



**Committee:** PHED  
**Committee Review:** Completed  
**Staff:** Linda McMillan, Senior Legislative Analyst  
**Purpose:** Final action – vote expected  
**Keywords:** Ezechiel's Law; DHCA

AGENDA ITEM #4(R)  
November 30, 2021  
**Action**

## **SUBJECT**

Resolution to Approve Executive Regulation 11-21, Landlord-Tenant Relations – Obligations of Landlord – Window Guards (Department of Housing and Community Affairs)

## **EXPECTED ATTENDEES**

None

## **COUNCIL DECISION POINTS & COMMITTEE RECOMMENDATION**

- The Planning, Housing, and Economic Development (PHED) Committee reviewed this regulation on November 15, 2021 and recommends approval.
- The PHED Committee has requested a written update by March 1, 2022 on the implementation of the window guard requirements that would include information on any issues that have been identified as the guards are installed and notice is given to tenants.

## **DESCRIPTION/ISSUE**

On April 6, 2021, the Council enacted Bill 51-20, Landlord-Tenant Relations – Window Guards, also known as Ezechiel's Law, which becomes effective January 1, 2022. The law requires installation and maintenance of window guards in certain rental housing, notification by landlords to tenants, and outreach and education by the Department of Housing and Community Affairs (DHCA). The law allows the development of executive regulations and specifically says the regulation may include requirements for requesting a variance.

## **SUMMARY OF KEY DISCUSSION POINTS**

- On October 29, 2021, the County Executive transmitted Executive Regulation 11-21. The Council must review this regulation under Method (2). Under Method (2) a regulation is automatically approved if the Council does not approve, disapprove, or extend time for consideration within 60 days.
- Landlords must install window guards in each habitable room if a child under the age of 11 occupies the unit or the tenant requests guards in writing. There are certain exceptions for things such as ground floor windows. The regulation provides detailed specifications for window guards that are allowed for certain types of windows. The window opening cannot exceed 4 inches.
- The regulation also provides for a variance when a window type is not specified. The regulation specifies the process. The landlord must request the variance in writing and must submit a separate request for each property. A landlord may request a variance if compliance is structurally infeasible or there is a request to use a substitute device that the landlord can demonstrate meets the same standards of safety.
- DHCA received comments from the Apartment and Office Building Association (AOBA). DHCA responded to each of AOBA's recommendations but made only one change which was to remove

the requirement that landlords demonstrate the proper use of the window guard as there was agreement that this was beyond the scope of the law.

**Attached:**

Resolution to Approve Executive Regulation 11-21	1
CE Memo to Council	2-3
Executive Regulation 11-21 underlined	4-11
Executive Regulation 11-21 clean	12-19
Questions/comments from Kemp	20-21
Questions/comments AOBA	22-30
Comments: Armed Forces Housing Advocates	31
Comments: National Association for Child Window Safety	32
Window Guard Lease Addendum	33-34

**Alternative format requests for people with disabilities.** If you need assistance accessing this report you may [submit alternative format requests](#) to the ADA Compliance Manager. The ADA Compliance Manager can also be reached at 240-777-6197 (TTY 240-777-6196) or at [adacompliance@montgomerycountymd.gov](mailto:adacompliance@montgomerycountymd.gov)

Resolution No.: \_\_\_\_\_  
Introduced: \_\_\_\_\_  
Adopted: \_\_\_\_\_

**COUNTY COUNCIL  
FOR MONTGOMERY COUNTY, MARYLAND**

---

Lead Sponsor: Council President at the request of the County Executive

---

**SUBJECT:** Approval of Executive Regulation 11-21, Landlord-Tenant Relations - Obligations of Landlord – Window Guards

**Background**

1. On October 29, 2021, the County Council received Executive Regulation 4-21, Landlord-Tenant Relations - Obligations of Landlord – Window Guard.
2. This regulation implements the requirements for window guards in certain rental housing that were enacted in Bill 51-20, Landlord-Tenant Relations – Window Guards, also known as Ezechiel’s Law.
3. The Council must review the regulation under Method (2) of Section 2A-15 of the County Code. Under Method (2), if the Council does not approve or disapprove a regulation within 60 calendar days after the Council receives the regulation, it automatically takes effect.
4. On November 15, 2021, the Planning, Housing, and Economic Development Committee reviewed the proposed regulation and recommended approval.

**Action**

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

Executive Regulation 11-21, Landlord-Tenant Relations - Obligations of Landlord – Window Guards, is approved.

This is a correct copy of Council action.

---

Selena Mendy Singleton, Esq.  
Clerk of the Council




OFFICE OF THE COUNTY EXECUTIVE

Marc Elrich  
County Executive

**MEMORANDUM**

October 29, 2021

TO: Tom Hucker, President  
Montgomery County Council

FROM: Marc Elrich, County Executive 

SUBJECT: Transmittal of Proposed Executive Regulation 11-21, Window Guards

The purpose of this memorandum is to transmit the proposed *Executive Regulation 11-21, Window Guards* for review and approval by the Council.

On April 19, 2021, Bill 51-20, known as “Ezekiel’s Law” was signed into law. This legislation amended section 29-30 of *Chapter 29 – Landlord-Tenant Relations* and section 26-7 of *Chapter 26 – Housing and Building Maintenance Standards* to require landlords of certain rental housing to supply window guards to any household containing a child below the age of 11, or to any household that requests such guards. Landlords are also required to notify tenants of this requirement.

Section 29-35D(b)(4) of the law permits the County Executive to develop Method 2 executive regulations to implement the requirements of the law. These include procedures for the Director to approve a landlord’s request for a variance to use a safe alternative to a window guard in a particular window if a window guard meeting the minimum safety standards set by the department is infeasible in the window.

The proposed executive regulation was published in the September 2021 Montgomery County Register, with comments accepted by the Department until September 30, 2021. A copy of the proposed regulation was posted on the Department of Housing and Community Affairs (DHCA) website, and a copy was sent to the Apartment and Office Building Association (AOBA) for review and comments.

Four comments were received. These comments have been summarized with the corresponding responses from the Department in Attachments A through A-3. The Department made only one

change based on these comments. Specifically, AOBA stated that the requirement that landlords must demonstrate the proper use of the window guard to tenants exceeded the authority of the law. Upon further review, the Department concurred with this assessment and removed that requirement from the proposed executive regulation.

If you have any questions, please contact Dan McHugh, DHCA, Chief of the Housing Code Enforcement Section, at [dan.mchugh@montgomerycountymd.gov](mailto:dan.mchugh@montgomerycountymd.gov) or 240-777-3735.

ME:cja

Enclosures: Clean copy of the proposed regulation  
Redlined copy of the proposed regulation  
Attachment A – Summary of general public comments with department's response  
Attachment A-1 – Summary of AOBA's comments with department's response  
Attachment A-2 – Letter from Ms. Kate Needham  
Attachment A-3 – Letter from Mr. Jim Graham  
Attachment B – DHCA drafted lease addendum regarding window guards

Cc: Aseem K. Nigam, Director, Department of Housing and Community Affairs  
Jennifer Bryant, Director, Office of Management and Budget  
Christopher Anderson, Chief, Division of Community Development, DHCA  
Dan McHugh, Manager, Housing Code Enforcement, DHCA



# MONTGOMERY COUNTY EXECUTIVE REGULATION

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

Subject Landlord-Tenant Relations – Obligations of Landlord – Window Guards	Number 11-21
Originating Department Housing and Community Affairs	Effective Date: 1/1/2022

Department of Housing and Community Affairs

Montgomery County Regulation on:

## **Landlord-Tenant Relations – Obligations of Landlord – Window Guards**

Issued By: County Executive

Regulation Number: 11-21

Authority: Montgomery County Code, 2014, Section 29-30(a)(11) and Section 29-35D

Supersedes: N/A

Council Review: Method Two (2) under Code Section 2A-15

Register: Volume 38, Issue 9

Comment Deadline: September 30, 2021

Effective Date: January 1, 2022

Sunset Date: None

**SUMMARY:** This regulation implements the requirements of Section 29-35D of the Montgomery County Code regarding the requirement that landlords install and maintain window guards in certain multi-family rental housing.

