

CITY OF HAGERSTOWN, MARYLAND

**AN ORDINANCE TO AMEND THE CODE
OF THE CITY OF HAGERSTOWN, CHAPTER 197 THEREOF, ENTITLED
*RENTAL FACILITIES***

RECITALS

WHEREAS, by virtue of State Law and the City Charter, the City of Hagerstown has the authority to regulate and require inspections of buildings within the City; and

WHEREAS, the Mayor and Council have a responsibility to maintain a safe environment within the City; and

WHEREAS, it has come to the attention of the Mayor and Council that the current ordinance regulating rental facilities requires updating and clarification to ensure all rental properties are compliant with the code requirements; and

WHEREAS, the Mayor and Council desire to clarify the authority of the City Code Administration to enter into rental properties for the purpose of inspection, and to seek an administrative warrant in those instances in which consent to enter property is denied; and

WHEREAS, the Mayor and Council desire to clarify the procedure for inspections of unreported tenant turnovers; and

WHEREAS, the Mayor and Council desire to clarify the instances in which rental facility which is occupied as the primary residence by a purchaser of the facility under a land installment that is in compliance with the requirements of the Maryland Real Property Article § 10-101 et seq is not subject to Chapter 197; and

WHEREAS, the Mayor and Council desire to clarify the references in Chapter 197 to the *City Code*, the *Excessive Use of City Services Ordinance* and the *Property Maintenance Code*.

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:

1. The foregoing recitals be and are incorporated herein as if restated verbatim.
2. The Code of the City of Hagerstown is hereby amended by repealing Chapter 197 of the City Code and re-enacting Chapter 197 of the City Code in its entirety, to read as follows:

(See Attached)

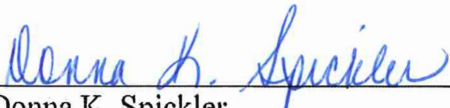
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3. This amendment to the Code of the City of Hagerstown shall become effective immediately upon the effective date of this Enacting Ordinance.


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

WITNESS AND ATTEST
AS TO CORPORATE SEAL

MAYOR AND COUNCIL OF THE
CITY OF HAGERSTOWN, MARYLAND



Donna K. Spickler
City Clerk



Emily N. Keller
Mayor

Date of Introduction: 10/25/2022
Date of Passage: 11/01/2022
Effective Date: 12/02/2022

PREPARED BY:
SALVATORE & MORTON, LLC
CITY ATTORNEY

Chapter 197
RENTAL FACILITIES

§ 197-1. Purpose.

- A. 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.
- B. 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.
- C. 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.
- D. The Mayor and Council further recognize that periodic inspections of rental facilities are essential to the accomplishment of these purposes.

§ 197-2. Definitions.

As used in this chapter, the following terms shall have the meanings indicated:

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.

CHRONIC NUISANCE PROPERTY

As defined in Chapter 95 of the Code.

CITY

The City of Hagerstown, Maryland.

CODE

The Code of the City of Hagerstown, as from time to time amended.

CODE ADMINISTRATION

The Code Administration Division of the Planning and Code Administration Department.

CODE OFFICIAL

Any official who is charged with the administration and enforcement of this code, or any duly authorized representative.

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.

DEPARTMENT

The Planning and Code Administration Department of the City of Hagerstown.

DESIGNATED AGENT

An individual expressly designated by a landlord who actively operates or manages the landlord's rental unit(s) for the landlord.

DORMITORY

A structure specifically designed and used for long-term stay by students of a college, university, or other academic or trade school for the purpose of providing rooms for sleeping purposes.

EXCESSIVE USE OF CITY SERVICES ORDINANCE

The Excessive Use of City Services Ordinance, as set forth in Chapter 95 of the Code.

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.

HPD

The Hagerstown Police Department.

LANDLORD

The owner of a residential rental facility or rental unit(s).

OWNER

Any person, partnership, association, company, corporation, trust 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, trust or other entity which owns or has any ownership interest or control of a premises. Any person, firm, partnership, association, company, corporation, trust 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.

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.

PROPERTY MAINTENANCE CODE

The Property Maintenance Code, as set forth in Attachment 3 of Chapter 64 of the Code, as from time to time amended.

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.

