

Resolution No.:	<u>18-992</u>
Introduced:	<u>December 12, 2017</u>
Adopted:	<u>December 12, 2017</u>

**COUNTY COUNCIL
FOR MONTGOMERY COUNTY, MARYLAND**

Lead Sponsor: Council President on behalf of the County Executive

SUBJECT: Approval of Executive Regulation 13-17, Unmaintained Vacant Dwellings

Background

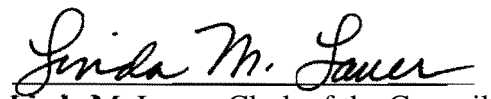
1. On October 19, 2017, the County Council received Executive Regulation 13-17, Unmaintained Vacant Dwellings. The proposed regulation would implement Bill 39-16, Housing and Building Maintenance Standards, which requires the Department of Housing and Community Affairs to designate certain vacant dwelling as unmaintained “vacant dwellings” and to inspect such dwellings at least once annually.
2. The Council reviewed the regulation under Method (2). 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.
3. On December 4, 2017, 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 13-17, Unmaintained Vacant Dwellings is approved.

This is a correct copy of Council action.


Linda M. Lauer, Clerk of the Council



MONTGOMERY COUNTY EXECUTIVE REGULATION

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

Subject Unmaintained Vacant Dwellings	Number 13-17
Originating Department Housing and Community Affairs	Effective Date December 12, 2017

Department of Housing and Community Affairs

Montgomery County Regulation on:

UNMAINTAINED VACANT DWELLINGS

Issued By: County Executive
Regulation Number: 13-17

Authority: Montgomery County Code, 2014, Chapter 26, Article III

Supersedes: N/A

Council Review: Method Two (2) under Code Section 2A-15
Register 9 Volume 34

SUMMARY:

Vacant Dwellings must meet the standards set forth in Chapter 26 of the Montgomery County Code. During an inspection of a Vacant Dwelling, the Department conducts a visual assessment for compliance with Chapter 26. Any violation of these standards is considered non-compliance, and any violation that remains uncorrected after sufficient notice and opportunity to correct has been provided to the Owner shall result in the Vacant Dwelling being designated as an Unmaintained Vacant Dwelling.

This regulation sets forth additional guidance and details regarding the designation of an Unmaintained Vacant Dwelling, sets the fees associated with inspections of such Dwellings, and provides additional guidance on the appeals process under Chapter 26, Article III.

CHAPTER 26. HOUSING AND BUILDING MAINTENANCE STANDARDS – REGULATIONS

Insert the following in its entirety below COMCOR 26.00.02 – Standards for Accessory Apartments

COMCOR 26.00.03 Unmaintained Vacant Dwellings

26.00.03.01 Purpose

Vacant Dwellings must meet the standards set forth in Chapter 26 of the Montgomery County Code. During an inspection of a Vacant Dwelling, the Department conducts a visual assessment for compliance with Chapter 26. Any violation of these standards is considered non-compliance, and any violation that remains uncorrected after



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This regulation sets forth additional guidance and details regarding the designation of an Unmaintained Vacant Dwelling, sets the fees associated with inspections of such Dwellings, and provides additional guidance on the appeals process under Chapter 26, Article III.

26.00.03.02 Definitions

Unless defined below, all terms herein have the same meaning as those in Chapter 26 of the Code.

- (a) *Initial Inspection* for the purposes of this regulation, means the inspection of a Vacant Dwelling conducted by the Department to assess an Owner's compliance with a previously issued notice of violation of Chapter 26. The results of the Initial Inspection shall be used as the basis of the Director's determination about whether to designate a Vacant Dwelling unit as an Unmaintained Vacant Dwelling; and, the date of the Initial Inspection shall be the date used to calculate the assessment of any inspection fees.
- (b) *Subsequent Inspection* means any inspection of an Unmaintained Vacant Dwelling conducted after the Initial Inspection, including a second inspection, third inspection, fourth inspection, and so forth, that is required to assess a Vacant Dwelling's compliance with Chapter 26, and to ensure that the Vacant Dwelling remains secured against casual entry.

26.00.03.03 Designation of Unmaintained Vacant Dwellings; Inspection

- (a) The Director may designate a Vacant Dwelling as an Unmaintained Vacant Dwelling following a notice of violation issued under Section 26-12 if an Owner fails to take the remedial action required, and within the timeframe specified, in the notice of violation.
- (b) Upon the Director's determination that a Vacant Dwelling is an Unmaintained Vacant Dwelling, the Director shall provide notice to the Owner within 30 days of the Director's determination. This notice shall also advise the Owner of the Owner's right to appeal the designation of the Owner's property as an Unmaintained Vacant Dwelling within 10 days of the date of the Director's notice. The Director's notice shall also provide information on the appeal process for challenging the Director's designation.
- (c) The Director shall designate as an Unmaintained Vacant Dwelling:
 - (1) Any Vacant Dwelling with current violations of Chapter 26 that have not been corrected by the Owner in accordance with the notice of violation issued under Section 26-12;
 - (2) Any Vacant Dwelling for which the Department has had to take more than one enforcement action due to the Owner's failure to correct violations enumerated in a notice of violation issued under Section 26-12; or
 - (3) Any Dwelling Unit condemned as unfit for human habitation under Section 26-13.



