

MEMORANDUM

May 11, 2021

TO: Planning, Housing, and Economic Development Committee

FROM: Linda McMillan, Senior Legislative Analyst

SUBJECT: Proposed Executive Regulation 4-21, Landlord-Tenant Relations – Obligations of Landlords, Air Conditioning

PURPOSE: Worksession; vote expected

Expected for this session:

Aseem Nigam, Director, Department of Housing and Community Affairs (DHCA)
Frank Demarais, Deputy Director, DHCA
Christopher Anderson, Chief, Community Development Division, DHCA
Dan McHugh, Manager, Housing Code Enforcement, DHCA

On May 4, the County Executive transmitted proposed Executive Regulation 4-21, Landlord-Tenant Relations – Obligations of Landlords, Air Conditioning. These regulations implement Bill 24-19, which was enacted by the Council on February 25, 2020 and becomes effective on June 1, 2020.

The regulation must be reviewed under Method 2. Method 2 requires the Council to approve, reject, or extend time for action within 60 days or the regulation automatically takes effect. It would be helpful to have these regulations in place by June 1 if the Committee recommends and the Council approves them. The transmittal memo notes that this regulation was advertised in the April 2021 Register and no comments were received.

Bill 24-19:

- Requires a landlord to provide and maintain air conditioning service (at 80 degrees Fahrenheit or less at 3 feet above floor level) for habitable spaces in certain rental housing from June 1 through September 30.




OFFICE OF THE COUNTY EXECUTIVE

Marc Elrich
County Executive

MEMORANDUM

May 4, 2021

TO: Tom Hucker, President
Montgomery County Council

FROM: Marc Elrich, County Executive 

SUBJECT: Proposed Executive Regulation 4-21, Landlord-Tenant Relations, Obligations of Landlord, Air Conditioning

The purpose of this memorandum is to transmit to you for approval proposed *Executive Regulation 4-21, Landlord-Tenant Relations, Obligations of Landlord, Air Conditioning*.

On March 2, 2020, I signed into law *Bill 24-19, Landlord-Tenant Relation, Obligations of Landlord, Air Conditioning*. 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 air conditioning to their tenants at a defined temperature (at or below 80 degrees Fahrenheit) during a certain portion of the year (June 1 through September 30).

Section 29-30(a)(9) of this law requires the County Executive to develop through Method 2 executive regulations, a definition of “reasonable maintenance and repair” of air conditioning. Attached is that executive regulation.

The proposed executive regulation was published in the April 2021 Montgomery County Register, with comments accepted by the Department until April 30, 2021. No comments were received from the public and no changes were made to the advertised regulation.

If you have any questions, please contact Christopher Anderson, DHCA, Chief of the Community Development Division, at christopher.anderson@montgomerycountymd.gov or 240-401-9813.



MONTGOMERY COUNTY EXECUTIVE REGULATION

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

Subject Landlord-Tenant Relations – Obligations of Landlord – Air Conditioning	Number 4-21
Originating Department Housing and Community Affairs	Effective Date

Department of Housing and Community Affairs

Montgomery County Regulation on:

Landlord-Tenant Relations – Obligations of Landlord – Air Conditioning

Issued By: County Executive

Regulation Number: 4-21

Authority: Montgomery County Code, 2014, Section 26-7(f) and Section 29-30(a)(9)

Supersedes: N/A

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

Register: Volume 38, Issue 4

Comment Deadline: April 30, 2021

Effective Date: _____

Sunset Date: None

SUMMARY:

This regulation sets forth the requirements to supply and maintain air conditioning units or systems required in rental housing as specified in Sections 26-7(f) and 29-30(a)(9) of the Montgomery County Code.

