

CITY OF HAGERSTOWN, MARYLAND

**AN ORDINANCE TO AMEND THE CODE OF THE
CITY OF HAGERSTOWN, CHAPTER 197 THEREOF,
ENTITLED *RENTAL FACILITIES* TO INCREASE THE
ANNUAL LICENSE FEE AND TO INCREASE THE
FREQUENCY OF EXTERIOR INSPECTIONS**

RECITALS

WHEREAS, the Mayor and Council of the City of Hagerstown have previously adopted Chapter 197 of the City Code, entitled *Rental Facilities*, establishing a program for licensing and inspection of residential rental facilities; and

WHEREAS, the aforesaid Chapter 197 has enabled the City of Hagerstown to identify and eliminate many sub-standard living conditions and code violations present in residential facilities, and to improve living conditions within the corporate limits of the City of Hagerstown; and

WHEREAS, the Mayor and Council of the City of Hagerstown desire to continue to promote and assure safety, health and habitability in housing conditions in residential rental facilities in the City of Hagerstown; and

WHEREAS, the Mayor and Council desire to continue to prevent the deterioration of residential rental facilities in the City of Hagerstown, to support property values, and to encourage responsible property management and use of said residential rental facilities; and

WHEREAS, the Mayor and Council desire to increase the frequency of exterior inspections conducted pursuant to the Program; and

WHEREAS, the Mayor and Council desire to provide adequate resources to administer the Program by instituting an increase in the rental facility license fee in order to better reflect the costs incurred in administering the Program;

NOW THEREFORE, BE IT RESOLVED, ENACTED AND ORDAINED by the Mayor and Council of the City of Hagerstown, Maryland, as its duly constituted legislative body as follows:

Section 1. Chapter 197 of the Code of the City of Hagerstown, Section 197-4.G.(1) be and is hereby amended to change the fee of \$50.00 to \$75.00, to read as follows:

“(1) Seventy-five dollars per rental unit; or”

0-14-13

Section 2. Chapter 197 of the Code of the City of Hagerstown, Section 197-6.A, be and is hereby amended to increase the frequency of exterior inspections, to read as follows:

“§197-6. Inspection.

- A. In connection with the application requirements contained in §197-4 of this chapter, the rental facility shall be subject to an initial inspection of the exterior and annually thereafter.

The interior of each rental unit, except for a single unit rental facility to be occupied by an exempt tenant, shall be inspected at tenant turnover prior to being occupied by a new tenant, but never more frequently than 48 months from the most recent interior inspection conducted pursuant to this section. Interior rental unit inspections shall be conducted within three full business days of receipt by Code Administration of the notice required in §197-5. Failure of Code Administration to offer the inspection within three full business days or to conduct said inspection when scheduled shall be deemed to be a waiver of the inspection requirement for said rental unit. Code Administration may accept an interior inspection performed by the Hagerstown Housing Authority as part of the Tenant-based Section 8 Inspection Program in lieu of the City required interior inspection.

The interior of every rooming unit shall be inspected once every 48 months. A minimum of seven calendar days prior to the scheduled inspection the owner is required to give written notice of the scheduled inspection to all current occupants of the Rooming House Facility and Code Administration is required to post a notice of scheduled inspections at the Rooming House Facility.”

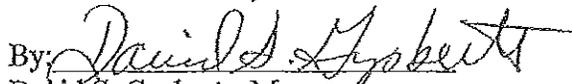
Section 3. Effective Date. This Ordinance shall become effective January 1, 2015.

BE IT FURTHER RESOLVED, ENACTED AND ORDAINED that this enacting Ordinance shall become effective at the expiration of thirty (30) calendar days following its approval.

WITNESS AND ATTEST
AS TO CORPORATE SEAL


Donna K. Spickler, City Clerk

MAYOR AND COUNCIL OF THE CITY
OF HAGERSTOWN, MARYLAND

By: 
David S. Gysberts, Mayor

Date of Introduction: July 22, 2014
Date of Passage: August 26, 2014
Effective Date: September 25, 2014