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- (d) *Inspection frequency.* The Department must inspect an Unmaintained Vacant Dwelling at least once in each twelve-month period to assess the Unmaintained Vacant Dwelling Unit's compliance with Chapter 26, and to ensure that the property remains secured against casual entry, if applicable. In addition to inspections initiated in response to specific complaints received by the Department regarding an Unmaintained Vacant Dwelling, the Department may conduct more frequent inspections based upon reasonable assumptions and pertinent factors that indicate that more frequent inspections are warranted. Such factors include, but are not limited to:
- (1) A demonstrated history that vegetation on the property is not maintained during the growing season, resulting in enforcement actions by the Department;
 - (2) A demonstrated history of vermin infestation, and/or the accumulation of Garbage and Rubbish at the site;
 - (3) Acts of vandalism against the Unmaintained Vacant Dwelling, or against other Dwellings in the vicinity;
 - (4) Unauthorized forced entry into the Unmaintained Vacant Dwelling, or unauthorized forced entry into other Dwellings in the vicinity;
 - (5) Localized severe weather events or natural disasters resulting in property damage to Dwellings in the County; and,
 - (6) Existing violations of a type and severity that the Unmaintained Vacant Dwelling has been declared a Public Nuisance, with the likelihood that the existing violations will worsen or new violations will occur, due to the Owner's failure to repair and maintain the Unmaintained Vacant Dwelling.
- (e) Nothing in this regulation prohibits the Department from citing the Owner of an Unmaintained Vacant Dwelling for additional violations of Chapter 26 based upon the results of a Subsequent Inspection.

26.00.03.04 Fees; Lien

- (a) The Department shall charge an inspection fee for each Subsequent Inspection of an Unmaintained Vacant Dwelling; inspection fees for Subsequent Inspections will be charged according to the following fee schedule:



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Inspection	Fee
Initial	\$ 0
Second	\$ 200
Third	\$ 300
Fourth	\$ 400
Fifth	\$ 500
Sixth	\$ 600
Seventh	\$ 700
Eighth	\$ 800
Ninth	\$ 900
Tenth and subsequent	\$ 1,000

- (b) Subsequent Inspections and the associated inspection fees shall be calculated from the date of the Initial Inspection.
- (c) The inspection designation and fee schedule shall be re-initiated upon legal transfer of ownership of the Dwelling.
- (d) The Department may take legal action to collect inspection fees assessed under this regulation, including the right to levy a lien on the Unmaintained Vacant Property and collect the lien in the same manner as taxes are collected.

26.00.03.05 Right to Appeal

- (a) An Owner appealing the designation of the Owner's property as an Unmaintained Vacant Dwelling under Section 26-25 must do so on a form prescribed by the Department, and must provide documentation required by the Department, in order for the Director to reconsider the designation as an Unmaintained Vacant Dwelling. Required documentation includes, but is not limited to:
 - (1) For an exemption under Section 26-21(a)(1) through (3), the property tax identification number for the Dwelling and the liber and folio of the deed recorded among the land records of Montgomery County showing that ownership is vested in an eligible entity; or for a Dwelling for which documentation of a recent legal transfer of ownership has not yet been recorded among the land records, a copy of the executed deed.



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- (2) For an exemption under Section 26-21(b), the property tax identification number(s) and a copy of the legally valid permit(s) issued by the County;
 - (3) For an exemption under Section 26-21(c) or Section 26-23(a)(3), the court docket number or case number indicating the date the case was filed with a court of competent jurisdiction and the name, address and telephone number of the administrator or trustee, as applicable;
 - (4) For an exemption under Section 26-23(a)(1), a copy of the real estate listing, broker contract and any other advertisements related to the sale or leasing of the Dwelling, and, for rental properties, a copy of a valid certificate of occupancy if required by the Department of Permitting Services;
 - (5) For an exemption under Section 26-23(a)(2), the case number or other unique identifier of the development application before the appropriate agency and the name, address and telephone number of the attorney representing the Owner;
- (b) For a claim that the Dwelling was improperly designated as a Vacant Dwelling as defined under Chapter 26, the Owner must permit the Department to inspect the Dwelling to verify occupancy and compliance with Chapter 26.
- (c) In the case of a successful appeal of the Director's designation, any inspection fees assessed under this regulation shall be removed from the Owner's tax bill, or if the inspection fees have been paid, they will be refunded to the Owner.
- (d) An Owner whose appeal of the Director's designation under these regulations is successful must continue to maintain the Dwelling in compliance with Chapter 26.

26.00.03.06 Fee Suspension

- (a) At the Director's sole discretion, any inspection fee authorized under this regulation may be held in abeyance ("fee suspension") if the Owner demonstrates to the Director's satisfaction, that the Owner's failure to correct a violation is due to temporary factors beyond the Owner's control. In such case, the Director shall establish a reasonable period for the Owner to comply with Chapter 26. If, after that reasonable period, the Owner is still not in compliance, the inspection fee will be assessed. Examples of factors beyond the control of the Owner include, but are not limited to, material or supplies to correct the violation(s) are on back-order, or repairs cannot be made due to seasonal conditions.
- (b) For a fee suspension to be granted, the Director must determine that the Owner is making a good faith effort to correct violations, as demonstrated by at least fifty percent (50%) of the violations identified during the Initial Inspection being corrected during the period provided in the notice of violation issued under 26-12.
- (c) For a fee suspension to be granted, the Owner must provide documentation, acceptable to the Director, substantiating the reason for the Owner's delay in correcting violations, documenting the Owner's good




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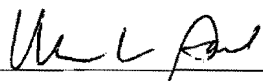
faith efforts since the Initial Inspection to correct all violations, including but not limited to, providing the Director executed contracts for services and labor and invoices for materials and supplies, and providing the Director with a good faith plan, including a reasonable timeframe, to correct all remaining violations by a date certain.

- (d) An Owner's failure to comply with the requirements of this Section 26.00.03.06 may result in the Department issuing civil citations in addition to assessing inspection fees.


Isiah Leggett
County Executive

Date: Oct 18, 2017

Approved as to Form and Legality
Office of the County Attorney

By: 
Date: 10-5-17