REASONABLE STEPS

In relation to § 197-9, Enforcement of crime-free provision, "reasonable steps" are measures instituted and/or supported by the owner to proactively and progressively respond to receipt of a notice of HPD qualifying calls, as defined in Chapter 95 of the Code, 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.

RENTAL FACILITY

- A. A structure containing one or more rental units.
- B. 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 rental unit.
 - (2) A rental facility which is owned and operated by the Housing Authority of the City of Hagerstown.
 - (3) A rental facility which is occupied as the primary residence by a purchaser of the facility under a land installment that is in compliance with the requirements of the Maryland Real Property Article § 10-101 et seq and which contains no more than one rental unit.

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 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 or dormitory. A "rental unit" shall not include a unit actually being used for traditional hotel, motel, bed-and-breakfast, nursing home or hospital purposes.

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.

ROOMING UNIT

A room intended for living and sleeping purposes within a rooming house facility.

SAFETY INSPECTION

A limited inspection of occupied units that will focus on life safety standards defined in a Safety Inspection Standards policy adopted by the Mayor and City Council.

§ 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 § 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 agents 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, except for a newly constructed rental facility and/or except for an existing rental facility renovated under permit to the Partners in Economic Progress (PEP) standards 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) Seventy-five dollars per rental unit; or
 - (2) One hundred dollars for each rooming-house facility, or dormitory, plus ten dollars for each rental unit in said rooming-house facility or dormitory.
- H. Annual written acknowledgment of the landlord or designated agent of his, her, or its obligations and responsibilities pursuant to this Chapter **197** and Chapter **95** of the Code. So long as not revoked as provided herein, and subject to the requirements of § **197-7B** hereof, receipt of the acknowledgment shall establish the certified residential operator status of the landlord or agent.
- I. Transfer of license
- (1) If an applicant for or the holder of a license transfers ownership or no longer is an agent for the licensed rental facility, the applicant or licensee must notify Code Administration within sixty (60) days of the change. Code Administration may reject an application or suspend or revoke a license if the applicant or licensee does not notify Code Administration as required by this subsection.
 - (2) Any person or entity who takes over the operation of a licensed rental facility may transfer the license for the unexpired portion of the term for which it was issued by applying to Code Administration. Applications made within thirty (30) days after taking over operation are not subject to a transfer fee. Applications made thirty (30) to sixty (60) days after transfer shall require a transfer fee of \$25.00 per license. Transfer notifications associated with the annual application renewal between May 1 and June 30 are not subject to a transfer fee. Nothing in this section affects the validity of any sale, transfer, or disposition in any interest in real estate.
 - (3) Failure to notify Code Administration of a transfer within sixty (60) days requires a new rental application and license fee.
- J. Payment for said license shall be due in full from the owner within ninety (90) days from the application mailing. Failure to remit payment in full may result

in collection pursuant to Article III, Tax Liens, § 223-11 of the City Code, or by other civil proceeding.

§ 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 48 months. Code Administration shall notify the applicant of required interior inspections of all rooming house facilities and rooming units.

§ 197-6. Inspections.

- 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.
1. 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 initial 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.
 2. If Code Administration learns that a rental unit is rented in violation of § 197-5 or this § 197-6, the interior of such rental unit shall be inspected after Code Administration learns of the occupancy. Code Administration shall attempt to schedule and conduct the inspection within 5 days after learning of the occupancy. Such inspection, however, shall not excuse the landlord's or agent's violation of § 197-5 or this Section § 197-6. The landlord's or agent's failure to timely respond to Code Administration's notice of inspection shall be deemed a refusal of consent to the inspection for the purposes of § 197-6.D.
 3. The interior of every rooming unit and dormitory 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.