PREPARED BY:
NAIRN & BOYER, CITY ATTORNEY

0-14-13

CITY OF HAGERSTOWN, MARYLAND

AN AMENDED ORDINANCE TO AMEND THE CODE OF THE CITY OF HAGERSTOWN CHAPTER 197 THEREOF ENTITLED *RENTAL FACILITIES*, TO REQUIRE THAT ALL RESIDENTIAL LANDLORDS MUST OBTAIN A CERTIFICATION AS A RESIDENTIAL OPERATOR, ESTABLISHING A VOLUNTARY EDUCATIONAL SEMINAR WHICH SEMINAR WILL BE REQUIRED UNDER CERTAIN CIRCUMSTANCES, REQUIRING ALL LANDLORDS TO UTILIZE A WRITTEN LEASE CONTAINING A CRIME-FREE PROVISION AND ESTABLISHING THAT ALL APPEALS SHALL BE HEARD BY AN ADMINISTRATIVE HEARING OFFICER

RECITALS

WHEREAS, the Mayor and Council of the City of Hagerstown has previously adopted Chapter 197 of the City Code, *Rental Facilities*, which Chapter requires licensing and inspection of rental facilities located in the corporate limits of the City; and

WHEREAS, the Mayor and Council of the City of Hagerstown desire to implement new requirements to protect, preserve and promote the health, safety and welfare of the citizens of the City of Hagerstown;

WHEREAS, the Mayor and Council have determined that reasonable efforts to reduce, control and prevent criminal and nuisance activities in residential rental housing promotes and advances this vision; and

WHEREAS, the Mayor and Council are committed to improving housing and neighborhoods throughout the City; and

WHEREAS, based upon the purposes outlined in §197-1 of the proposed ordinance, the Mayor and Council find it to be in the best interests of the citizens of the City of Hagerstown to do so;

NOW, THEREFORE, BE IT RESOLVED, ENACTED AND ORDAINED by the Mayor and Council of the City of Hagerstown, Maryland, as its duly constituted legislative body, as follows:

Section 1. The Code of the City of Hagerstown be and is hereby amended by deleting and repealing Chapter 197, *Rental Facilities*.

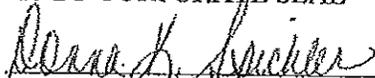
Section 2. The Code of the City of Hagerstown is hereby amended by adding thereto a new chapter, to replace Chapter 197 hereinabove repealed, to be Chapter 197, *Rental Facilities*, to read as follows:

SBE ATTACHED TEXT OF CHAPTER 197

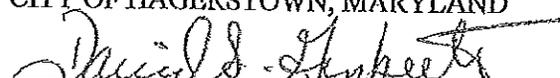
Section 3. Effective Date. This Ordinance shall become effective immediately upon the effective date of this Enacting Ordinance.

BE IT FURTHER RESOLVED, ENACTED AND ORDAINED that this Enacting Ordinance shall become effective at the expiration of thirty (30) calendar days following its approval.

WITNESS AND ATTEST
AS TO CORPORATE SEAL


Donna Spickler, City Clerk

MAYOR AND COUNCIL OF THE
CITY OF HAGERSTOWN, MARYLAND


David S. Gysberts, Mayor

Date of Introduction: January 28, 2014
Date of Passage: March 18, 2014
Effective Date: April 18, 2014

PREPARED BY:
NAIRN & BOYER, LLC
City Attorney

Chapter 197

RENTAL FACILITIES

§197-1. Purpose.

The Mayor and Council recognize that clean, well-built, crime-free housing and neighborhoods are the foundation upon which healthy communities are built. This chapter promotes and advances the City's vision and commitment to housing and neighborhoods throughout the City. The purpose of this Chapter is to protect and promote the public health, safety and welfare of the citizens of Hagerstown, to establish rights and obligations of the landlord and the tenant in the rental of dwelling units and to encourage the landlord and tenant to maintain and improve the quality of rental housing within the community.

An additional purpose of this chapter is to assure compliance with all laws, ordinances and regulations applicable to residential housing facilities in the City of Hagerstown, and to promote and assure safety, health and habitability in the housing conditions in rental facilities in the City, to prevent deterioration of rental facilities in the City, to support property values, and to encourage responsible management and use of rental facilities through licensing and inspection.

It is also the purpose of this chapter to protect, preserve, and promote the health, safety and welfare of the citizens of Hagerstown by the reduction, control and prevention of criminal and nuisance activities in residential rental housing, through education and the implementation and enforcement of reasonable lease provisions.

§197-2. Definitions.