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, DHCA, Telephone Number 240-777-3735



MONTGOMERY COUNTY EXECUTIVE REGULATION

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CHAPTER 29. LANDLORD-TENANT RELATIONS- REGULATIONS

Add the following Regulation to COMCOR 29.30

COMCOR 29.30.02 Air Conditioning Service Required

29.30.02.01 Purpose

This Regulation defines and implements the Required Service Standards in Section 26-7(f)(2) of the Montgomery County Code (Code), and Reasonable Maintenance and Repair of air conditioning as required under Section 29-30(a)(9) of the Code, for air conditioning in rental housing.

29.30.02.02 Definitions

- (a) *Reasonable Maintenance and Repair* means the timely repair and/or maintenance related installing, servicing or replacing of air conditioning required under Chapters 26 and 29 of the Code and in conformance with the provisions set forth in Section 29.30.02.03 of this Regulation.
- (b) *Required Service Standard* means, except when air conditioning requires Reasonable Maintenance and Repair, landlords of rental housing must supply and maintain air conditioning in safe and good working condition that is capable of maintaining a temperature of no more than eighty degrees Fahrenheit (80°F.) in each habitable space at a distance of 3 feet above the floor between June 1 and September 30 of each year.
- (c) *Rental housing* is defined under Section 26-7(f)(1) of the Code.

29.30.02.03 Reasonable Repair and Maintenance

- (a) A landlord’s requirement to provide Reasonable Maintenance and Repair of air conditioning in rental housing is met if the landlord complies with the following:
 - (1) Regular servicing of air conditioning for rental housing must be accomplished, to the extent feasible, between the months of October and May of each year to ensure that a rental housing’s air conditioning meets the Required Service Standard during June 1 through September 30.
 - (2) If a rental housing’s air conditioning must be serviced or replaced between June 1 and September 30, the landlord must, except in the case of an emergency, notify all of the tenants in advance of such service or replacement and provide an estimate of the time during which the air conditioning will not meet the Required Service Standard. In the event of an emergency, if the air conditioning will not meet the Required Service Standard for more than a 24-hour period, the landlord must provide the tenants with an estimate of the time during which the air conditioning will not meet the Required Service Standard. Any servicing or replacing air conditioning not meeting the Required Service Standard during June 1 through September 30 must be completed within 5 calendar days of the air conditioning not meeting the Required Service Standard unless the landlord requests, and receives, an extension of time from the Director as provided in subsection (c), below.



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- (b) If, after the Department inspects rental housing in response to a complaint or during a regularly scheduled inspection, it is determined that the rental housing's air conditioning does not meet the Required Service Standard, the landlord must immediately commence repair or replacement of the air conditioning, with such repair or replacement being completed no later than 5 calendar days from the date of the Department issuing a Notice of Violation.
- (c) A landlord, within the 5 calendar day time frame under subsections (a) and (b), may request an extension of time from the Director when circumstances beyond the landlord's control prevent the (i) repair of air conditioning or (ii) replacement of air conditioning that becomes inoperable or economically infeasible to continue to operate being completed to meet the Required Service Standard. To request an extension of time, the landlord must submit to the Department a written request for an extension and:
- (1) Documentation providing that the repairs will be completed to bring the air conditioning to meet the Required Service Standard within 15 calendar days of the landlord's request, including a copy of a signed invoice or contract with a third-party licensed HVAC contractor or engineer outlining the scope of the repairs, and/or a copy of one or more paid invoices to third-party vendors for parts ordered to make the repairs, accompanied by a letter specifying that the repairs will be completed to bring the air conditioning to meet the Required Service Standard within 15 calendar days of the request.
 - (2) Documentation providing that the installation of new air conditioning units or the installation of a new central air conditioning system will be completed to bring the air conditioning to meet the Required Service Standard within 21 calendar days of the landlord's request, including a copy of a third party licensed HVAC contractor or engineer that the air conditioning units or the central air conditioning system cannot be repaired, or it is not economically feasible to do so, along with a copy of one or more paid invoices to third party vendors for the replacement of the air conditioning units or the central air conditioning system, accompanied by a letter specifying that the air conditioning units or the central air conditioning system, will be installed and meet the Required Service Standard within 21 calendar days of the request.
- (d) When determining whether to grant an extension of time, the Director may consider whether or not one or more tenants grants the landlord, and the landlord's contractors, necessary access into the rental units to correct the air conditioning so that it meets the Required Service Standard. Notice of entry into the rental units must be provided in the manner required under the lease. If the Director finds that one or more tenants fails to provide necessary access, the timeframes in subsection (c) for correcting air conditioning so that it meets the Required Service Standard may be extended until such access is granted.

