| Bill No. | 33-12 | |
|---------------|---------------------------------|--------------|
| Concerning: _ | Health and | Sanitation - |
| Smoking - | County Proj | perty |
| Revised: 2/ | 12/2013 | Draft No. 3 |
| Introduced: _ | November : | 27, 2012 |
| Enacted: | February 12 | 2, 2013 |
| Executive: | February 25 | 5, 2013 |
| Effective: | May 27, 20 | 13 |
| Sunset Date: | None | |
| Ch 5 La | ws of Mont. (| Co 2013 |

COUNTY COUNCIL FOR MONTGOMERY COUNTY, MARYLAND

By: Councilmembers Floreen, Navarro, Rice, Riemer, Leventhal, Elrich, and Andrews

AN ACT to:

- (1) prohibit smoking on property owned or leased by the County; 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. |
|---|--|
| | 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:

Sec. 1. Section 24-9 is amended as follows

| 2 | 24-9. | Smokin | g in | public | places. |
|---|-------|---------------|------|--------|---------|
|---|-------|---------------|------|--------|---------|

(a) *Definitions*. In this Section, the following words and phrases have the meanings indicated:

5 * * *

Bus stop means a location that has been designated by a pole and appropriate signage as a place where passengers board or alight a bus.

Bus stop area means a rectangular area surrounding a bus stop pole which extends 25 feet along the curb on each side of the pole and 15 feet from the curb.

- [[(1)]] Eating and drinking establishment[[: An]] means an establishment regulated under Chapter 15.
- [[(2)]] *Enclosed*[[: Separated]] <u>means separated</u> by walls that extend from floor to ceiling and under a roof.
- [[(3)]] Health care facility[[: Any]] means any office or institution where individual care or treatment of physical, mental, or emotional illness, or any other medical, physiological, or psychological condition is provided. Health care facility includes any hospital, clinic, nursing home for the aging or chronically ill,

| 20 | laboratory, or office of any physician, dentist, psychologist, |
|----|--|
| 21 | psychiatrist, physiologist, podiatrist, optometrist or optician. |
| 22 | [[(4)]] Person[[: Any]] means any individual, firm, partnership, |
| 23 | association, corporation, company, or organization of any kind. |
| 24 | [[(5)]] Public place[[: An]] means an enclosed area in which members |
| 25 | of the public are normally invited or permitted. |
| 26 | [[(6)]] Public meeting[[: Any]] means any meeting wherever held, open |
| 27 | to the public with no membership requirement. |
| 28 | [[(7)]] Rail transit station[[: An]] means an area that: |
| 29 | [[(A)]] (1) Includes the fare-paid and roofed areas; |
| 30 | [[(B)]] (2) is a regular stopping place for the pickup and |
| 31 | discharge of passengers in regular route service, contract |
| 32 | service, or special or community type service; and |
| 33 | [[(C)]] (3) Is owned, operated, or controlled by the Washington |
| 34 | Metropolitan Area Transit Authority. |
| 35 | [[(8)]] Retail store[[: Any]] means any establishment whose primary |
| 36 | purpose is to sell merchandise or food for consumption off the |
| 37 | premises, directly to consumers. |
| 38 | [[(9)]] Smoking[[: The]] means the act of lighting, smoking, or carrying |
| 39 | a lighted or smoldering cigar, cigarette, or pipe, of any kind. |

| 40 | | [[(10)]] Tobacco shop[[: Any]] means any store that primarily sells |
|----|-----|--|
| 41 | | tobacco, tobacco products and pipes or other implements used to |
| 42 | | smoke tobacco. "Tobacco shop" does not include an area of a |
| 43 | | larger store in which tobacco is sold. |
| 44 | | [[(11)]] Workplace[[: An]] means an enclosed area or any part of an |
| 45 | | enclosed area used in the performance of employment or related |
| 46 | | activities. Workplace includes a motor vehicle owned or leased |
| 47 | | by the employer, conference room, auditorium, library, office |
| 48 | | machine station, lunchroom, vending area, locker room, lounge, |
| 49 | | hallway, or stairwell. |
| 50 | (b) | Smoking prohibited in certain public places. A person must not smoke |
| 51 | | in <u>or on</u> any: |
| 52 | | * * * |
| 53 | | (9) Restroom, except a restroom in a private residence; [or] |
| 54 | | (10) Enclosed auditorium, concert or lecture hall[.]; or |
| 55 | | (11) property that is owned or leased by the County, [[except]] |
| 56 | | including a bus shelter or bus stop area, but excluding any other |
| 57 | | part of a County right-of-way. |
| 58 | (c) | Exceptions. Smoking is not prohibited by this Section: |
| 59 | | * * * |

| 60 | | (5) | In up to 40% of the sleeping rooms in a hotel or motel; [[and]] |
|----|------------|-------------|---|
| 61 | | (6) | In up to 40% of the premises of a fraternal, religious, patriotic, or |
| 62 | | | charitable organization or corporation or fire company or rescue |
| 63 | | | squad during an event that the organization or corporation holds |
| 64 | | | on its own property and which is open to the public[[.]]; |
| 65 | | (7) | In the bar and dining area of an eating and drinking establishment |
| 66 | | | that: |
| 67 | | | (A) is a club as defined in the state alcoholic beverages law: |
| 68 | | | (B) has an alcoholic beverages license issued to private clubs |
| 69 | | | under the state alcoholic beverages law; and |
| 70 | | | (C) allows consumption of alcoholic beverages on its |
| 71 | | | premises[[.]]; |
| 72 | | <u>(8)</u> | In any occupied residential unit owned or leased by the County |
| 73 | | | for as long as the occupant on May 27, 2013 retains possession of |
| 74 | | | the unit; |
| 75 | | <u>(9)</u> | On a golf course; and |
| 76 | | <u>(10)</u> | In an area designated by the Director of the Department of Health |
| 77 | | | and Human Services under subsection (d). |
| 78 | <u>(d)</u> | Notw | thstanding paragraph (b)(11), the Director of the Department of |
| 79 | | Healt | and Human services may designate an outside area on property |

that is owned or leased by the County where smoking is allowed if the 80 Director finds that a complete prohibition on that property would 81 impede a program's mission or effective delivery of services. 82 [[(d)]] (e) Posting signs. 83 **(1)** 84 [[Signs]] Except as provided in paragraph (e)(4), signs prohibiting or permitting smoking, as the case may be, must be 85 posted conspicuously at each entrance to a public place covered 86 by this Section. 87 88 89 **(4)** The Director of Health and Human Services may waive the requirement of paragraph (e)(1) on County property, or require a 90 91 sign to be posted in another location, if the Director finds, after 92 consulting with the Director of General Services, that posting a sign at an entrance is not feasible. 93 [[(e)]] (<u>f</u>) 94 [[(f)]](g)95 [[(g)]] (h) 96 97 [[(h)]] (i) [[(i)]] (j) 98 [(j)](k)99

| 100 | Approved: | |
|-----|---|--------------|
| 101 | Mareyanado | Feb 13,2013 |
| | Nancy Navarro, President, County Council | Date |
| 102 | Approved: | |
| 103 | - sing forult | Zel 35, 2013 |
| | Isiah Leggett, County Executive | Date |
| 104 | This is a correct copy of Council action. | |
| 105 | Sinda M. Laner | 2/25/13 |
| | Linda M. Lauer, Clerk of the Council | Date |