- A. CERTIFIED AS A RESIDENTIAL OPERATOR OR CERTIFICATION AS A RESIDENTIAL OPERATOR – The certification of landlord or landlord's designated agent who has satisfied the requirements of this Chapter.
- B. CHRONIC NUISANCE PROPERTY – Chronic Nuisance Property shall be as defined in Chapter 95 of the City Code.
- C. CITY – City of Hagerstown, Maryland.
- D. CODE ADMINISTRATION – The Planning and Code Administration division of the Community and Economic Development Department of the City.
- E. CRIME FREE HOUSING SEMINAR – A seminar sponsored by the City to provide information to landlords and their designated agents regarding the crime free requirements of this chapter, the lease provisions required hereunder, tenant application and criminal background review procedures, and fair housing laws.
- F. DESIGNATED AGENT – An individual expressly designated by a landlord who actively operates or manages landlord's rental unit(s) for landlord.

- G. EXEMPT TENANT – A tenant of a single unit rental facility who is related to an owner of said facility as grandparent, parent, sibling, child, or grandchild, whether naturally, step or in-law.
- H. HPD – The Hagerstown Police Department.
- I. LANDLORD – The owner of a residential rental facility or rental unit(s).
- J. OWNER - Any person, partnership, association, company, corporation or other entity having a legal or equitable interest in, or control of a rental facility. Owner shall also mean any person who, alone, jointly or severally, shall have the charge, care or control of any premises as executor, administrator, trustee or guardian of the estate of the owner. Owner shall also mean any person having any interest in a partnership, association, company, corporation or other entity which owns or has any ownership interest or control of a premise. Any person, firm, partnership, association, company, corporation or other entity whose name appears on the deed or property tax bill for the premises shall be deemed to be the owner of the premises.
- K. OWNER-OCCUPIED – When any owner actually resides on a regular permanent basis, and has his/her sole primary residence in or at a premises which includes a rental unit.
- L. PREMISES – Any single parcel or lot of real property in the City, including the land and all improvements or structures, upon which a rental facility is located.
- M. REASONABLE STEPS – In relation to §197-9 Enforcement of the Crime Free Provision, reasonable steps are measures instituted and/or supported by the owner to proactively and progressively respond to receipt of notice of HPD qualifying calls as defined in Chapter 95, and/or a Chronic Nuisance Designation. Such measures may include but not be limited to written notifications to tenant(s), use of no trespass letters, legal remedies, and/or additional training for the owner. Reasonable steps include communication and cooperation with HPD.
- N. RENTAL FACILITY – A structure containing one (1) or more rental units.

As used in this Chapter, Rental Facility shall not include:

- 1. A rental facility where any portion of the premises is owner-occupied, and said premises contains no more than one (1) rental unit.
- 2. A rental facility which is owned and operated by the Housing Authority of the City of Hagerstown.

- O. RENTAL UNIT – Any single dwelling unit located in the City which is rented, leased or let, whether for consideration or not, by the owner of said premises to one (1) or more tenants for occupancy as a residence. As used in this Chapter, a rental unit shall include a rooming unit contained in a rooming house facility. A rental unit shall not include a unit actually being used for traditional hotel, motel, bed and breakfast, nursing home or hospital purposes.
- P. ROOMING HOUSE FACILITY – A rental facility which consists of rental units that are not equipped with individual bathroom and kitchen facilities, but share common bathroom and kitchen facilities within the rental facility.
- Q. ROOMING UNIT – A room intended for living and sleeping purposes within a rooming house facility.

§197-3 Rental Facility License Required.

It shall be unlawful for the owner(s) of any rental facility to enter into a residential lease with a tenant for a rental unit or permit occupancy of any rental unit by another unless said rental unit is currently licensed by the City, and said license has not been denied, revoked or suspended.

§197-4. Application; License Fee.

In addition to the inspection requirements of Section 197-6 of this Chapter, an applicant for a rental facility license shall provide the following information for each rental facility on the appropriate application form provided by Code Administration.

- A. The address of the rental facility.
- B. The number of rental units contained in the rental facility.
- C. The name, street address and telephone number and e-mail of all owners of the rental facility.
- D. If the owner of the rental facility is not an individual, the applicant shall provide the owner's name, street address and telephone number, and the resident agent's name and address.
- E. The name, street address and telephone number of a designated contact person for the owner(s).
- F. The name and address of the landlord or designated agent who is certified as a residential operator.
- G. Except for a single unit rental facility occupied by an exempt tenant, and except for a newly constructed rental facility during the four (4) year period immediately

following the issuance of the use and occupancy permit, payment of a nonrefundable annual license fee of:

- (1) Fifty dollars per rental unit; or
 - (2) One hundred dollars for each rooming-house facility, plus \$10 for each rental unit in said rooming-house facility.
- H. Annual written acknowledgment of the landlord or designated agent of its obligations and responsibilities pursuant to this Chapter 197 and Chapter 95 of the City Code. So long as not revoked as provided herein and subject to the requirements of Section 197-7.B hereof, receipt of the acknowledgment shall establish the Certified Residential Operator status of the landlord or agent.
- I. The applicant shall be required to update the information provided pursuant to sub-sections C, D, E and F of this Section, if said information shall change after the issuance of a license.