**ADDRESSES:** Information and copies of this regulation are available from the Department of Housing and Community Affairs (DHCA), 1401 Rockville Pike, Fourth Floor, Rockville, MD 20852.

**STAFF**

**CONTACT:** Daniel McHugh, Manager  
Housing Code Enforcement  
Department of Housing and Community Affairs  
Telephone Number 240-777-3735



# MONTGOMERY COUNTY EXECUTIVE REGULATION

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

Subject Landlord-Tenant Relations – Obligations of Landlord – Window Guards	Number 11-21
Originating Department Housing and Community Affairs	Effective Date: 1/1/2022

## MONTGOMERY COUNTY CODE CHAPTER 29, SEC. 29-35D LANDLORD-TENANT RELATIONS – WINDOW GUARDS

### COMCOR 29.35D.01 Window Guards Required

#### 29.35D.01.01 Purpose

This regulation provides minimum safety standards and administrative procedures under Section 29-35D of the Code concerning the installation and maintenance of Window Guards in certain multi-family rental housing (i) occupied by children under the age of 11 or (ii) when a tenant makes a written request that Window Guards be installed in the tenant's unit. A multi-family housing unit is considered occupied by a child under the age of 11 if the child is physically present in an apartment or condominium rental unit, either on a permanent or semi-permanent basis as a member of the tenant's household, or on a non-permanent but re-occurring or frequent basis.

#### 29.35D.01.02 Definitions

All terms herein have the same meanings as those in Chapter 29 of the Code and are included here for convenience.

- (a) Department means the Department of Housing and Community Affairs.
- (b) Director means the Director of the Department of Housing and Community Affairs or the Director's designee.
- (c) Landlord means the owner, the owner's agent, lessor, or sublessor of the dwelling unit authorized to exercise any aspect of the management of the premises, except persons engaged solely in custodial and maintenance functions.
- (d) Window Guard means a physical barrier, or limiting device such as a window stop, attached to a window to prevent occupants from falling out of the window, as further specified in this regulation.

#### 29.35D.01.03 Technical Specifications for all Window Guards

- (a) Building Code and permits. All construction, reconstruction, installation, or other work associated with this regulation must be done in accordance with all applicable building codes adopted by Montgomery County and all applicable permits must be obtained prior to commencing work.
- (b) Installation. A Landlord must strictly follow the instructions accompanying Window Guards to ensure the proper and safe installation of the Window Guards for each specific type of window for which the Window Guard is intended, including the manufacturer's width and height specifications for the window and the Window Guard.
- (c) Window Guard condition. All Window Guards used must be in like-new, undamaged condition at the time of installation.



# MONTGOMERY COUNTY EXECUTIVE REGULATION

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

Subject Landlord-Tenant Relations – Obligations of Landlord – Window Guards	Number 11-21
Originating Department Housing and Community Affairs	Effective Date: 1/1/2022

- (d) Material. Window Guards must be constructed of rigid metal, free of sharp projections, edges, or rough surfaces, and must permit natural light and ventilation to pass through it.
- (e) Limitations on opening.
- (1) Window Guards must be constructed and installed to prevent the passage of a solid sphere four (4) inches in diameter at every space and interval, including between rails, bars, slats, and the around the perimeter of the Window Guard.
- (2) Limiting devices must be installed to prevent a window from opening more than four (4) inches.
- (f) Minimum weight resistance. At a minimum, Window Guards must bear a one hundred and fifty pound (150 lb.) load at its center span when extended to its maximum width, as specified by the manufacturer.
- (g) Screws. All Window Guards must be secured with screws made of metal supplied by, or specified by, the manufacturer in order to safely and properly install the Window Guard. Screws must be counter-sunk flush with the stile or stopping device.
- (h) Coating. The coating on Window Guards must not contain lead-based paint, as certified by the manufacturer.
- (i) Non-telescoping bars. For Window Guards utilizing non-telescoping bars, there must be a permanent spot weld on at least two (2) of the horizontal bars in order to provide a minimum of two (2) inches overlap when the Window Guard is fully extended.
- (j) Telescoping bars. For Window Guards utilizing telescoping bars:
- (1) when the Window Guard is fully extended to the maximum allowable width, there must be a minimum overlap of five (5) inches, or one-third (1/3) of the length of the bar, whichever is greater; and
- (2) there must be an additional stile or other approved support at the telescopic opening of the outer tubing of the bars that prevents the bars from spreading once the Window Guard is installed.
- (k) Mounting holes. The stiles must each have at least two (2) mounting holes. If Window Guards are more than fifteen (15) inches in height, additional mounting holes are required to provide a maximum interval of eighteen (18) inches between mounting holes.
- (l) Fire escapes. Window Guards must not be installed on windows providing access to fire escapes.
- (m) Structurally sound installation. Window Guards must be installed only in structurally sound (non-rotting) mountings or tracks.

## **29.35D.01.04 Additional Technical Specifications for Single/Double Hung Windows**

- (a) Window coverage. Window Guards must regulate or control the full openable area of each window.





# MONTGOMERY COUNTY EXECUTIVE REGULATION

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

Subject Landlord-Tenant Relations – Obligations of Landlord – Window Guards	Number 11-21
Originating Department Housing and Community Affairs	Effective Date: 1/1/2022

- (b) Mounting L stops. Window Guards must be installed so that the bottom horizontal members are mounted a maximum of four (4) inches above the windowsill; and stops as specified in subsections (c), (d), and (e) below must be installed to limit the opening above the lowest section of the top horizontal bar of the Window Guard to four (4) inches when the bottom window is raised.
- (c) Limiting devices/window stops. Rigid metal "L" shaped stops must be a minimum of one-half (1/2) the width of the window track. Each side of the "L" shaped stop must be at least two (2) inches long with one side securely fastened to the upper tracks on each side of the bottom window to prevent the bottom window from being raised more than four (4) inches above the lowest section of the top horizontal bar of the Window Guard.
- (d) Metal strip installation. Where "L" shaped stops cannot be placed in the window track without interfering with the normal operation of the window, a rigid metal strip may be securely fastened across the track of the bottom window to prevent the lower window from being raised more than four (4) inches above the lowest section of the top horizontal bar of the Window Guard.
- (e) Rigid L stops. In situations where the stops described in (c) and (d) above cannot be used, such as in ballast windows, rigid metal "L" shaped stops may be securely fastened to the frame of the window to prevent the lower window from being raised more than four (4) inches.

## **29.35D.01.05 Additional Technical Specifications for Other Common Window Types**

- (a) Casement and other types of windows. Window Guards must be used on casement windows and must fill the entire window opening, limiting the passage of a solid sphere four (4) inches in diameter through every space or interval in the Window Guard.
- (b) Sliding and pivoting windows. Sliding windows and vertical pivoting windows may use stopping devices as follows:
- (1) Sliding windows. A solid metal block, measuring at least one-half (1/2) the depth of the window track and one-half (1/2) the width, must be securely fastened to the bottom window track, and a solid metal block or an "L" shaped metal stop must be securely fastened into the upper window track, to prevent the window from opening more than four (4) inches.
- (2) Vertical pivoting windows. Metal stopping devices must be securely fastened to the upper and lower window frames to prevent the window from pivoting open more than four (4) inches. The height of the stopping devices must extend no less than one (1) inch nor more than two (2) inches beyond the window frame, as needed, to stop the window from opening more than four (4) inches. The protruding edge of the stopping device must be smooth and rounded.
- (c) Other window types. A Landlord whose buildings include window types not specified in 29.35D.01.04 or 29.35D.01.05 must request a variance from the Department in accordance with 29.35D.02.07.

