

Bill No. 13-19
Concerning: County Property –
Disposition – Reuse Analysis
Revised: 5/6/2019 Draft No. 2
Introduced: May 7, 2019
Enacted: July 30, 2019
Executive: _____
Effective: _____
Sunset Date: None
Ch. _____, Laws of Mont. Co. _____

COUNTY COUNCIL FOR MONTGOMERY COUNTY, MARYLAND

Lead Sponsor: Councilmember Alborno
Co-Sponsors: Councilmembers Rice, Jawando, Friedson, Council President Navarro, Council Vice
President Katz and Councilmembers Riemer, Hucker and Glass

AN ACT to:

- (1) modify the procedures for disposition of County property;
- (2) require the Executive to submit a reuse analysis to the **[[County]] Council**; and
- (3) generally amend the County law regarding disposition of County property.

By amending

Montgomery County Code
Chapter 11B, Contracts and Procurement
Section 11B-45

Boldface	<i>Heading or defined term.</i>
<u>Underlining</u>	<i>Added to existing law by original bill.</i>
[Single boldface brackets]	<i>Deleted from existing law by original bill.</i>
<u>Double underlining</u>	<i>Added by amendment.</i>
[[Double boldface brackets]]	<i>Deleted from existing law or the bill by amendment.</i>
* * *	<i>Existing law unaffected by bill.</i>

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

1 **Sec. 1. Section 11B-45 is amended as follows:**

2 **11B-45. Disposition of real property.**

3 (a) The County Executive must adopt regulations to establish a process for
4 the disposition of any real property owned or controlled by the County,
5 other than surplus school facilities and property of nominal value
6 identified in the regulation. The regulations must provide for:

7 (1) coordination among [public] County departments and outside
8 agencies, including any municipality in which the real property is
9 located;

10 (2) opportunity to reserve property for alternative public use;

11 (3) comparative analysis of reuse proposals from County departments
12 and outside agencies before any disposition actions; and

13 (4) public notice and hearing on possible dispositions before final
14 decision on disposition, except that the County Executive may
15 waive the public hearing requirement for any real property that:

16 (A) has nominal value; or

17 (B) is recommended to be reused by the County government.

18 (b) As used in this Section the following words have the meanings
19 indicated[.]:

20 (1) County Department means any department or office within the
21 executive branch of the Montgomery County Government.

22 (2) [disposition] Disposition means a sale, a lease or license for a term
23 of 2 years or longer, or a lease or other document which includes
24 an option to buy. If a license or lease for an initial term of less than
25 2 years is extended or renewed beyond 2 years, that extension or
26 renewal is a disposition. Disposition does not include:

27 [(1)] (A) a lease of or license to use any parkland, or any facility
28 located on parkland, that the Parks Department operates or
29 manages for the County;

30 [(2)] (B) a license to use County property that is coterminous with
31 a contract for services performed by the licensee;

32 [(3)] (C) a license to use County property to provide child or adult
33 day care services;

34 [(4)] (D) a sale or lease of property to the Housing Opportunities
35 Commission for housing development;

36 [(5)] (E) a sale of one or more housing units obtained by the
37 County using its right of first refusal under Section 11A-3
38 or 11A-4, Chapter 25A, or Chapter 53A, and resold for not
39 less than the County paid; or

40 [(6)] (F) a transfer of County right-of-way that is needed to
41 implement a road or transit project that is included in the
42 applicable master or other land use plan.

43 (3) Outside agency means:

44 (A) the Housing Opportunities Commission;

45 (B) the Maryland-National Capital Park & Planning
46 Commission;

47 (C) Montgomery College;

48 (D) Montgomery County Public Schools;

49 (E) the Revenue Authority;

50 (F) the Washington Suburban Sanitary Commission; and

51 (G) municipalities located in Montgomery County.

52 * * *

53 (d) Before seeking Council approval of a declaration of no further need under
54 subsection (e), the Executive must submit to the Council and allow the
55 Council at least 30 days to comment on:

56 (1) all material terms of the disposition, including the price or rent to
57 be paid and any associated economic incentives; [and]

58 (2) any appraisal that the Executive relied on or will rely on in setting
59 the property’s market value[.]; and

60 (3) the comparative analysis of reuse proposals required in paragraphs
61 (a)(3) and (h), including any proposals received from an outside
62 agency.

63 * * *

64 (e) (1) In addition to the process required under subsection (a), before the
65 disposition of any real property owned or controlled by the County
66 (other than a property which has either nominal value or an
67 appraised value lower than \$100,000) becomes final:

68 [(1)] (A) the Executive must publish a declaration in the County
69 Register and post a notice on the County website that the
70 County has no further need for the property or, if the
71 disposition is a lease or license, has no further need for the
72 property during the term of the lease or license; and

73 [(2)] (B) the Council, by resolution adopted after the Council holds
74 a public hearing with a least 15 days advance notice, must
75 approve[;]:

76 [(A)] (i) the Executive’s declaration of no further need; and

77 [(B)] (ii) any disposition of the property at less than full
78 market value.

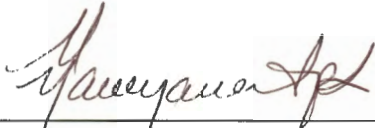
- 79 (C) The Council may disapprove the Executive’s declaration of
 80 no further need if the Council finds that:
 81 (i) there is further need for the real property;
 82 (ii) a County department or outside agency has expressed
 83 need for the real property; or
 84 [[~~(ii)~~] (iii) approval of the declaration is contrary to the
 85 public interest.
- 86 (2) The Director must adjust the \$100,000 floor in this subsection on
 87 July 1 every third year by the percentage increase or decrease in
 88 the applicable Consumer Price Index for All Urban Consumers
 89 (CPI-U) for the Washington-Arlington-Alexandria Core Based
 90 Statistical Area (CBSA), as published by the United States
 91 Department of Labor, Bureau of Labor Statistics, or any successor
 92 index, during the previous 3 calendar years, rounded to the nearest
 93 \$1000.
- 94 (3) The Council may waive the public hearing required by this
 95 subsection if it concludes that a hearing on a particular proposed
 96 disposition is not necessary to properly assess the proposed action.
- 97 (4) If the Council does not act under this subsection within 60 days
 98 after the Executive has submitted the proposed action, the
 99 proposed action is automatically approved. The Council may
 100 extend the 60-day deadline by resolution if the Council President
 101 has informed the Executive, within 30 days after the Executive
 102 submitted the proposed action, that the Council has not received
 103 all information necessary to review the proposed action. If the 60-
 104 day deadline would fall during August or from December 15

105 through December 31, the deadline is automatically extended until
106 the next scheduled Council session.

107 (5) This subsection and subsection (c) do not apply to any disposition
108 of property that will be used primarily for housing development if
109 the recipient legally commits to the Director of the Department of
110 Housing and Community Affairs that at least 30% of the housing
111 units built on the property will be moderately priced dwelling units
112 or other units that are exempt from the development impact tax
113 under Section 52-41(g)(1)-(4).

114 * * *

Approved:



7/30/19

Nancy Navarro, President, County Council

Date

Approved:

Marc Elrich, County Executive

Date

This is a correct copy of Council action.

Megan Davey Limarzi, Esq., Clerk of the Council

Date