§197-5. Tenant Turnover.

The applicant shall notify Code Administration when any rental unit of a licensed rental facility becomes vacant, if the applicant intends to offer the unit for rent and the unit has not been inspected in the preceding forty-eight (48) months. Code Administration shall notify the applicant of required interior inspections of all Rooming House Facilities and Rooming Units.

§197-6. Inspection.

- A. In connection with the application requirements contained in §197-4 of this chapter, the rental facility shall be subject to an initial inspection of the exterior and biennially thereafter; if however, an exterior inspection reveals no violations the subsequent exterior inspection shall be quadrennial.

The interior of each rental unit, except for a single unit rental facility to be occupied by an exempt tenant, shall be inspected at tenant turnover prior to being occupied by a new tenant, but never more frequently than 48 months from the most recent interior inspection conducted pursuant to this section. Interior rental unit inspections shall be conducted within three full business days of receipt by Code Administration of the notice required in §197-5. Failure of Code Administration to offer the inspection within three full business days or to conduct said inspection when scheduled shall be deemed to be a waiver of the inspection requirement for said rental unit. Code Administration may accept an interior inspection performed by the Hagerstown Housing Authority as part of the Tenant-based Section 8 Inspection Program in lieu of the City required interior inspection.

The interior of every rooming unit shall be inspected once every 48 months. A minimum of seven calendar days prior to the scheduled inspection the owner is

required to give written notice of the scheduled inspection to all current occupants of the Rooming House Facility and Code Administration is required to post a notice of scheduled inspections at the Rooming House Facility.

- B. All inspections conducted hereunder shall be conducted by Code Administration and shall be performed pursuant to the standards of the property maintenance code then currently adopted by the City. The applicant shall make the rental facility and/or each rental unit, as the case may be, available for inspection by Code Administration on the scheduled inspection date. Code Administration shall provide reasonable advance notice of inspection to the applicant, and the applicant shall have the right to be present at the inspection.
- C. The inspection requirements of this Section 197-6 shall not be applicable to a newly constructed rental facility, for the four (4) year period immediately following the issuance of the use and occupancy permit for said rental facility.

§197-7. Training.

- A. HPD shall sponsor a voluntary Crime Free Housing Seminar for landlords or their designated agents. The training seminar is approximately four (4) hours in length.
- B. If an owner, landlord or designated agent has received notice of more than one (1) HPD qualifying call, or one (1) HPD qualifying call which constitutes a felony under Maryland law pursuant to Chapter 95 of the Code, in addition to the application requirements contained in Section 197-4 hereof, Certified Residential Operator Status and the issuance of the Rental Facility license is subject to and contingent upon the successful completion of the Crime Free Housing Seminar. If HPD is unable to facilitate the completion of this training requirement, HPD may issue a conditional certification, subject to the landlord or designated agent completing the training requirements within ninety (90) days of the issuance thereof. This training requirement may be satisfied by the completion of a training seminar offered by a third party, so long as said seminar has been reviewed and approved by HPD.

If a certified designated agent is no longer employed by an owner who is subject to 197.7.B or otherwise loses certified status, a new designated agent shall comply with the requirements hereof within ninety (90) days of that event. If HPD is unable to facilitate the completion of this training requirement within the required time, a conditional certification may be issued, subject to the designated agent completing the training requirements within ninety (90) days of issuance of the conditional certification.

§197-8. Written Leases; Required Provisions.

- A. **Written Leases required.** Beginning on July 1, 2014, or immediately upon the termination of a then-current term of tenancy for a particular unit existing on said

date, a landlord or designated agent who offers a residential rental unit in a rental facility for rent in the City of Hagerstown may not rent or permit the occupancy of any such unit without using a written lease, or a written lease extension.

B. **Compliance with State law.** All such written leases shall comply with the requirements of Maryland Real Property Section 8-208, as from time to time amended.