## **29.35D.01.06 Compliance Information**

The Landlord must maintain onsite at the rental property, and have available for review by the Department, the following information: an up-to-date inventory of the model(s) of Window Guards used in the rental housing; the



# MONTGOMERY COUNTY EXECUTIVE REGULATION

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

Subject Landlord-Tenant Relations – Obligations of Landlord – Window Guards	Number 11-21
Originating Department Housing and Community Affairs	Effective Date: 1/1/2022

location of Window Guards by unit; the number of Window Guards installed in each unit; and a statement indicating that all Window Guards meet the requirements of this regulation.

## **29.35D.02.07 Variances**

- (a) Compliance is infeasible. In limited situations in which a Landlord's compliance with the Window Guard technical requirements provided in this regulation are structurally infeasible, a Landlord may request that the Director grant a variance from the technical requirements.
- (b) Requirements of proposed substituted device. In order for a variance request to be considered, the Landlord must demonstrate that the substituted device or devices proposed by the Landlord meet the same criteria and standards of safety prescribed in this regulation, including but not limited to, installing the device safely and securely, limiting the opening of the window to no more than four (4) inches, and preventing the passage of a solid sphere four (4) inches in diameter at every space and interval of the device, including around its perimeter.
- (c) Variance request in writing. A Landlord must request a variance from the Director in writing.
- (d) Variance request for multiple properties. A Landlord desiring a variance for more than one property must submit a separate written request for each property.
- (e) Variance request requirements. The written request for a variance must be submitted to: Department of Housing and Community Affairs, 1401 Rockville Pike, 4<sup>th</sup> Floor, Rockville, Maryland 20852, Attn: Director. The written request must include the following information:
  - (1) the name, address, phone number, and email address of the Landlord;
  - (2) the rental license number, address or addresses of the multi-family rental housing for which a variance is being requested, and the type and number of windows involved;
  - (3) a detailed reason for the request, including a description of the condition or conditions warranting the request;
  - (4) a photo and/or mechanical drawing of the window or windows for which a variance is being requested depicting the structural issue necessitating the request;
  - (5) a description, and a photo and/or mechanical drawing, of the proposed alternative device; and
  - (6) if the Landlord is requesting the Director's consideration of a limiting device, the variance request must also include a sample of the alternative device, along with the hardware for installation.
- (f) Contents of Landlord certification. The written request must include the following certification, signed by the Landlord:



# MONTGOMERY COUNTY EXECUTIVE REGULATION

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

Subject Landlord-Tenant Relations – Obligations of Landlord – Window Guards	Number 11-21
Originating Department Housing and Community Affairs	Effective Date: 1/1/2022

“By submitting and signing this request for a variance under Section 29-35D of the Montgomery County Code, I/we certify that such a variance is necessary due to factors which make compliance with the County’s requirements infeasible. Furthermore, I/we certify that if a variance is approved by the Director, I/we will conduct annual inspections and ongoing monitoring of the device installed to ensure the device’s ongoing integrity and safety.”

- (g) Director discretion. Approval of a variance request is at the sole discretion of the Director. Approval will be granted only upon a satisfactory finding that a variance is justified and appropriate, and that the granting of a variance will ensure that all safety requirements herein are met.
- (h) Limitations on variance. If approved, a variance may be granted for a limited period of time. The continued appropriateness of the variance will be subject to review, renewal, or retraction by the Director at the expiration of the prescribed time period. The Director may require documentation from the Landlord supporting the Landlord’s request to continue the variance.

## **29.35D.02.08 Tenant Notification and Education**

- (a) Current tenant notification. A Landlord must notify current tenants in writing of the tenants’ rights relating to Window Guards, on a form prescribed by the Department, by no later than February 1, 2022. Thereafter, tenants must be notified of their rights at least once annually at the earlier of lease renewal or notice of rent increase. The Landlord must inform tenants that they may request a Window Guard at any time, even if the tenant previously indicated that they did not want a Window Guard.
- (b) New tenants. New tenants must be notified of their rights relating to Window Guards at the time of lease signing.
- (c) Delivery of tenant notification. A Landlord may deliver the Window Guard notification by any of these delivery methods: in person, by hand delivery to a unit, or by mailing the notice to the unit. A Landlord must document the date and method of delivery of each notice.
- (d) Tenant responsibility. A tenant must complete, sign, and date the notification form (tenant-executed notification form) and return it to the Landlord within thirty (30) days of receipt. If the Landlord has not received the tenant-executed notification form from a tenant within the required timeframe, the Landlord must deliver an additional notification to the tenant. The Landlord must document the date and method of delivery for each attempted notice.



# MONTGOMERY COUNTY EXECUTIVE REGULATION

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

Subject Landlord-Tenant Relations – Obligations of Landlord – Window Guards	Number 11-21
Originating Department Housing and Community Affairs	Effective Date: 1/1/2022

- (e) Removing Window Guards. A Landlord may remove a Window Guard from an unoccupied unit, or upon the written request of a tenant if the unit is not occupied by a child under the age of 11.

\_\_\_\_\_  
Marc Elrich, County Executive

Date: \_\_\_\_\_

Approved as to Form and Legality:

\_\_\_\_\_  
Office of the County Attorney

Date: \_\_\_\_\_



# **MONTGOMERY COUNTY EXECUTIVE REGULATION**

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

Subject Landlord-Tenant Relations – Obligations of Landlord – Window Guards	Number 11-21
Originating Department Housing and Community Affairs	Effective Date: 1/1/2022



# MONTGOMERY COUNTY EXECUTIVE REGULATION

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

Subject Landlord-Tenant Relations – Obligations of Landlord – Window Guards	Number 11-21
Originating Department Housing and Community Affairs	Effective Date: 1/1/2022

Department of Housing and Community Affairs

Montgomery County Regulation on:

## **Landlord-Tenant Relations – Obligations of Landlord – Window Guards**

Issued By: County Executive

Regulation Number: 11-21

Authority: Montgomery County Code, 2014, Section 29-30(a)(11) and Section 29-35D

Supersedes: N/A

Council Review: Method Two (2) under Code Section 2A-15

Register: Volume 38, Issue 9

Comment Deadline: September 30, 2021

Effective Date: January 1, 2022

Sunset Date: None

**SUMMARY:** This regulation implements the requirements of Section 29-35D of the Montgomery County Code regarding the requirement that landlords install and maintain window guards in certain multi-family rental housing.

**ADDRESSES:** Information and copies of this regulation are available from the Department of Housing and Community Affairs (DHCA), 1401 Rockville Pike, Fourth Floor, Rockville, MD 20852.

**STAFF**

**CONTACT:** Daniel McHugh, Manager  
Housing Code Enforcement  
Department of Housing and Community Affairs  
Telephone Number 240-777-3735



# MONTGOMERY COUNTY EXECUTIVE REGULATION

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

Subject Landlord-Tenant Relations – Obligations of Landlord – Window Guards	Number 11-21
Originating Department Housing and Community Affairs	Effective Date: 1/1/2022

## MONTGOMERY COUNTY CODE CHAPTER 29, SEC. 29-35D LANDLORD-TENANT RELATIONS – WINDOW GUARDS

### COMCOR 29.35D.01 Window Guards Required

#### 29.35D.01.01 Purpose

This regulation provides minimum safety standards and administrative procedures under Section 29-35D of the Code concerning the installation and maintenance of Window Guards in certain multi-family rental housing (i) occupied by children under the age of 11 or (ii) when a tenant makes a written request that Window Guards be installed in the tenant's unit. A multi-family housing unit is considered occupied by a child under the age of 11 if the child is physically present in an apartment or condominium rental unit, either on a permanent or semi-permanent basis as a member of the tenant's household, or on a non-permanent but re-occurring or frequent basis.

