

Resolution No.:	<u>18-871</u>
Introduced:	<u>July 18, 2017</u>
Adopted:	<u>July 18, 2017</u>

**COUNTY COUNCIL
FOR MONTGOMERY COUNTY, MARYLAND**

Lead Sponsor: County Council

SUBJECT: Approval of Executive Regulation 02-17, Establishing Inspection Fees
(Department of Housing and Community Affairs)

Background

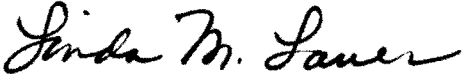
1. On June 15, 2017, the County Council received proposed Regulation 02-17, Establishing Inspection Fees, from the County Executive.
2. The Council must review these regulations under method (2) of Section 2A-15 of the Code.
3. Under method (2), if the Council does not approve or disapprove a regulation within 60 calendar days after the Council receives the regulation, the regulation automatically takes effect.
4. On July 10, 2017, the Planning, Housing, and Economic Development Committee held a worksession on the proposed regulation and recommended approval.

Action

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

Executive Regulation 02-17, Establishing Inspection Fees
(Department of Housing and Community Affairs), is approved.

This is a correct copy of Council action.



Linda M. Lauer, Clerk of the Council



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Originating Department Housing and Community Affairs	Effective Date July 18, 2017

Department of Housing and Community Affairs

Montgomery County Regulation on:

ESTABLISHING INSPECTION FEES

Issued By: County Executive
Regulation No.: 02-17

Authority: Montgomery County Code, 2014, Section 29-22(g)

Supersedes: N/A

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

Register Volume 34 Issue 4

Comment Deadline: May 1, 2017

Effective Date: July 18, 2017

Sunset Date: None

SUMMARY:

As per Section 29-22(g) of the Montgomery County Code, this regulation sets forth a schedule of fees, and guidelines for assessing those fees, for certain inspections conducted as part of a triennial inspection or an annual inspection of rental housing required under Sections 29-22(a) and 29-22(b) of the Montgomery County Code, and inspections of rental housing conducted as part of a corrective action plan under Section 29-22(c) of the Code.

SEC. 29-20 FEES — REGULATIONS

[insert following in entirety below COMCOR 29.20.01 – Establishment of Annual Rental Licensing Fee]

COMCOR 29.20.02 Establishing Inspection Fees

29.20.02.01 Purpose

This regulation sets forth a schedule of fees, and guidelines for assessing those fees, for certain inspections conducted as part of a triennial inspection or an annual inspection of rental housing required under Sections 29-



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22(a) and 29-22(b) of the Montgomery County Code, and inspections of rental housing conducted as part of a corrective action plan under Section 29-22(c) of the Code.

29.20.02.02 Definitions

Unless defined below, all terms herein have the same meanings as those in Chapter 29 of the Code.

- (a) *Initial Inspection* means the first inspection of rental housing within each three year period under Section 29-22(a).
- (b) *Initial Inspection Date* means the date of an Initial Inspection, and the date from which any inspection fees are calculated.
- (c) *Multifamily Dwelling Unit* means "dwelling unit, multifamily" as defined in Chapter 29 of the Code.
- (d) *Second Inspection* means an inspection following an Initial Inspection to determine whether violations identified by the Department during the Initial Inspection have been corrected.
- (e) *Subsequent Inspection* means any inspection conducted after an Initial Inspection, including a Second Inspection, Third Inspection, Fourth Inspection, and so forth, that is required to determine whether violations identified by the Department during prior inspections have been corrected.
- (f) *Third Inspection* means an inspection after the Second Inspection to determine whether any violations identified by the Department during the Initial Inspection or Second Inspection have been corrected.

29.20.02.03 Inspection Fees

- (a) The Department shall bear the cost of an Initial Inspection and a Second Inspection for rental housing required to be inspected within each three-year period under Section 29-22(a). If, after a triennial inspection, the Department determines that rental housing requires a corrective action plan under Section 29-22(c), the Landlord must pay, as provided in the fee schedule below, for each re-inspection following the Initial Inspection and Second Inspection performed as part of the triennial inspection.
- (b) If, within a three-year period, the Department is required to conduct Subsequent Inspections after the Second Inspection because the violations identified by the Department during prior inspections have not been corrected, the Department shall charge a fee to the Landlord according to the following fee schedule:
 - (1) The fee for the Initial Inspection is \$0;
 - (2) The fee for the Second Inspection is \$0;
 - (3) The fee for the Third Inspection is \$100 for the Apartment Complex and an additional fee of \$25 for each Multifamily Dwelling Unit that must be re-inspected;



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- (4) The fee for the Fourth Inspection is \$200 for the Apartment Complex and an additional fee of \$50 for each Multifamily Dwelling Unit that must be re-inspected;
 - (5) The fee for the Fifth Inspection is a \$500 for the Apartment Complex and an additional fee of \$125 for each Multifamily Dwelling Unit that must be re-inspected;
 - (6) The fee for the Sixth Inspection, and any Subsequent Inspections after the Sixth Inspection, is \$1,000 for the Apartment Complex and an additional fee of \$250 for each Multifamily Dwelling Unit that must be re-inspected.
- (c) In addition to the Inspection Fees, a Landlord that fails to correct violations identified by the Department during an inspection may be subject to the revocation of the Landlord's rental license as provided in Section 29-25 of the Code.
- (d) The Department may take legal action to collect any fees assessed against a Landlord under this regulation. A Landlord that fails to make timely payment of any fees assessed under this regulation may also be subject to the revocation of the Landlord's rental license as provided in Section 29-25 of the Code.