29.30.02.04 Supplying Air Conditioning to Rental Housing With No Air Conditioning

- (a) In rental housing that does not have air conditioning, a landlord's requirement to supply air conditioning in rental housing is met if the landlord installs new air conditioning units or a new central air conditioning system that will meet the Required Service Standard within 30 calendar days from the effective date of this Regulation.
- (b) If during the Department's inspection of rental housing in response to a complaint, or during the Department's regularly scheduled inspection of the rental housing, it is determined that the rental housing does not have air conditioning, the landlord must immediately secure any necessary permits and commence installation of new air



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conditioning units or a new central air conditioning system that will meet the Required Service Standard within 30 days from the date of the Department issuing a Notice of Violation.

(c) A landlord may apply for an extension of time of up to 6 months to comply with the installation of new air conditioning provided the request is made in writing to the Department within 5 calendar days of the Department issuing a Notice of Violation and the Director finds that:

- (1) The landlord must make electrical upgrades to the rental housing to meet the Required Service Standard; and
- (2) Making the repairs would cause financial hardship to the landlord.

Marc Elrich, County Executive

Date: 5/4/2021

Approved as to Form and Legality:

Office of the County Attorney

Date: 3-3-21

Bill No. 24-19
Concerning: Landlord-Tenant Relations –
Obligations of Landlord – Air
Conditioning
Revised: 2/25/2020 Draft No. 6
Introduced: July 16, 2019
Enacted: February 25, 2020
Executive: March 2, 2020
Effective: June 1, 2020
Sunset Date: None
Ch. 4, Laws of Mont. Co. 2020

COUNTY COUNCIL FOR MONTGOMERY COUNTY, MARYLAND

Lead Sponsor: Councilmember Hucker
Co-Sponsors: Councilmembers Jawando and Alborno, Council President Navarro, and
Councilmember Riemer

AN ACT to:

- (1) require a landlord to provide and maintain air conditioning service for rental housing located in the County during certain months;
- (2) establish standards for air conditioning service provided by a landlord; ~~[[and]]~~
- ~~(3) establish certain exceptions from the air conditioning requirement; and~~
- ~~[[3]]~~ (4) generally amend the law governing rental housing in the County.

By amending

Montgomery County Code
Chapter 26. Housing and Building Maintenance Standards
Section 26-7

Chapter 29. Landlord-Tenant Relations
Section 29-30

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:

Sec. 1. [[Section]] Sections 26-7 and 29-30 [[is]] are amended as follows:

26-7. Light, ventilation and heating, temperature control.

The owner of each dwelling or dwelling unit must assure compliance with the following standards during human habitation:

* * *

(f) Temperature control – air conditioning in rental housing.

(1) For purposes of this subsection, rental housing has the meaning stated in Section 29-1, except that rental housing does not include:

(A) a detached single-family home; or

(B) a dwelling unit located on a site listed in the National Register of Historic Places.

(2) Except as provided in paragraph (3), between June 1 and September 30:

(A) Each owner of rental housing where cooling is not under the control of the tenant must maintain a temperature of no more than 80 degrees Fahrenheit (80° F.) in each habitable space at a distance of 3 feet above floor level; and

(B) Each owner of rental housing where the cooling is under the control of the tenant must provide an air conditioning system capable of maintaining a temperature of no more than 80 degrees Fahrenheit (80° F.) in each habitable space at a distance of 3 feet above floor level.