4. For rental units which have never been inspected, are currently not occupied by an exempt tenant since adoption of the program and have had a tenant turnover, an interior inspection shall be required upon scheduling by the Department. For occupied rental units, the inspection shall be pursuant to the Safety Inspection Standards then currently adopted by the Mayor and City Council. For unoccupied rental units, inspections shall be performed pursuant to the standards of the Property Maintenance Code. Code Administration may accept an annual 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.
 5. Newly licensed rental facilities shall have all units inspected within 30 days of application.
- B. All inspections conducted hereunder shall be conducted by Code Administration in accordance with §§ **104.2**, **104.3** and **104.4** of the Property Maintenance Code, and shall be performed pursuant to the standards of the Property Maintenance Code. 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 § **197-6** shall not be applicable to a newly constructed rental facility and/or an existing rental facility renovated under permit to the Partners in Economic Progress (PEP) standards, for the four-year period immediately following the issuance of the use and occupancy permit for said rental facility.
- D. The landlord or designated agent of the rental facility, and the tenant of any occupied rental unit, shall have the right to refuse consent to an inspection of the rental unit and to deny permission to enter the rental unit for said purpose. All applications and inspection notices shall advise the landlord, designated agent or tenant, as the case may be, of his, her or its right to refuse consent and deny entry. In the event of such refusal of consent or denial of entry, Code Administration shall have the right to seek the issuance of an administrative search warrant under § **104.4** of the Property Maintenance Code in order to conduct the inspection.
- E. In addition to § **104.4.3.a-c** of the Property Maintenance Code, probable cause for the issuance of an administrative search warrant under this § 197-6 shall exist if the Code Official demonstrates by specific evidence the violation of any provision of this Chapter **197** of the Code, including but not limited to the refusal of consent to an inspection required by this Chapter and one or

more of the following: the passage of time since the last inspection, the nature of the Premises, or the condition of the neighborhood in which the Premises is located.

§ 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 hours in length.
- B. If an owner, landlord or designated agent has received notice of more than one HPD qualifying call, or one 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 § 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 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.
- C. If a certified designated agent is no longer employed by an owner who is subject to § 197-7B or otherwise loses certified status, a new designated agent shall comply with the requirements hereof within 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 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 § 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 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 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 Code, without taking reasonable steps to enforce said provision.

§ 197-10. Loss of certification as a residential operator.

- A. 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.
- B. Such a violation shall subject the operator to revocation of the certification. Recertification shall be required after a revocation hereof.
- C. Revocation of the residential operator certification shall be limited to the chronic nuisance property in question. Revocation shall not apply to other properties owned or managed by the residential operator which are in good standing with Chapter 95 of the Code and this section of Chapter 197.
[Added 11-22-2016 by Ord. No. O-16-24]

§ 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 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. A license renewal application shall be on the form provided by Code Administration.

§ 197-12. Denial; revocation of rental facility license.

- A. A rental facility license may be denied or revoked in whole or in part at any time by Code Administration for the rental unit(s) in which points accumulated pursuant to table §197-12(B). Additionally, a rental facility license may be denied or revoked at any time by Code Administration if the landlord or designated agent is not a valid certified crime-free housing residential operator. Denial or revocation of a rental facility license shall be in addition to, and not in substitution of, the penalties provided for in § 197-15 of this Chapter.

B. Points calculated per license during a license year.

Table §197-12(B)

			1-3 units	4+ units
Violations (per unit) During license year (Chapter 197 Inspections)	Safety Items	1-3	0	0
		4-6	10	10
		7-9	20	20
		10+	30	30
Unreported Tenant Turnovers for required inspection (calculated over 1 year per structure)		1	0	
		2	10	
		3+	20	
Unreported Tenant Turnovers for required inspection (calculated over 1 year per structure)		1-2		0
		3-4		10
		5+		20
Municipal Infraction Citations (Issued during license year for structure)		1-2	5	5
		3+	10	10
Excessive Use (Fee issued) (Issued during license year for structure)		1	5	5
		2	10	10
		3+	20	20
Property Taxes unpaid for more than 180 days			10	10
Rental License registration fees liened			10	10

Point Totals	1-3 units	4+ units
Property in Good Standing	0-20	0-30
Warning letter on potential revocation of license	21-44	31-64
License is revoked	45+	65+

C. Any property owner directly affected by an action of the Department or HPD under the provisions of this chapter may appeal such action to the administrative hearing officer appointed pursuant to Chapter 95 of the Code.

§ 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 affect 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. Any such violation shall be cited as a prepayable fine in the amount of \$500. 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.

- A. If the Department revokes a rental license under the provisions of § 197-12, the subject rental facility shall be vacated within sixty (60) days of the revocation and remain vacant until such time the violations have been abated and the rental license has been reinstated. City actions to ensure vacancy may include disconnection of City utilities to the affected rental facility.