours of operation) to submit a safety plan, must submit a plan within 90 days of promulgation of these regulations.

Businesses required to submit a safety plan under the serious incident provision will be notified in writing by the Montgomery County Department of Police (MCPD). These businesses must submit a plan within 90 days of the written notification by MCPD.

Businesses that are required to submit a safety plan for approval shall do so through a portal on the Montgomery County Government website.

Failure to complete or implement a safety plan is a class A violation for each day the business operates without the plan in effect except during the permitted submission or appeal timelines outlined in this Regulation.

Section C. Elements of a Safety Plan

A business safety plan shall include:

- A location specific emergency evacuation plan;
- 24-hour contact information for the business owner, manager, or other designee;
- A statement confirming that all exterior bathroom doors are free opening and cannot be locked, if the bathroom facilities have stalls;
- A statement confirming that the business has received late-night business training from the County;
- A statement committing the business to cooperate with law enforcement investigations for crimes that occur in or in close proximity to their facility with a nexus to their facility, including, but not limited to reasonable, timely, and lawful provision of evidence necessary to investigate the crime in question;
- An acknowledgement that the business is in compliance with applicable Federal, State, and County laws and regulations;
- A statement regarding any resolved or pending citations issued by a government entity in the preceding 3 years;
- A site plan for the business delineating the locations of entrances and exits used by members of the public and the locations of exterior lights and cameras, if applicable;



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- A summary of the square footage usable by members of the public and the fire code occupancy limit of the business; and,
- A summary of any applicable security measures, including security personnel, cameras, exterior lighting.

Upon a review of the site map, the County may also require, with written justification, additions to the late-night business safety plan that include:

- Security personnel and training;
- Exterior Lighting; and,
- High-definition security cameras that provide video monitoring and recording, without audio recording capacity, of the interior and exterior of each entryway into the late-night business and the cash register or till.

If a late-night business safety plan requires use of security cameras, then the business must also post signage in conspicuous locations on the interior and exterior of the establishment notifying the public that the premises are subject to video surveillance.

MCPD shall provide a safety plan template consistent with this section on the Montgomery County website.

Section D. Review of Safety Plans

The County shall establish a Safety Plan Review Panel that will receive and conduct a preliminary review of the late-night business safety plan within 30 (thirty) days of receipt of each safety plan.

Each Safety Plan Review Panel shall include a representative from:

- Office of the County Executive (CEX);
- Montgomery County Department of Police (MCPD);
- Department of Environmental Protection (DEP);
- Department of Health & Human Services (DHHS);
- Alcohol Beverage Services (ABS);
- Department of Permitting Services (DPS)
- Board of License Commissioners; and,
- Regional Service Center where the business is located.



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Section E. Appeal Process

Businesses may appeal the disapproval of a safety plan or the requirement to have to produce a safety plan under the serious incident inclusion provision before the Montgomery County Board of Appeals.

Appeals must be filed within 30 days of receipt of the decision disapproving a plan or notification of the requirement to produce a plan.

Section F. Grant Funding to Support Safety Plan Implementation – General Provisions

This section supports the late-night safety plan program, which requires businesses operating during certain hours to develop and implement business-specific plans to promote the safety of their patrons and employees.

An owner of a business that is required by the County to produce a late-night business safety plan (the Applicant) is eligible for a rebate for up to ten thousand dollars (\$10,000) for costs incurred in implementing an approved safety plan. Funding availability is subject to appropriation by the Montgomery County Council.

By applying for this funding, the Applicant agrees to comply with all applicable federal, state, and local laws and regulations. If Applicant is a tenant of a building, the Applicant further agrees to comply with all applicable building requirements.

Section G. Grant Funding to Support Safety Plan Implementation – Application

An Applicant shall submit a business safety plan reimbursement application on the form prescribed by MCPD once the business safety plan has been approved and implemented.

A completed application shall include:

- (a). The completed form prescribed by MCPD;
- (b). Proof of purchase of an applicable device or service;
- (c). Demonstration of the appearance of each requested item for reimbursement in the business safety plan approved by the County;



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(d). Pictures and self-certification of installation of all required physical equipment for which reimbursement is being sought, including cameras, lighting, or signage;

(e). Upon the determination that an Applicant has complied with all the requirements, and subject to the availability of funds, the applicable reimbursement amount shall be provided to the Applicant.

Section H. Grant Funding to Support Safety Plan Implementation – Reimbursement Issuance

Upon the determination that an Applicant has complied with all the requirements of this regulation, and subject to the availability of funds, the applicable reimbursement amount shall be processed by the Montgomery County Government Finance Department and the funds sent to the Applicant at the address provided on the application form.

Approved:

Marc Elrich
County Executive

Date

APPROVED AS TO FORM AND LEGALITY
OFFICE OF THE COUNTY ATTORNEY:



Haley M. Roberts
Assistant County Attorney

1/23/2024

Date