[(3) A tenant may elect to have no air conditioning service installed and provided if:

28 (A) the air conditioning, if installed, would be provided by one
29 or more individual air conditioning units controlled by the
30 tenant; and

31 (B) an addendum to the lease:

32 (i) specifies any additional amount of rent that would be
33 required if air conditioning were provided;

34 (ii) acknowledges that the tenant has been offered, but
35 has elected not to have air conditioning; and

36 (iii) acknowledges that the tenant has been informed of
37 the tenant’s right to file a complaint with the Director
38 of the Department of Housing and Community
39 Affairs under Section 29-36.]]

40 (3) A landlord may apply for, and the Director may grant, an extension
41 of up to six months to comply with the requirements of this Section
42 if the Director finds that:

43 (A) the landlord must make electrical upgrades to the rental
44 housing to comply with the requirements; and

45 (B) making the upgrades would cause financial hardship to the
46 landlord.

47 (4) This subsection must not be construed to permit any
48 violation of a fire safety requirement under Section 26-8(a).

49 * * *

50 **29-30. Obligations of landlords.**

51 (a) Each landlord must reasonably provide for the maintenance of the health,
52 safety, and welfare of all tenants and all individuals properly on the
53 premises of rental housing. As part of this general obligation, each
54 landlord must:

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(6) Supply water and hot water as reasonably required by the tenant and adequate heat as required by Chapter 26. In a dwelling unit located in a common ownership community, the landlord must provide water, hot water and adequate heat to the extent that the landlord is responsible for providing these services. This subsection ~~[[does not]]~~ must not be construed to impair any provision in a lease that obligates a tenant to pay for gas, heating oil, electricity, water, or sewer service that the tenant uses.

* * *

(9) Except when required for reasonable maintenance and repair, ~~[[Supply]]~~ supply and maintain air conditioning service either through individual air conditioning units or a central air conditioning system in a safe and good working condition so that it ~~[[provides an inside temperature of eighty degrees Fahrenheit (80° F.) or less between May 1 and September 30]]~~ meets the requirements of Section 26-7. This ~~[[subsection does not]]~~ paragraph must not be construed to impair any provision in a lease that obligates a tenant to pay for gas or electricity that the tenant uses. The Executive must adopt Method (2) regulations to implement the requirements of this paragraph, including regulations to define reasonable maintenance and repair.

* * *

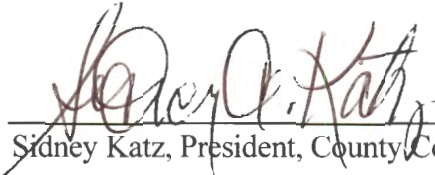
Sec. 2. Transition. For 12 months following the effective date of this Act, a landlord may request, and the Director may grant, delayed implementation of the requirements of this Act for any real property that is the subject of a pending application for a necessary approval for development before the Planning Board, Board

82 of Appeals, or Office of Zoning and Administrative Hearings. The period of delayed
83 implementation for a property may not exceed the sooner of the completion of the
84 development or 24 months.

85 **Sec. 3. Impairment of Leases.** This Act must not be construed to invalidate or
86 impair a lease in effect on the effective date of the Act.


87 **Sec. 4. Financing.** The Executive must, subject to appropriation and applicable
88 law, explore options to offer low-interest financing to landlords who need to upgrade
89 their electrical systems to comply with the requirements of this Act.

Approved:


Sidney Katz, President, County Council

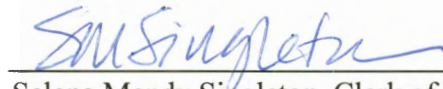
2/26/2020
Date

Approved:


Marc Elrich, County Executive

3/2/20
Date

This is a correct copy of Council action.


Selena Mendy Singleton, Clerk of the Council

3/9/20
Date