

MEMORANDUM

July 13, 2018

TO: County Council

FROM: Jeffry L. Zyontz, Senior Legislative Analyst

SUBJECT: **Introduction:** Bill 26-18, Landlord-Tenant Relations – Accessory Apartment Licensing

Bill 26-18, Landlord-Tenant Relations – Accessory Apartment Licensing, sponsored by Lead Sponsors Councilmembers Floreen, Leventhal and Council President Riemer, is scheduled to be introduced on July 17, 2018. A public hearing is tentatively scheduled for September 11 at 1:30 p.m.

Bill 26-18 would amend the licensing procedures for an accessory apartment rental license and amend the process for appeals, objections and waivers. This Bill is associated with ZTA 18-07. ZTA 18-07, also scheduled for introduction on July 17, 2018, would remove the requirement for conditional use approval for all accessory apartments and revise the limited use provisions for accessory apartments. Approval of this Bill in some form would be necessary to implement the core concepts in ZTA 18-07.

This packet contains:	<u>Circle #</u>
Bill 26-18	1
Legislative Request Report	6

Bill No. 26-18
Concerning: Landlord-Tenant Relations --
Accessory Apartment Licensing
Revised: 6/8/2018 Draft No. 3
Introduced: July 17, 2018
Expires: January 17, 2020
Enacted: _____
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:

Sec. 1. Sections 2-140, 29-19, and 29-26 are amended as follows:

2-140. Powers, duties and functions.

* * *

(c) The Office may hear, and submit a written report and decision to the specified officer or body on, any:

- (1) [petition to the County Council to] application to initiate, modify or revoke a special exception or conditional use, as provided in Chapter 59;
- (2) designation by the County Council of a geographic area as a community redevelopment area;
- (3) matter referred by the Board of Appeals under Section 2-112(b); or
- (4) waiver or objection to a finding made by the Director of the Department of Housing and Community Affairs concerning an application for an accessory apartment rental housing license under Section 29-26.

* * *

29-19. Licensing procedures.

* * *

(b) Accessory apartment rental license.

- (1) An owner of a lot or parcel in a zone that permits accessory apartments may obtain a license to operate an accessory apartment if:
 - (A) the owner places a sign provided by the Director on the lot of the proposed accessory apartment within 5 days after the Director accepts an application license[, unless a sign is required as part of an application for a special exception].

28 The sign 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.

41 * * *

42 **29-26. Appeals, Waivers, and Objections.**

43 * * *

44 (b) Waivers and [Objections] objections concerning any new accessory
45 apartment license.

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

51 (2) Any other aggrieved person may file an objection and request for
52 a hearing with the Office of Zoning and Administrative Hearings
53 by:

54 (A) objecting to any finding of fact by the Director; or

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

81 impose other conditions to assure adequate parking on granting the
82 waiver.

83 (8) The Hearing Examiner may waive the distance separation
84 standards between Accessory Apartments when the separation
85 does not result in an excessive concentration of similar uses,
86 including other conditional uses, in the general neighborhood of
87 the proposed Accessory Apartment.

88 (9) The Hearing Examiner may consolidate public hearings on any
89 requested waivers and any objections to the Director's findings
90 that involve the same license application.

91 ~~[(8)]~~(10) The Hearing Examiner must issue a final decision within 30
92 days after the close of the record of the adjudicatory hearing. If
93 both a waiver request and an objection relating to the same
94 accessory apartment license application are filed, the Hearing
95 Examiner must issue a final decision within 30 days after the close
96 of the record in both cases.

97 ~~[(9)]~~ (11) The Director must issue or deny the license based on the final
98 decision of the Hearing Examiner.

99 ~~[(10)]~~ (12) Any [aggrieved party who objected under subsection 29-
100 26(b)] party aggrieved by the Hearing Examiner's decision on an
101 objection or a waiver may request the Circuit Court to review the
102 Hearing Examiner's final decision under the Maryland Rules of
103 Procedure. An appeal to the Circuit Court does not automatically
104 stay the Director's authority to grant a license.

LEGISLATIVE REQUEST REPORT

Bill 26-18

Landlord-Tenant Relations – Accessory Apartment Licensing

DESCRIPTION:	Bill 26-18 would: <ul style="list-style-type: none">• amend the licensing procedures for an accessory apartment rental license;• amend the process for appeals, objections, and waivers; and• generally amend County law relating to accessory apartment licensing.
PROBLEM:	ZTA 18-07 would remove the conditional use approval process for any accessory apartment. Current law of accessory apartment licensing would be inconsistent if ZTA 18-07 is approved.
GOALS AND OBJECTIVES:	The goal of Bill 26-18 is to be consistent with the approval process of accessory apartments required by Chapter 59.
COORDINATION:	Housing and Community Affairs
FISCAL IMPACT:	To be requested.
ECONOMIC IMPACT:	To be requested.
EVALUATION:	To be requested.
EXPERIENCE ELSEWHERE:	To be researched.
SOURCE OF INFORMATION:	Jeffrey L. Zyontz, Senior Legislative Analyst
APPLICATION WITHIN MUNICIPALITIES:	To be researched.
PENALTIES:	N/A