

Resolution No.: 17-861
Introduced: September 10, 2013
Adopted: September 10, 2013

**COUNTY COUNCIL
FOR MONTGOMERY COUNTY, MARYLAND**

By: County Council

SUBJECT: Approval of Executive Regulation 4-13, *Establishment of Procedures for Processing Class 3 Accessory Apartment License*, (Department of Housing and Community Affairs)

Background

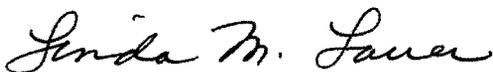
1. On July 23, 2013, the County Council received Executive Regulation 4-13, *Establishment of Procedures for Class 3 Accessory Apartment License*, (Department of Housing and Community Affairs).
2. The Council must review the regulation under method (2) of Section 2A-15 of the County Code.
3. Under method (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. The Planning, Housing and Economic Development Committee held a worksession on this regulation on September 9, 2013 and recommends approval.

Action

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

Executive Regulation 4-13, *Establishment of Procedures for Processing Class 3 Accessory Apartment License*, (Department of Housing and Community Affairs) is approved.

This is a correct copy of Council action.



Linda M. Lauer, Clerk of the Court



MONTGOMERY COUNTY EXECUTIVE REGULATION

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

Subject Accessory Apartment License – Class 3	Number 4-13
Originating Department Department of Housing and Community Affairs	Effective Date September 10, 2013

Montgomery County Regulation on:

ESTABLISHMENT OF ANNUAL RENTAL FACILITY LICENSE FEES AND PROCEDURES FOR PROCESSING CLASS 3 ACCESSORY APARTMENT LICENSE

Issued By: County Executive
Regulation No. 4-13

Authority: Code Sections 29-80
Supersedes: 11-04

Method (2) Code Section 2A-15
Register: Vol. 30, Issue 5

Comment Deadline: May 30, 2013

Effective Date: September 10, 2013

SUMMARY: The proposed regulation establishes procedures for the issuance of Class 3 accessory apartment licenses and establishes the license fees for Class 3 accessory apartment licenses.

ADDRESSES: Additional information and copies of the regulation are available from Cynthia Gaffney, Division of Housing, 100 Maryland Avenue, 4th Floor, Rockville, Maryland 20850 (240-777-3665).



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COMCOR 29.20.01.01 Section 1. Definitions.

The following words or phrases are defined as follows for use in this regulation:

Class 3 accessory apartment license means a license issued by the Department for an accessory apartment that does not have a special exception approved before May 20, 2013.

Department means the Department of Housing and Community Affairs.

Director means the Director of the Department of Housing and Community Affairs or the Director's designee.

Owner means any person who holds legal title to a one-family detached dwelling unit.

Primary Residence means a one-family detached dwelling unit where the owner regularly resides and is the location designated by the owner for legal purposes of obtaining a driver's license and filing tax returns.

COMCOR 29.20.01.02 Section 2. Fees.

- (a) The annual license fees for rental dwelling units are hereby established as follows:
 - (1) For a Class 1 multi-family rental facility license \$38.00 per dwelling unit in an apartment complex or an accessory apartment approved by special exception and \$56.00 per dwelling unit for all others.
 - (2) For a Class 2 single-family rental facility license \$98.00 per dwelling unit.
 - (3) For a Class 3 accessory apartment license \$98.00 per unit.
- (b) The annual license fee shall not be prorated and must be made payable to Montgomery County Maryland.
- (c) Failure to obtain a rental facility license is a Class A violation under Section 1-19 of the Montgomery County Code.



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- (d) In addition to the annual license fee, the following fees for a Class 3 accessory apartment license are hereby established as follows:
- (1) The application filing fee is \$250.00 of which \$125.00 is refundable if the Director finds the proposed accessory apartment does not meet the zoning requirements in Section 59-A-6.20 prior to the Department's inspection of the proposed accessory apartment to ascertain whether it complies with Chapter 26 of the Montgomery County Code.
 - (2) The sign fee is \$220.00 of which \$110.00 is refundable if the sign is returned to the Department within 15 days of the end of the posting period.
 - (A) The sign fee is not refundable if the sign is not returned or is returned but damaged.
 - (B) If the sign is lost during the posting period, the original sign fee of \$220.00 will not be refunded and a new sign fee of \$220.00 will be charged.
 - (3) The fee for the transfer of an accessory apartment license is \$250.00.

COMCOR 29.20.01.03 Section 3. Procedure for a Processing a Class 3 Accessory Apartment License.