29.20.02.04 Inspection Notice

- (a) *Inspection notice.* The Department shall mail notice of an Initial Inspection to a Landlord of rental housing required to be inspected by the Department under Section 29-22 of the Code. The notice shall be mailed to the address provided by the Landlord in its application for a rental housing license. After providing the notice, the Department and the Landlord shall establish a mutually agreed upon date or dates for an Initial Inspection of the rental housing.
- (b) The inspection notice must contain:
- (1) The contact information for the Department's inspector assigned to the inspection;
 - (2) The name and street address of the rental housing to be inspected;
 - (3) The percentage of Multifamily Dwelling Units in the rental housing that will be inspected as part of the Initial Inspection;
 - (4) A notice that the Landlord must, at least 72-hours prior to the date of the Initial Inspection, provide notice to all tenants in the rental housing that the Department will be inspecting the rental housing;
 - (5) Any other information that the Department determines to be relevant.
- (c) *Improper tenant notice.* If, at an Initial Inspection, the Department determines that tenants of the rental housing have not received from the Landlord at least 72-hours' notice prior to the Initial Inspection, the Department shall inspect only the exterior and common areas of the rental housing during the Initial Inspection and the Department and the Landlord shall establish a new, mutually agreed upon date for a



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Second Inspection. Fees for all inspections of the rental housing following the Second Inspection shall be charged according to the fee schedule in Section 29.20.02.03.

- (d) At its discretion and based upon the Department's findings during an Initial Inspection, the Department may increase the percentage of Multifamily Dwelling Units inspected from that stated in the inspection notice without giving advanced notice to the Landlord.
- (e) During any inspection of rental housing by the Department, the Landlord must provide access to all of the rental housing's common areas, service areas and the Multifamily Dwelling Units designated by the Department.
- (f) *Second Inspection.* If violations are found during an Initial Inspection, the Department shall direct the Landlord to correct the violations by a specified date, such date being designated as the Second Inspection.
- (g) If the Landlord is unable to provide the Department access to any Multifamily Dwelling Unit, common area or service area during an inspection, the Landlord must provide access to that Multifamily Dwelling Unit, common area or service area on the date the Department conducts a Subsequent Inspection. If the Department finds a violation in the previously inaccessible areas during a Subsequent Inspection, which requires the Department to schedule an additional inspection to verify that the violation has been corrected, the Landlord shall be charged according to the fee schedule in Section 29.20.02.03.
- (h) If, during a Subsequent Inspection, the Department finds a new violation in any Multifamily Dwelling Unit, Common Area or Service Area that was previously inspected and which requires the Department to schedule an additional inspection to verify that the violation has been corrected, the Landlord shall be charged according to the fee schedule in Section 29.20.02.03.

29.20.02.05 Fee Waivers

- (a) If, during a Second Inspection, the Department finds that the Landlord has not corrected one or more violations identified by the Department at the Initial Inspection, a civil citation may be issued to the Landlord unless the Director, in the Director's discretion, determines that the Landlord's failure to correct a violation was due to circumstances beyond the control of the Landlord. In this case, the Department shall conduct a Third Inspection of the rental housing, but may waive the fee. Examples of factors beyond the control of the Landlord include, but are not limited to, material or supplies to correct the violation are on back-order, repairs cannot be made due to seasonal conditions, or a lack of cooperation by a tenant.




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- (b) For a fee waiver to be granted, the Director must determine that the Landlord has made a good faith effort to correct violations by the Second Inspection, as demonstrated by at least fifty percent (50%) of the violations identified during the Initial Inspection have been corrected.
- (c) For a fee waiver to be granted, the Landlord must provide documentation, acceptable to the Director, substantiating the reason for the Landlord's delay in correcting violations, documenting the Landlord's good faith efforts since the Initial Inspection to correct all violations, including but not limited to providing the Director executed contracts for services and labor and invoices for materials and supplies, and providing the Director with a good faith plan, including a reasonable timeframe, to correct all remaining violations by the Third Inspection.
- (d) A Landlord's failure to comply with the requirements of this Section 29.20.02.05 may result in the Department issuing civil citations and charging the Landlord for any inspection fees that would have been charged at the time of the Third Inspection.


Isiah Leggett

County Executive

Date: June 15, 2017

Approved as to Form and Legality
Office of the County Attorney

By: 

Date: 5-30-17