#### 29.35D.01.02 Definitions

All terms herein have the same meanings as those in Chapter 29 of the Code and are included here for convenience.

- (a) *Department* means the Department of Housing and Community Affairs.
- (b) *Director* means the Director of the Department of Housing and Community Affairs or the Director's designee.
- (c) *Landlord* means the owner, the owner's agent, lessor, or sublessor of the dwelling unit authorized to exercise any aspect of the management of the premises, except persons engaged solely in custodial and maintenance functions.
- (d) *Window Guard* means a physical barrier, or limiting device such as a window stop, attached to a window to prevent occupants from falling out of the window, as further specified in this regulation.

#### 29.35D.01.03 Technical Specifications for all Window Guards

- (a) *Building Code and permits.* All construction, reconstruction, installation, or other work associated with this regulation must be done in accordance with all applicable building codes adopted by Montgomery County and all applicable permits must be obtained prior to commencing work.
- (b) *Installation.* A Landlord must strictly follow the instructions accompanying Window Guards to ensure the proper and safe installation of the Window Guards for each specific type of window for which the Window Guard is intended, including the manufacturer's width and height specifications for the window and the Window Guard.
- (c) *Window Guard condition.* All Window Guards used must be in like-new, undamaged condition at the time of installation.



# MONTGOMERY COUNTY EXECUTIVE REGULATION

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

Subject Landlord-Tenant Relations – Obligations of Landlord – Window Guards	Number 11-21
Originating Department Housing and Community Affairs	Effective Date: 1/1/2022

- (d) *Material.* Window Guards must be constructed of rigid metal, free of sharp projections, edges, or rough surfaces, and must permit natural light and ventilation to pass through it.
- (e) *Limitations on opening.*
  - (1) Window Guards must be constructed and installed to prevent the passage of a solid sphere four (4) inches in diameter at every space and interval, including between rails, bars, slats, and the around the perimeter of the Window Guard.
  - (2) Limiting devices must be installed to prevent a window from opening more than four (4) inches.
- (f) *Minimum weight resistance.* At a minimum, Window Guards must bear a one hundred and fifty pound (150 lb.) load at its center span when extended to its maximum width, as specified by the manufacturer.
- (g) *Screws.* All Window Guards must be secured with screws made of metal supplied by, or specified by, the manufacturer in order to safely and properly install the Window Guard. Screws must be counter-sunk flush with the stile or stopping device.
- (h) *Coating.* The coating on Window Guards must not contain lead-based paint, as certified by the manufacturer.
- (i) *Non-telescoping bars.* For Window Guards utilizing non-telescoping bars, there must be a permanent spot weld on at least two (2) of the horizontal bars in order to provide a minimum of two (2) inches overlap when the Window Guard is fully extended.
- (j) *Telescoping bars.* For Window Guards utilizing telescoping bars:
  - (1) when the Window Guard is fully extended to the maximum allowable width, there must be a minimum overlap of five (5) inches, or one-third (1/3) of the length of the bar, whichever is greater; and
  - (2) there must be an additional stile or other approved support at the telescopic opening of the outer tubing of the bars that prevents the bars from spreading once the Window Guard is installed.
- (k) *Mounting holes.* The stiles must each have at least two (2) mounting holes. If Window Guards are more than fifteen (15) inches in height, additional mounting holes are required to provide a maximum interval of eighteen (18) inches between mounting holes.
- (l) *Fire escapes.* Window Guards must not be installed on windows providing access to fire escapes.
- (m) *Structurally sound installation.* Window Guards must be installed only in structurally sound (non-rotting) mountings or tracks.

## 29.35D.01.04 Additional Technical Specifications for Single/Double Hung Windows

- (a) *Window coverage.* Window Guards must regulate or control the full openable area of each window.





# MONTGOMERY COUNTY EXECUTIVE REGULATION

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

Subject Landlord-Tenant Relations – Obligations of Landlord – Window Guards	Number 11-21
Originating Department Housing and Community Affairs	Effective Date: 1/1/2022

- (b) *Mounting L stops.* Window Guards must be installed so that the bottom horizontal members are mounted a maximum of four (4) inches above the windowsill; and stops as specified in subsections (c), (d), and (e) below must be installed to limit the opening above the lowest section of the top horizontal bar of the Window Guard to four (4) inches when the bottom window is raised.
- (c) *Limiting devices/window stops.* Rigid metal "L" shaped stops must be a minimum of one-half (1/2) the width of the window track. Each side of the "L" shaped stop must be at least two (2) inches long with one side securely fastened to the upper tracks on each side of the bottom window to prevent the bottom window from being raised more than four (4) inches above the lowest section of the top horizontal bar of the Window Guard.
- (d) *Metal strip installation.* Where "L" shaped stops cannot be placed in the window track without interfering with the normal operation of the window, a rigid metal strip may be securely fastened across the track of the bottom window to prevent the lower window from being raised more than four (4) inches above the lowest section of the top horizontal bar of the Window Guard.
- (e) *Rigid L stops.* In situations where the stops described in (c) and (d) above cannot be used, such as in ballast windows, rigid metal "L" shaped stops may be securely fastened to the frame of the window to prevent the lower window from being raised more than four (4) inches.

## 29.35D.01.05 Additional Technical Specifications for Other Common Window Types

- (a) *Casement and other types of windows.* Window Guards must be used on casement windows and must fill the entire window opening, limiting the passage of a solid sphere four (4) inches in diameter through every space or interval in the Window Guard.
- (b) *Sliding and pivoting windows.* Sliding windows and vertical pivoting windows may use stopping devices as follows:
- (1) *Sliding windows.* A solid metal block, measuring at least one-half (1/2) the depth of the window track and one-half (1/2) the width, must be securely fastened to the bottom window track, and a solid metal block or an "L" shaped metal stop must be securely fastened into the upper window track, to prevent the window from opening more than four (4) inches.
- (2) *Vertical pivoting windows.* Metal stopping devices must be securely fastened to the upper and lower window frames to prevent the window from pivoting open more than four (4) inches. The height of the stopping devices must extend no less than one (1) inch nor more than two (2) inches beyond the window frame, as needed, to stop the window from opening more than four (4) inches. The protruding edge of the stopping device must be smooth and rounded.
- (c) *Other window types.* A Landlord whose buildings include window types not specified in 29.35D.01.04 or 29.35D.01.05 must request a variance from the Department in accordance with 29.35D.02.07.

## 29.35D.01.06 Compliance Information

The Landlord must maintain onsite at the rental property, and have available for review by the Department, the following information: an up-to-date inventory of the model(s) of Window Guards used in the rental housing; the



# MONTGOMERY COUNTY EXECUTIVE REGULATION

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

Subject Landlord-Tenant Relations – Obligations of Landlord – Window Guards	Number 11-21
Originating Department Housing and Community Affairs	Effective Date: 1/1/2022

location of Window Guards by unit; the number of Window Guards installed in each unit; and a statement indicating that all Window Guards meet the requirements of this regulation.