C. **Additional Required Provisions.** In addition to the above referenced requirements, the landlord or designated agent shall include the following in all written leases:

(1) A Crime Free Housing provision, the purpose of which is to make criminal activity engaged in, facilitated or permitted by the tenant, or a member of the household, a guest or other person(s) under control of the tenant, a violation of the lease. The Crime Free lease provision will be in substantially the following form:

“Tenant, or a member of the household, a guest or other person(s) under control of the tenant:

- a. Shall not knowingly engage in criminal activity or commit a disturbance as defined in Chapter 95 of the City Code at, on or near the said premises. “Criminal activity” means the commission of any of the acts defined in the Maryland Criminal Law Code Annotated, as from time to time amended.
- b. Shall not knowingly engage in any act intended to facilitate criminal activity and shall not knowingly permit the premises to be used for or to facilitate criminal activity, regardless of whether the individual engaging in the activity is a Tenant, or a member of the household, a guest or other person(s) under control of the tenant.
- c. Violation of the above provisions shall be a material breach of the lease and good cause for immediate termination of tenancy. Proof of a violation of the lease hereunder shall not require a criminal conviction, but shall be by a preponderance of the evidence.”

(2) A notice that the rental unit may be subject to reasonable inspections by the Landlord; and

(3) An attachment of the text or a fair summary of the text of Chapters 95, and 197 of the City Code.

§197-9. Enforcement of Crime Free Provision.

It shall be a violation of this Chapter for a licensee, landlord or designated agent to knowingly permit a tenant(s), occupant(s), a tenant's guest(s), or any person(s) under a tenant's control to violate the Crime Free Housing provision of a lease after receiving notice that said location has been deemed a Chronic Nuisance Property pursuant to Chapter 95 of the City Code, without taking reasonable steps to enforce said provision.

§197-10. Loss of Certification as a Residential Operator.

Certification as a Residential Operator shall remain valid, so long as the certified individual is not in violation of any of the provisions of:

1. §197-7. *Training*; or
2. §197-8. *Written Leases; Required Provisions*; or
3. §197-9. *Enforcement of Crime Free Provision*.

Such a violation shall subject the operator to revocation of the certification. Re-certification shall be required after a revocation hereof.

§197-11. Issuance of Rental Facility License; Renewal.

Upon receipt of a completed application form and full payment of the appropriate fee, Code Administration shall issue a rental facility license for the subject rental facility within 30 days, unless such license is or has been denied, suspended or revoked pursuant to §197-12 hereof, or unless there is no current valid certification of the landlord or designated agent as a Certified Residential Operator. Said license shall expire on its anniversary date, and shall be renewable annually, with application for said renewal being made at least 60 days prior to the expiration date of the then current license. License renewal application shall be on the form provided by Code Administration.

§197-12. Denial; Revocation or Suspension of Rental Facility License.

- A. A rental facility license may be denied, revoked or suspended in whole or in part at any time by Code Administration for the rental unit(s) in which a property maintenance code violation exists, if, after receipt of a notice of violation, the owner fails to eliminate violations of the property maintenance code identified during any inspection within the time ordered in the notice. Additionally, a rental facility license may be denied, revoked or suspended at any time by Code Administration if the landlord or designated agent is not a valid certified Crime Free Housing Residential Operator. Denial, revocation or suspension of a rental facility license shall be in addition to, and not in substitution of the penalties provided for in Section 197-15 of this Chapter.
- B. Any property owner directly affected by an action of Code Administration or HPD under the provisions of this Chapter may appeal such action to the Administrative Hearing Officer appointed pursuant to Chapter 95.

§197-13. Crime Free Designation.

HPD shall offer a more extensive voluntary program whereby residential rental properties may be afforded certain designations upon satisfaction of established criteria by the owner, landlord or designated agent, in recognition of crime prevention steps taken at the property.

§197-14. Severability.

The provisions of this Chapter are severable. If any provision of this Chapter or its application to any person or circumstance is held to be invalid, such invalidity shall not effect the other provisions or applications of this Chapter which can be given effect without the invalid provision or application.

§197-15. Violations and Penalties.

Any owner violating the requirements of this Chapter shall be guilty of a municipal infraction and shall be punished by a fine not exceeding \$1,000.00. Any such violation shall be cited as a prepayable fine in the amount of \$500.00. Each day a violation exists shall be considered a separate and distinct violation. In addition, the City may avail itself of all civil remedies including a petition for injunctive relief from a Court of competent jurisdiction.