- (a) An owner must file a completed license application on a form provided by the Department which will require at least the following supporting documents to be submitted with the application form:
- (1) Evidence of primary residence as specified in Section 29-19(b)(1)(B).
 - (2) A drawing of the dimensions of the single family dwelling, including the dimensions and location of the proposed accessory apartment.
 - (3) A drawing or photograph with the dimensions and locations of the proposed parking spaces
 - (4) An affidavit from the owner attesting that the owner will continue to use the property as the owner's primary residence after obtaining an accessory apartment license.

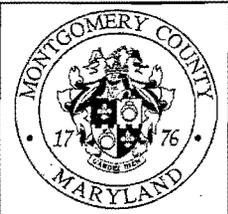


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- (5) An affidavit from the owner attesting that the total number of occupants residing in the accessory apartment who are 18 years or older will be limited to 2.
 - (6) The filing fee, license application fee, and sign fee established by this Regulation.
- (b) The Director will review the application for completeness and will send a notification by regular mail or electronic mail about whether the application was accepted by the Department or whether the application will be returned to the applicant. Returned applications will contain all filing fees and an explanation about why the application is being returned.
- (c) The Department will inspect the property and the proposed accessory apartment for compliance with the provisions of Chapter 26 and Section 59-A-6.20 of the Montgomery County Code.
- (d) When the Department has determined the application is complete, the owner must erect a sign furnished by the Department. A determination by the Director that an application is complete is not a determination about whether the proposed accessory apartment satisfies the zoning requirements in Section 59-A-6.20 or the requirements of Chapter 26.
- (1) Unless otherwise provided by the Department, the sign must be erected on the property in a place visible from each public road which abuts the property, as determined by the Department.
 - (2) Unless otherwise provided by the Department, the sign must be erected so that the bottom of the sign is at least 2 ½ feet from the ground. The sign will be of such material and color or colors as the Department specifies, with the height and width of not less than 2 and 3 feet, respectively, and must contain in conspicuous lettering not less than 2 1/2 inches in height the following:



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- (A) Inform the public of a pending accessory apartment application with the application's reference number.
 - (B) Provide the Department's website address for information about the application and information on filing an objection to the application.
 - (C) Provide a telephone number to contact the Department regarding the status of the application.
- (3) The sign must be posted within 5 days of the acceptance of the application by the Department and remain posted for at least 30 days after the issuance of the Director's report with the Director's findings concerning the application .
- (4) Before a Class 3 accessory apartment license is issued, the owner must provide a signed affidavit attesting that the sign was posted in compliance with this Regulation.
- (5) The sign must be returned to the Department within 15 days after the end of the posting period for a partial refund of the sign fee.
- (6) Failure to post the sign in accordance with this Regulation will result in the return of the application and filing fees and the Director denying the proposed accessory apartment.
- (e) The Director will issue a report on all findings required by this Regulation concerning the proposed accessory apartment within 30 days of the Department's acceptance of the application. A copy of the report will be sent to the owner by regular mail or electronic mail and posted on the Department's website. The owner or any aggrieved party may file objections to the Director's report with the Office of Zoning and Administrative Hearings within 30 days under the provisions of Chapter 29-26(b)(3).
- (f) The Director will issue or deny a new license 30 days after the issuance of the Director's report.



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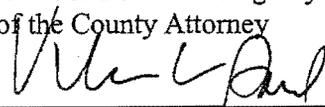
- (1) If any repairs or improvements are required before the license may be approved, they must be completed within 30 days of the Director’s report or the application may be denied and the license and application fees forfeited. The Director may waive or extend the 30 day requirement at the Director’s discretion. Any waiver or extension of the 30 day period must be in writing.
- (2) If new construction is required before the license may be approved, it must be completed within 180 days or the application may be denied and the license and application fees forfeited. The Director may waive or extend the 180 day requirement at the Director’s discretion. Any waiver or extension of the 180 day period must be in writing.
- (g) The Director may renew a license only if the requirements of Chapter 29-19(b)(3) are met.
- (h) The Director may transfer an accessory apartment Class 3 license once the requirements of Chapter 29-19(b)(5) are met.
- (i) The Director may revoke an accessory apartment Class 3 license under the provisions of Chapter 29-25.

Approved:


 Isjah Leggett
 County Executive

July 22, 2013
 Date

Approved as to Form and Legality
Office of the County Attorney

By: 

Date: 7-16-13