## 29.35D.02.07 Variances

- (a) *Compliance is infeasible.* In limited situations in which a Landlord's compliance with the Window Guard technical requirements provided in this regulation are structurally infeasible, a Landlord may request that the Director grant a variance from the technical requirements.
- (b) *Requirements of proposed substituted device.* In order for a variance request to be considered, the Landlord must demonstrate that the substituted device or devices proposed by the Landlord meet the same criteria and standards of safety prescribed in this regulation, including but not limited to, installing the device safely and securely, limiting the opening of the window to no more than four (4) inches, and preventing the passage of a solid sphere four (4) inches in diameter at every space and interval of the device, including around its perimeter.
- (c) *Variance request in writing.* A Landlord must request a variance from the Director in writing.
- (d) *Variance request for multiple properties.* A Landlord desiring a variance for more than one property must submit a separate written request for each property.
- (e) *Variance request requirements.* The written request for a variance must be submitted to: Department of Housing and Community Affairs, 1401 Rockville Pike, 4<sup>th</sup> Floor, Rockville, Maryland 20852, Attn: Director. The written request must include the following information:
  - (1) the name, address, phone number, and email address of the Landlord;
  - (2) the rental license number, address or addresses of the multi-family rental housing for which a variance is being requested, and the type and number of windows involved;
  - (3) a detailed reason for the request, including a description of the condition or conditions warranting the request;
  - (4) a photo and/or mechanical drawing of the window or windows for which a variance is being requested depicting the structural issue necessitating the request;
  - (5) a description, and a photo and/or mechanical drawing, of the proposed alternative device; and
  - (6) if the Landlord is requesting the Director's consideration of a limiting device, the variance request must also include a sample of the alternative device, along with the hardware for installation.
- (f) *Contents of Landlord certification.* The written request must include the following certification, signed by the Landlord:



# MONTGOMERY COUNTY EXECUTIVE REGULATION

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

Subject Landlord-Tenant Relations – Obligations of Landlord – Window Guards	Number 11-21
Originating Department Housing and Community Affairs	Effective Date: 1/1/2022

“By submitting and signing this request for a variance under Section 29-35D of the Montgomery County Code, I/we certify that such a variance is necessary due to factors which make compliance with the County’s requirements infeasible. Furthermore, I/we certify that if a variance is approved by the Director, I/we will conduct annual inspections and ongoing monitoring of the device installed to ensure the device’s ongoing integrity and safety.”

- (g) *Director discretion.* Approval of a variance request is at the sole discretion of the Director. Approval will be granted only upon a satisfactory finding that a variance is justified and appropriate, and that the granting of a variance will ensure that all safety requirements herein are met.
- (h) *Limitations on variance.* If approved, a variance may be granted for a limited period of time. The continued appropriateness of the variance will be subject to review, renewal, or retraction by the Director at the expiration of the prescribed time period. The Director may require documentation from the Landlord supporting the Landlord’s request to continue the variance.

## 29.35D.02.08 Tenant Notification and Education

- (a) *Current tenant notification.* A Landlord must notify current tenants in writing of the tenants’ rights relating to Window Guards, on a form prescribed by the Department, by no later than February 1, 2022. Thereafter, tenants must be notified of their rights at least once annually at the earlier of lease renewal or notice of rent increase. The Landlord must inform tenants that they may request a Window Guard at any time, even if the tenant previously indicated that they did not want a Window Guard.
- (b) *New tenants.* New tenants must be notified of their rights relating to Window Guards at the time of lease signing.
- (c) *Delivery of tenant notification.* A Landlord may deliver the Window Guard notification by any of these delivery methods: in person, by hand delivery to a unit, or by mailing the notice to the unit. A Landlord must document the date and method of delivery of each notice.
- (d) *Tenant responsibility.* A tenant must complete, sign, and date the notification form (tenant-executed notification form) and return it to the Landlord within thirty (30) days of receipt. If the Landlord has not received the tenant-executed notification form from a tenant within the required timeframe, the Landlord must deliver an additional notification to the tenant. The Landlord must document the date and method of delivery for each attempted notice.



# MONTGOMERY COUNTY EXECUTIVE REGULATION

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

Subject Landlord-Tenant Relations – Obligations of Landlord – Window Guards	Number 11-21
Originating Department Housing and Community Affairs	Effective Date: 1/1/2022

- (e) *Removing Window Guards.* A Landlord may remove a Window Guard from an unoccupied unit, or upon the written request of a tenant if the unit is not occupied by a child under the age of 11.

\_\_\_\_\_  
Marc Elrich, County Executive

Date: \_\_\_\_\_

Approved as to Form and Legality:

\_\_\_\_\_  
Office of the County Attorney

Date: \_\_\_\_\_



# **MONTGOMERY COUNTY EXECUTIVE REGULATION**

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

Subject Landlord-Tenant Relations – Obligations of Landlord – Window Guards	Number 11-21
Originating Department Housing and Community Affairs	Effective Date: 1/1/2022

**Public Comments Received on Proposed Executive Regulation 11-21, Window Guards, as  
advertised in the September 2021 Montgomery County Register,  
Volume 38, Issue 9**

**Commenter 1** – Richard Kemp, Regional Construction Manager, Highmark Residential, Woodstock, GA

Mr. Kemp had questions regarding two specific provisions in the proposed regulation:

**First: 29.35D.01.04 Additional Technical Specifications for Single/Double Hung  
Windows**

(a) *Window coverage.* Window Guards must regulate or control the full openable area of each window.

**Question:** Typically when apartments are inspected by the county or by REAC inspectors the egress of windows is usually a concern. Windows can be considered a source of egress and if we are only allowing a 4” openings on the windows, how do we address the egress issue and or a fire situation?

**Department Response:** The issue of emergency egress was discussed and addressed during the drafting and adoption of Bill 51-20. At that time, representatives of the county’s Department of Fire and Rescue Services (FRS) stated that window guards would not be an obstacle to rescuing occupants in the case of fire or other emergencies. DHCA also shared the proposed regulation with FRS, and it was determined that the regulation as proposed would not alter FRS’s statement that window guards will not present an obstacle to rescuing tenants in case of fire or other emergency.

**Second: 29.35D.01.01 Purpose**

This regulation provides minimum safety standards and administrative procedures under Section 29-35D of the Code concerning the installation and maintenance of Window Guards in certain multi-family rental housing (i) occupied by children under the age of 11 or (ii) when a tenant makes a written request that Window Guards be installed in the tenant's unit. A multi-family housing unit is considered occupied by a child under the age of 11 if the child is physically present in an apartment or condominium rental unit, either on a permanent or semi-permanent basis as a member of the tenant's household, or on a non-permanent but re-occurring or frequent basis.

**Question:** This will be a challenge to police individual households for compliance for children 11 and under. I’m assuming installation of window guards in every window in every apartment would solve this issue. Have you heard how other owners/properties are handling this? If I install guards in every apartment, and on every window, it brings me back to the question of egress and allowing egress especially in the case of a fire.

**Department Response:** As per the law’s requirement, DHCA has developed a lease addendum that landlords must distribute to each tenant. The addendum requires every tenant to disclose if children under age 11 occupy the unit. Please refer to the above response in regards to egress.

**Commenter 2** – Ms. Kate Needham, Founder and Director of Initiatives, Armed Forces Housing Advocates (AFHA)

Ms. Needham submitted a letter (Attachment A-2) in which she expressed support for the requirement for landlords to supply window guards to tenants.

In her letter, Ms. Needham strongly encouraged a language change in the law to exclude “limiting devices” and to only include screens that can passively support up to 60 pounds of weight, and window guards.

**Department Response:** The law permits limiting devices. The change recommended by Ms. Needham would require a change in the law and cannot be done through executive regulations.

It should be noted that the proposed regulation requires window guards to passively support up to 150 pounds. The 60-pound limit proposed by Ms. Needham is a standard recommended by the American Society for Testing and Materials (ASTM, Designation F2006-00); however, this standard was developed to protect a child up to age six and weighing up to 50 pounds. The County’s law is intended to protect children up to age 11; therefore, a higher weight limit is justified. Additionally, DHCA modeled this regulation on several other jurisdictions with similar laws, and all have determined that limiting devices do meet the objectives and requirements of the law.

Therefore, no change in the regulation is proposed.

**Commenter 3** – Mr. Jim Graham, Executive Director, National Association for Child Window Safety (NACWS)

Mr. Graham submitted a letter (Attachment A-3) in which he stated that devices that limit the opening of a window should not be allowed because tenants desiring increased ventilation will remove the devices. Therefore, only passive devices that guard the window while allowing it to open fully should be allowed.

