

Clerk's Note: There were technical typographical corrections made on Line 29 where the period should be underlined, on Line 35 after the last 3 in 59-3.3.3 removing an underline, and underlining "or" on Line 50. Additionally, existing language which was inadvertently omitted on Line 40 was reinserted.

Bill No. 26-18
Concerning: Landlord-Tenant Relations –
Accessory Apartment Licensing
Revised: 6/8/2018 Draft No. 3
Introduced: July 17, 2018
Enacted: October 9, 2018
Executive: _____
Effective: _____
Sunset Date: None
Ch. _____, Laws of Mont. Co. _____

COUNTY COUNCIL FOR MONTGOMERY COUNTY, MARYLAND

Lead Sponsor: Councilmembers Floreen, Leventhal and Council President Riemer

AN ACT to:

- (1) amend the licensing procedures for an accessory apartment rental license;
- (2) amend the process for appeals, objections, and waivers, and
- (3) generally amend County law relating to accessory apartment licensing.

By amending

Montgomery County Code
Chapter 2, Administration
Section 2-140

Chapter 29, Landlord Tenant Relations
Sections 29-19 and 29-26

| | |
|------------------------------|--|
| 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:

27 required as part of an application for a special exception]. The sign
28 must identify any requested waivers under Section 29-
29 26(b). The sign provided by the Director must remain in
30 place on the lot for a period of time and in a location
31 determined by the Director.

32 * * *

- 33 (C) the Director finds that:
 - 34 (i) the accessory apartment satisfies the standards for an
35 accessory apartment in Section 59-3.3.3 and if
36 needed, a Hearing Examiner granted a waiver under
37 Section 29-26; or
 - 38 (ii) the accessory apartment was approved under Article
39 59-G as a special exception under the Zoning
40 Ordinance applicable before October 30, 2014 or
41 under 2014 Zoning Ordinance §59.3.3.3 as a
42 conditional use.

43 * * *

44 **29-26. Appeals, Waivers, and Objections.**

45 * * *

- 46 (b) Waivers and [Objections] objections concerning any new accessory
47 apartment license.
 - 48 (1) The applicant for a new license for an accessory apartment may
49 request a waiver of a standard to the extent allowed by Section 59.
50 3.3.3 or object to an adverse finding of fact by the Director by filing
51 a waiver or an objection and a request for a hearing with the Office
52 of Zoning and Administrative Hearings.

- 53 (2) Any other aggrieved person may file an objection and request for
 54 a hearing with the Office of Zoning and Administrative Hearings
 55 by:
 56 (A) objecting to any finding of fact by the Director; or
 57 (B) alleging that on-street parking is inadequate [when a special
 58 exception is not required].
- 59 (3) A request for a [review by the Hearing Examiner] waiver or an
 60 objection must be submitted to the Office of Zoning and
 61 Administrative Hearings within 30 days after the date of the
 62 Director’s report and must state the basis for the waiver or
 63 objection.
- 64 (4) The Hearing Examiner must send notice of an adjudicatory hearing
 65 to the applicant and any aggrieved person who filed an objection
 66 within [5] 10 days after the waiver or objection is received and
 67 conduct any such hearing within [20] 30 days of the date the
 68 objection is received unless the Hearing Examiner determines that
 69 necessary parties are unable to meet that schedule.
- 70 (5) The Hearing Examiner may only decide the issues raised by the
 71 waiver or objection.
- 72 (6) The Hearing Examiner may [find that] waive on-street parking [is
 73 inadequate] standards if:
 74 (A) the available on-street parking for residents within 300 feet
 75 of the proposed accessory apartment would [not] permit a
 76 resident to park on-street near his or her residence on a
 77 regular basis; and

- 78 (B) the proposed accessory apartment is not likely to reduce the
 79 available on-street parking within 300 feet of the proposed
 80 accessory apartment.
- 81 (7) The Hearing Examiner may find that more than the minimum on-
 82 site parking must be required as a condition of the license and may
 83 impose other conditions to assure adequate parking on granting the
 84 waiver.
- 85 (8) The Hearing Examiner may waive the distance separation
 86 standards between Accessory Apartments when the separation
 87 does not result in an excessive concentration of similar uses,
 88 including other conditional uses, in the general neighborhood of
 89 the proposed Accessory Apartment.
- 90 (9) The Hearing Examiner may consolidate public hearings on any
 91 requested waivers and any objections to the Director's findings
 92 that involve the same license application.
- 93 [(8)](10) The Hearing Examiner must issue a final decision within 30
 94 days after the close of the record of the adjudicatory hearing. If
 95 both a waiver request and an objection relating to the same
 96 accessory apartment license application are filed, the Hearing
 97 Examiner must issue a final decision within 30 days after the close
 98 of the record in both cases.
- 99 [(9)] (11) The Director must issue or deny the license based on the final
 100 decision of the Hearing Examiner.
- 101 [(10)] (12) Any [aggrieved party who objected under subsection 29-
 102 26(b)] party aggrieved by the Hearing Examiner's decision on an
 103 objection or a waiver may request the Circuit Court to review the
 104 Hearing Examiner's final decision under the Maryland Rules of

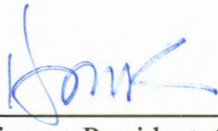
105

Procedure. An appeal to the Circuit Court does not automatically

106

stay the Director's authority to grant a license.

Approved:



Oct 12, 2018

Hans D. Riemer, President, County Council

Date

Approved:

Isiah Leggett, County Executive

Date

This is a correct copy of Council action.

Megan Davey Limarzi, Esq., Clerk of the Council

Date