**Department Response:** The law permits limiting devices. The change recommended by Mr. Graham would require a change in the law and cannot be done through executive regulations.

However, it should be noted that limiting devices continue to be a permitted option for landlords in New York City and New Jersey. DHCA maintains that properly and securely installed limiting devices are a safe and inexpensive method for limiting the opening of any window to four inches or less. Mr. Graham’s concern that tenants may find a way to bypass these devices to increase ventilation is mitigated by requiring that the devices be securely attached to window frames with metal screws. In this case, the department is striving to balance safety with an achievable and economical option for landlords.

Therefore, no change in the regulation is proposed.

**Commenter 4** – Ms. Nicola Whiteman, Esq., Senior Vice-President of Government Affairs, Apartment and Office Building Association of Metropolitan Washington (AOBA)

[AOBA’s letter with comments follows in its entirety as Attachment A-1, with the department’s responses included therein.]

**Other General Questions and Comments Received:** Several inquiries were made that requested DHCA’s review and approval of a specific product (window guard or limiting device). DHCA will provide on its website examples of products that we believe meet the minimum specifications, but the Department will not approve any specific product for use in meeting the requirements of the law. DHCA’s role is to set the minimum specifications for window guards and limiting devices. Individual landlords must determine if a particular product meets the minimum specifications.



**COMMENTS OF THE APARTMENT AND OFFICE BUILDING ASSOCIATION OF  
METROPOLITAN WASHINGTON ON PROPOSED MONTGOMERY COUNTY  
EXECUTIVE REGULATION NUMBER 11-21 ON  
LANDLORD-TENANT RELATIONS – OBLIGATIONS OF LANDLORD-WINDOW  
GUARDS**

**September 30, 2021**

**AOBA COMMENTS ON TECHNICAL SPECIFICATIONS**

**GENERAL COMMENTS.** The proposed language is inconsistent with the legislative intent to provide maximum flexibility to housing providers selecting window guards for installation at the certain multifamily properties. See, for example, excerpts from the May 1, 2021, worksession on the underlying bill.

- [March 1, 2021 PHED Worksession:](#)
  - “It’s not a big deal and the cost is minimal”
  - “You have to be able to remove it easily for fire safety purposes.”
  - “This is pretty minor.
  - “No more complicated than installing your smoke detector.”
  - “We’ve all seen security bars or what people call burglar bars that are iron and affixed to the masonry on the outside of a of building. Those create a fire concern and have to be installed by a professionals and are not intended to come off because they are intended to prevent an adult from getting through a window. These are flimsy little things that are strong enough to keep a toddler from falling out but they can be installed with a screwdriver by any adult.”
  - “This is a \$35 product that you can install from the inside and if the occupant doesn’t want to have it they can disengage it pretty easily and put it in a closet or something like that?”
    - DHCA “Basically yes because you have to be able to remove easily it for fire safety purposes.”

Based on the discussion at the worksessions and notably the addition of “other limiting device” to the definition of “window guard,” it was not the intent for the law and implementing regulations to impose a significant cost burden (considering, at a minimum, both the cost of the devices as proposed in the draft regulations *plus* the staff time and cost of specific professionals needed to



install the devices) on housing providers. Further, based on the PHED discussion, the committee and ultimately the Council fully intended to authorize the use of devices, examples of which are noted below.

AOBA recommends including pictures of examples of authorized window guards and “other limiting devices.”

- **Childproof Window Stoppers:** You can install wedge-like plastic window stoppers in most windows in your home, including sliding, single-hung, and double-hung ones. These convenient triangular-shaped devices will prevent windows from opening more than 4 inches (10 cm). You can find them in the local hardware store or order them online. The advantage of stoppers is that you can quickly adjust and remove them when needed. Plus, they are unobtrusive and won’t disturb the appearance of your windows.<sup>i</sup>
- **Childproof Window Stops:** You can install this childproof window wedge on your sliding, single-hung, and double-hung windows. These small devices shut the window when your kid tries to open it. That way, it is impossible for the child to open the pane more than 4 inches (10 cm), which is narrow enough that your baby can’t fall out of the window.<sup>ii</sup>
  - [Window Wedge, Window Stopper to Baby Proof and Child Proof Providing Safety for Baby, Window Security and Overall Better Home Security \(8 Total, 4 Two Packs\)\(Amazon\)](#)



- [New law to require Montgomery Co. landlords install window guards in units with small kids](#). See example an example of an approved window guard. It varies in price depending on the window size but starts around [\\$26 on the Lowe's website](#).

### **Department Response:**

The Department maintains that the proposed regulation does not impose a significant, undue or cost-prohibitive burden on landlords. The proposed regulation sets a minimum specification for window guards (including limiting devices) that consist of: (1) for single- and double-hung windows, an “L” shaped metal bracket or a metal strip screwed into a window track that prevents any window opening from exceeding 4 inches; and/or (2) a metal block, securely fastened to the track of a sliding window, that prevents the window from opening more than 4 inches.

The first product identified above is stuck to the window or window frame with an adhesive and uses Velcro to allow the wedge to be adjusted or removed. The standard set in the regulation provides for a more secure installation that could not be easily removed.

Furthermore, the Department contends that the above products are inconsistent with the safety intent of Ezechiel's Law. The product description for the window wedges states that "The advantage of stoppers is that you can quickly adjust and remove them when needed". Any device that can be removed, adjusted, engaged and disengaged by an occupant of the unit negates the intent of the statute because a missing or disengaged window guard equates to no window guard. Child falls from a window can occur in an instant when an adult leaves a room in which the window guard has been removed, adjusted, or disengaged by an occupant of the apartment. Although the statute contains language preventing a tenant from removing or disabling a window guard, this prohibition cannot practically be enforced by a landlord or the Department on a day-to-day basis. Therefore, DHCA recommends a standard that requires the window guard to be securely installed (screwed into the window frame).

For the above reasons, the Department does not support this change to the regulation.

### **29.35D.01.03 Technical Specifications for all Window Guards**

(b) *Installation.* A Landlord must ~~strictly follow the instructions accompanying Window Guards to ensure the proper and safe installation of the Window Guards for each specific type of window for which the Window Guard is intended, including the manufacturer's width and height specifications for the window and the Window guard.~~ install the window guards in conformance with the manufacturer's specifications.

**AOBA Rationale:** The above change is consistent with the standard applied in other areas of the code. Additionally, the proposed change addresses negligence per se concerns as the language as currently proposed assumes liability based on any violation including, for example, any departure from the specific installation language. Note, for example, that installation in older buildings might require some alteration to the window yet under the language above such alterations are prohibited and would constitute noncompliance.

- **Best practices:**

- Carbon Monoxide Alarms – Maryland Rental Properties: "The installation of the carbon monoxide alarms *shall be in accordance with the manufacturers recommendations* and NFPA 720 for the Installation of Carbon Monoxide Warning Equipment in Dwelling Units."
- **Ocean City Code of Ordinances Sec. 34-205** (a) Carbon monoxide detectors required by this Code *shall be installed in accordance with NFPA 720 and the manufacturer's recommendations.*
- **Prince George's County Code "Sec. 11-295(b)(1)** "... The owner/occupant of each dwelling unit shall be responsible for installing, inspecting and maintaining the carbon monoxide detectors *in accordance with the manufacturer's specifications.*
-

### **29.35D.01. 03 Technical Specifications for all Window Guards (continued)**

- Strike paragraphs (d), (i), (j).

#### **Department Response:**

(d) *Material*. After reviewing the wide variety of window guards available online, and the various materials that these window guards are made from (acrylic, plastic, vinyl, etc.) the Department believes that a device made from metal that is securely screwed into the window frame with metal screws provides the highest level of safety under Ezechieel's Law.

(i) *Non-telescoping bars*. The Department believes this specification provides the level of support necessary to withstand the weight of a ten-year old child.

(j) *Telescoping bars*. The Department believes this specification provides the level of support necessary to withstand the weight of a ten-year old child.

- Strike or revise (f) minimum weight resistance as the intent is to hold the weight of a toddler not an adult as discussed at the March 1, 2021 worksession.

#### **Department Response:**

The Department maintains that the language in Ezechieel's Law makes it clear that it is intended to prevent the fall of a child aged 10 years old and younger. The weight of a ten-year old child exceeds the weight of a toddler. The Department adopted the same weight standard under paragraph 29.35D.01.03(f) as was adopted in New York City and the State of New Jersey as pertaining to ten-year olds.

For the above reasons, the Department does not support this change to the regulation.

### **29.35D.01. 04 Additional technical specifications for single/double hung windows**

- Strike paragraphs (c)-(e).

#### **Department Response:**

(c) *Limiting Devices/Window stops*. The Department believes this language provides necessary additional guidance for safe, effective, and secure installation of the prescribed window guards.

(d) *Metal strip installation*. The Department believes this language provides necessary additional guidance in limited situations where the preceding specification(s) cannot be met, thereby providing flexibility to landlords and reducing the need for variance requests.

(e) *Rigid L stops*. The Department believes this language provides necessary additional guidance in limited situations where the preceding specification(s) cannot be met, thereby providing flexibility to landlords and reducing the need for variance requests.

For the above reasons, the Department does not support this change to the regulation.

**29.35D.01. 05 Additional technical specifications for other common window types**

- Strike paragraphs (b)

**Department Response:**

(b) *Sliding and pivoting windows*. The Department maintains that this language sets a cost-effective, unobtrusive, securely installed minimum specification for a type of window commonly found in the county. This section also provides necessary additional guidance for safe, effective, and secure installation of window guards on these window types. The Department believes that proactively including this section in the regulation will reduce the need for landlords to submit variance requests.

For the above reason, the Department does not support this change to the regulation.

- Strike paragraph (c) . Contrary to the law and Council intent, the variance option must be available to all housing providers and not limited to units with specific window types as proposed by DHCA in the draft regulations. Specifically, DHCA proposes to limit the availability of the variance to those buildings not specified in 29.35D.01.04 and 29.35D.01.05.

**Department Response:**

(c) *Other window types*. The Department maintains that it has developed minimum specifications for the most common windows types found in the county. However, it is not possible to identify and anticipate every type of window that is possible. Therefore, the Department has included this language so that the Director can review and verify that window guards proposed for these less-common window types meet the minimum safety standards and specifications defined in this regulation (relating to material, installation, limiting of window openings, and weight standards among others).

For the above reason, the Department does not support this change to the regulation.

### **29.35D.02.07 Variances.**

**(a) Compliance is infeasible.** ~~In limited situations in which a Landlord's compliance with the Window Guard technical requirements provided in this regulation are structurally infeasible, a~~A Landlord may request that the Director grant a variance ~~- from the technical requirements- to use~~ a safe alternative to a window guard in a particular window.

**AOBA COMMENTS:** The above language is amended to reflect the statutory language below.

**Sec. 29-35D Window Guards (b)(4)** The Executive may adopt method (2) regulations to implement the requirements of this section. The regulations may include procedures for the Director to approve a landlord's request for a variance, to use a safe alternative to a window guard in a particular window, if a window guard meeting the requirements of paragraph (3) is infeasible in the window.

#### **Department Response:**

Paragraph (3) of Ezechiel's Law authorizes the Director to prescribe minimum safety standards for window guards. Paragraph (4) permits the Executive to adopt method (2) regulations to implement the requirements of the law, including the minimum safety standards mandated in paragraph (3).

The Department cannot feasibly review and approve each possible type of device purporting to be a "window guard" to verify that it meets the minimum safety standards. Therefore, the Department contends that attendant to setting minimum safety standards, the Director may set uniform minimum specifications for devices that the Director has determined is necessary to meet those safety standards. These pre-defined devices may be installed without any prior review or approval from the Director.

Paragraph (4) clearly permits the Director to define procedures for the Director to approve a landlord's request to use a safe alternative device that vary from the minimum specifications set under the regulation in order to meet the minimum safety standards. The Director must determine if a proposed device is indeed a "safe alternative device" without a standardized method of reviewing such requests.

For the above reasons, the Department maintains that landlords may not request a variance "by right", and the Department does not support this change to the regulation.

**(d) Variance request for multiple properties.** A Landlord desiring a variance for more than one property may submit a separate written request for each property or submit bulk submissions for multiple properties.

**AOBA COMMENTS:** The proposed amendment will allow bulk filings which will achieve greater efficiency for both housing providers and the agency. Filing multiple applications in a single transmission is more efficient than spending the time and resources preparing numerous individual applications to the same agency.

**Department Response:**

The Department does not support this change in the regulation. Windows and buildings vary widely. Requiring a variance request for each building will facilitate record-keeping and enforcement of the law's requirements by the Department. During an inspection of a particular building, inspectors should not have to review a bulk submission containing several buildings with several different window types and several window guard types to determine what is appropriate and approved for any one window in a particular building.

**Best practices:**

- [Montgomery County COVID Rent Relief Program](#): Provides a bulk filing option for participating housing providers.
- [Bulk filings in Maryland courts](#): Procedure for bulk filing of cases by housing providers.

**(e) Variance request requirements.** The written request for a variance must be submitted to: ~~the Department of Housing and Community Affairs, 1401 Rockville Pike, 4111 Floor Rockville, Maryland 20852. Attn: Director.~~ Written requests can be sent electronically, or by hand delivery or mailing the written request to the Department of Housing and Community Affairs, 1401 Rockville Pike, 4111 Floor Rockville, Maryland 20852. Attn: Director. ...

**AOBA COMMENTS:** The above change reflects best practices to allow electronic submission of requests to the agency for processing.

**Department's Response:**

The language as proposed in the regulation does not specify a method of submission and in no way precludes electronic submission of variance requests. Therefore, the Department does not support this change to the regulation.

**29.35D.02.08 Tenant Notification and Education**

**(c) Delivery of tenant notification.** A Landlord may deliver the Window Guard notification by any of these delivery methods: in person, by email, hand delivery to a unit, or by mailing the notice to the unit. A Landlord must document the date and method of delivery of each notice.

**AOBA RATIONALE:** Housing providers need to be able to deliver the initial notice by email to ensure it is sent to everyone and done timely.

### **Department's Response:**

The notification requirements under Ezechieel's Law require tenants to respond in writing to the landlord. The Department maintains that email is not an effective method for disseminating and collecting documents from tenants that must be signed and returned. The use of email to disseminate forms that must be printed, signed and returned presumes that all tenants are comfortable using a computer, have home computers, maintain personal email accounts, and possess home printers and scanners in good working condition. Because of the critical importance of Ezechieel's Law, the Department maintains that physical delivery of a paper notification form is the most effective means to enforce this provision of the law.

The law mandates that the notification to tenants be in a "form and manner prescribed by the Director". The Department has developed a form that serves as both the notification to tenants, as well as a form on which the tenant can sign and physically return to the landlord (please see Attachment 2).

For the above reason, the Department does not support this change to the regulation.

**(d) Tenant responsibility:** (1) A tenant must complete, sign, and date the notification form (tenant-executed notification form) and return it to the Landlord within 30 days of receipt. If the Landlord has not received the tenant-executed notification form from a tenant within the required timeframe, the Landlord must deliver an additional notification to the tenant. The Landlord must document the date and method of delivery for each attempted notice. (2) A tenant shall not leave a child unsupervised in a room where there is window guard installed.

~~(e) Demonstration of Window Guard use. A Landlord must demonstrate the proper and safe use of Window Guards to current tenants at the time of installation, or at the time a new tenant takes occupancy. Every tenant must confirm in writing that the Landlord provided the required demonstration.~~

**AOBA RATIONALE:** Strike this provision as there is no statutory authority for imposing this requirement on housing providers as there is no such mandate in the governing law. Further, the imposition of this burden is not needed to address any safety concerns or need to inform tenants. Consider too, that residents may not be home (or want to be home) when the devices are installed.

### **Department Response:**

(d) *Tenant responsibility.* The Department rejects the proposed addition because it exceeds the scope and authority of the law. It is also unenforceable by the Department.

(e) *Demonstration of window guard use.* Upon further review, The Department concurs that this requirement exceeds the scope and authority of the law and has changed the regulation accordingly.

---

<sup>i</sup> <https://www.wcmanet.org/child-proof-window/>

<sup>ii</sup> <https://www.wcmanet.org/child-proof-window/>





I am reaching out regarding Montgomery County's Landlord Tenant Regulations- Obligation of Landlord Window Guard. I am a founding member and Director of Initiatives with the Armed Forces Housing Advocates—a grassroots nonprofit organization fighting for safer homes for our military members. Our organization directly supports multiple efforts, and some of those include conducting research on window safety device installation compliance, advocacy to ensure installation of window fall prevention devices in privatized military homes, and guidance in writing window safety legislation.

I would personally like to lend my voice, not only as a member of AFHA, but a mom who has experienced their child falling from a second story window due to inadequate window safety in our privatized military home. To watch your child fall, and suffer (he luckily survived) from a window fall is harrowing, at the very least. When I became educated about Evan's Law, which regulates window safety devices in privatized military housing through the National Defense Authorization Act, I learned how helpful items like a window guard (not a window opening control device like a lock or "limiting device" as written in Bill 51-20) can be in saving lives. I then knew it would be my mission to ensure the safety of children across the nation. Passive restraints, such as screens or guards specifically, are the only proven way to prevent window falls from happening, as they allow for windows to be utilized and still remain safe. I would strongly encourage a language change to be made to exclude WOCDs ("limiting devices") and to only include screens that can passively support up to 60 pounds of weight, and window guards.

Why am I reaching about about a civilian matter? Because the lives of all children, civilian or military, deserve to be cherished and honored. I follow window fall stories very closely, daily actually, to aid me with my mission and to stay abreast of what's happening in our country. Over this summer alone, I have seen upwards of ten stories of children falling across our nation—civilian children in their own homes. This is entirely preventable. These parents weren't found to be negligent, because they were not. They were moms, just like me, cooking dinner, making coffee, taking a shower, and trusting their home was safe. Please, I implore you, to consider establishing the use of screens or window guards only.

If you have any questions about our point of view on window safety, or data we have collected, please feel free to reach out at any time. My contact information can be found below. Thank you for your time.

Very Respectfully,

Kate Needham

Founder & Director of Initiatives

Armed Forces Housing Advocates

kate@afhousing.org

619.655.6338

# National Association for Child Window Safety

*Jim Graham, Executive Director*  
*National Association for Child Window Safety*  
 2101 10th Ave. South  
 Minneapolis, MN 55404  
 (612) 599-0280  
 JGraham@ChildWindowSafety.org

Date: 09/24/2021



I am reaching out regarding Montgomery County's Landlord Tenant Regulations- Obligation of Landlord Window Guard. I am a member of the National Association for Child Window Safety (NACWS), a nationwide non-profit organization with the mission of preventing unintentional child window falls. Our organization directly supports multiple efforts, including conducting research on window safety solutions, advocacy in support of fall prevention in homes on the traditional housing market and those under government jurisdiction, and assistance with state and federal window safety legislation.

Our position at NACWS is that this regulation excludes Window Opening Control Devices (WOCs), as they prevent the tenants from operating their windows for ventilation purposes without disengaging the window stop and making it ineffective.

Using the term "Guard" to describe a "Window Opening Limiter Device" is inappropriate. According to ASTM guards are a very different thing. Our research has found that such WOCs give a false sense of safety that continues to expose children to the dangers of window falls. Calling them "Guards" simply perpetuates that mistake. Our finds are that ANY WINDOW THAT CAN BE OPENED WILL BE OPENED! Window stops or not. Only passive restraint such as Child Safety "screens and guards" as specified by ASTM offers any real protection from window falls.

Labeling window limiting devices as "Guards" simply further endangers children. The only true "GUARD" against a child fall is something that is passive and simply IS there at all times, whether the window is open or not. Any window that can be opened WILL be opened!

Thank you,

  
 Jim Graham

## WINDOW GUARD LEASE ADDENDUM (2 pages)

### Window Guards Save Lives!

This **MANDATORY** notice must be given to tenants of multifamily rental units at least once per year at lease signing, lease renewal, or with a notice of a rent increase.

For Landlord Use:	<input type="checkbox"/> First Notice	Date Delivered: _____	Delivery Method: <input type="checkbox"/> By Hand <input type="checkbox"/> Mail <input type="checkbox"/> Other _____
	<input type="checkbox"/> Second Notice	Date Delivered: _____	Delivery Method: <input type="checkbox"/> By Hand <input type="checkbox"/> Mail <input type="checkbox"/> Other _____

### A TENANT'S LEGAL RIGHTS REGARDING WINDOW GUARDS

***YOUR Landlord is required*** to install a window guard on any window in your apartment that can be opened if a child under age 11 lives with you in your apartment.

***YOU have the right*** to request at any time and for any reason that the Landlord install window guards in your apartment (regardless of the presence of children).

***YOUR landlord is not required*** to install window guards: (1) on windows that do not open; or (2) if your apartment is located on the ground-level floor of the building; or, (3) on any window that has an air conditioning unit permanently bolted to the window and not surrounded by an open space exceeding 4 inches.

***YOUR Landlord is prohibited*** from making you pay for the cost of installing, maintaining, or repairing window guards in your apartment (unless the damage is caused by you).

***YOU are prohibited*** from interfering with the installation of a window guard, tampering with or modifying a window guard, or removing a window guard that has been installed.

***YOU are required*** to promptly review, complete, sign, and return this form to your Landlord.

### PART A - TENANTS, PLEASE PLACE A CHECKMARK NEXT TO ALL OF THE STATEMENTS BELOW THAT APPLY TO YOU:

- ☐ Window guards are currently installed in my apartment.
- ☐ Window guards are not currently installed in my apartment.
- ☐ At least one child under age 11 currently lives in my apartment or is frequently present, and my landlord is required by law to install window guards.
- ☐ I want window guards installed in my apartment (for any reason).
- ☐ One or more window guards in my apartment needs repair and/or maintenance. The specific window guard(s) needing this service are listed on the back of this form. **(LANDLORD: if this box is checked, see the list at the end of this form.)**
- ☐ My Landlord has demonstrated to me how to safely and properly operate the window guards in my apartment.

Tenant Name(s): \_\_\_\_\_ Apt. Number: \_\_\_\_\_  
(Print)

Tenant Signature(s): \_\_\_\_\_ Date: \_\_\_\_\_

**PART B – TO BE COMPLETED AFTER THE INSTALLATION OR REPAIR OF WINDOW GUARDS IN YOUR APARTMENT:**

- ☐ Window guards have been installed in my apartment as I requested, or because I have children under the age of 11 in my home.
- ☐ My landlord did not charge me for the cost of installing window guards.
- ☐ I acknowledge that it is a violation of law for me to interfere with the installation of a window guard, or to tamper with, modify, or remove a window guard that has been installed. My landlord may charge me for the cost to repair any damage to a window guard caused by me or my family.

Tenant Name(s): \_\_\_\_\_ Apt. Number: \_\_\_\_\_  
(Print)

Tenant Signature(s): \_\_\_\_\_ Date: \_\_\_\_\_

**Addendum:**

To My Landlord - The Window Guards listed below require repair or maintenance: