

RENTERS UNITED

Enacting a Rental Licensing Expansion Bill that Serves Public Health and Consumer Protection

January 26, 2018

We are a coalition of community organizers and advocates for safe, healthy, affordable housing that promotes stability and equity for Baltimore renters. In June and July 2017, in consultation with the Department of Housing and Community Development (DHCD) and Councilman Bill Henry we began to develop priority objectives for expanded rental licensing in Baltimore City. In September 2017, we issued a brief titled “Community Input on Baltimore City Rental Licensing Expansion: Community members calls for expanded regulation that promotes safety and health and prevents consumer abuse.” Because of Councilman Henry’s inclusive approach to legislating a revamped licensing law, our coalition has had the opportunity to present our priorities and draft language ahead of the bill’s January 22nd introduction.

The bill, as introduced (No. 18-0185), accomplishes several objectives, but it must be improved. Accountability and transparency measures are needed to protect consumers and public health. We offer the following recommendations to improve the bill.

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SUMMARY OF RECOMMENDATIONS

Red text denotes recommendations supported by the bill sponsor, Councilman Bill Henry.

Inspections

- ❖ Reference property maintenance code as standard for “safety and health requirement” set forth in regulations.
- ❖ Create taskforce for inclusion of community members and advocates in creating/revising “safety and health requirements.”
- ❖ Include express language on public access to records of inspections and licenses.
- ❖ Set forth a mandatory audit of at least 20 percent of all privately contracted inspections annually.
- ❖ Revise provisions on “number of units to be inspected” to clearly apply to all non-exempt properties.

Inspection contractors

- ❖ Require financial disclosures as part of inspection contractor’s registration with HCD.
- ❖ Expressly provide HCD power to revoke an inspection contractor’s registration and create a complaint mechanism for consumers to report insufficient or deceptive performance by inspection contractors.
- ❖ Require inspection contractors to undertake 2 hours of training every 3 years specific to the Baltimore City Building/Fire code and rental licensing inspections.

Relocation assistance for renters

- ❖ Add increased registration fee for lowest-tier properties, thereby creating revenue for relocation assistance.
- ❖ Require HCD to financially assist renters’ relocation when displaced by HCD’s denial/revocation of a license.
- ❖ Provide express grounds for HCD to seek compensation from owner.

Energy efficiency

- ❖ Provide HCD the power to deny, suspend, or revoke a license if the owner has denied access to the rental dwelling for an approved energy audit.

License prerequisites and renewals

- ❖ Revise provision allowing license issuance/renewal while a violation notice is still open; reduce 90-day grace period to 45 days.
- ❖ Revise provision allowing up to 90 days between passing inspection and submitting licensing application; reduce to 30 days.
- ❖ Require that license application include records of recent failed inspection preceding a passing inspection.
- ❖ Revise risk assessment provision to establish renewal terms that don’t reward bad actors.

Nuisance enforcement

- ❖ Revise provision to revoke licenses due to nuisance, so that renters are not evicted without due process.

Public housing

- ❖ Strike complete exemption from licensing; instead, allow substitution of governmental agency inspection while applying other licensing law provision to HABC properties.

INSPECTIONS FOR LICENSING

Safety and health standards

The ordinance must set a standard for passing an inspection. The standard should require more than minimum livability and should be reinforced by audits.

As currently drafted, the bill sets no standard; it only refers to “compliance with the City’s safety and health standards” to be established by rulemaking. If City Council does not provide express language that sets the bar higher than minimum livability, then we can expect HCD’s rules to gravitate toward the minimum. Our bill draft uses language that sets an inspection standard consistent with § 304.26 of the Property Maintenance code:

THE COMMISSIONER SHALL ADOPT STANDARD INSPECTION CRITERIA AND CONDUCT AN INSPECTION TO ENSURE THAT THE PREMISES ARE FREE OF ANY OBJECT, MATERIAL, OR CONDITION THAT CONSTITUTES A NUISANCE OR A FIRE, ACCIDENT, OR HEALTH HAZARD.

Taking the existing bill draft into account, we propose (1) a standard that references the code; (2) a rulemaking process that institutionalizes the input of community stakeholders; and (3) publication of the inspection criteria. For example, at § 5-7(b)(1)(ii):

“HOME INSPECTION” MEANS A WRITTEN EVALUATION OF A RENTAL DWELLING’S COMPLIANCE WITH INSPECTION CRITERIA ESTABLISHED BY THE HOUSING COMMISSIONER.

“INSPECTION CRITERIA” SHALL BE:

- (1) SET FORTH BY THE HOUSING COMMISSIONER TO ENSURE THAT THE PREMISES SUBSTANTIALLY COMPLY WITH SECTION 304 OF THE INTERNATIONAL PROPERTY MAINTENANCE CODE AS ADOPTED UNDER PART VII OF THE BUILDING, FIRE, AND RELATED CODES;
- (2) REVIEWED BIANNUALLY BY A ‘HEALTHY HOUSING’ TASK FORCE MEMBERED BY COMMUNITY STAKEHOLDERS, RESIDENTS, RENTAL DWELLING OWNERS/OPERATORS, AND EXPERTS FROM THE FIELDS OF HEALTH, ENERGY AFFORDABILITY, COMMUNITY SAFETY, AND EDUCATION, AS APPOINTED BY THE MAYOR; AND
- (3) MADE PUBLICLY AVAILABLE ON THE DEPARTMENT’S WEBSITE.

Baltimore renters deserve a healthy home, not a minimally livable one. A license based on a minimum livability standard does little to improve lives individually or the City’s rental housing systemically. We stress, too, that HCD’s preference to mimic Baltimore County’s licensing model, down to the county’s 6-item inspection “checklist,” is misplaced.

Access to information

Our draft emphasized renters’ need to access records related to the inspection and licensing of rental properties, whether as prospective or current residents. The current bill lacks any measure to ensure readily, freely available records. We have discussed previously the feasibility of Internet access by improving HCD’s existing registration/license look-up, which provides license status, expiration date, and date of passing inspection. Yet, the bill does not in any express way mandate consumers’ access to vital information about rental housing. The public should have access to HCD’s active and inactive violation/citation notices (only active notices are currently available online), as well as both failing and passing inspection reports, the certificate of

satisfactory compliance, and all non-financial information submitted by the owner or operator in the license application. These records should be easily accessed so that renters know the status and history of a property before moving in.

Inspection audits

HCD's power to audit private inspections is asserted in section 5-7(d), but the provision fails to create in law any imperative for such audits. This leaves auditing to the wherewithal of the agency. While we trust HCD to flex its audit power, we urge City Council to set forth, in this bill, numeric targets for auditing. We propose a mandatory audit of at least 20 percent of all privately contracted inspections annually.

Number of units to be inspected

As we previously recommended, the bill now requires inspection of all units in a multifamily dwelling of < 10 units. For multifamily dwellings of ≥ 10 units, the bill defers to agency rules. These provisions of the bill, however, are placed in § 5-7(b)(3), pertaining only to inspections conducted by an owner's privately contracted inspector. We propose instead that the language be set forth in §5-7(a) so that the guidance clearly applies to all non-exempt properties.

INSPECTION CONTRACTORS

The privatization of license inspections warrants stronger oversight by HCD than the bill currently provides.

We remain skeptical of the use of privately contracted inspectors for two reasons: (a) financial conflicts of interest and (b) inadequate training. The bill, as drafted, adopts Baltimore County's model of permitting DLLR-certified home inspectors to conduct the rental license inspections; and it improves on that model by requiring the contractor to register with HCD and to state affirmatively, for each inspection, that he or she has no financial stake in the property.¹

Oversight by HCD

However, in this scheme, HCD has no role other than accepting the contractor's assurances. It is unclear whether HCD could ever reject such statement, as the agency would have no records from which it could investigate a conflict of interest. We have suggested a financial disclosure requirement as part of the contractor's registration with HCD.

Moreover, we have proposed that the bill place HCD in the role of assigning registered contractors to a property upon request by the owner. The owner would nonetheless privately contract with the DLLR-certified inspector. By assigning a contractor, HCD would have a commanding role in ensuring that inspections are not financially influenced and in monitoring how contractors are distributed among property inspections.

¹ Notably, DLLR requires a home inspector to disclose a conflict of interest to *the client* – meaning, in the context of rental license home inspections, the disclosure would be made to the landlord, not to Baltimore Housing or the renter.

Through a PIA request, we found that DLLR does not regulate rental licensing home inspections in any way. The state agency’s complaint mechanism is not intended for the renting public, and further, there appears to be no mechanism for DLLR to revoke a certification based on an inspector’s performance of a rental license home inspection.

This bill must fill the accountability gap then. It should create a complaint measure that provides the means for renters to call HCD’s attention to improper or incomplete inspections and conflicts of interest identified by the renter. The bill should also expressly provide HCD the power to revoke the contractor’s registration (and thereby eligibility to conduct inspections under the new law).

Training

Finally, as drafted, the bill does not set forth requirement for contractors’ testing, training, or experience; it simply relies on DLLR’s home inspector certification. However, DLLR-certified home inspectors are not required to have training specific to multifamily properties of more than 4 units. Additionally, DLLR certification does not require knowledge or training specific to the Baltimore City Fire/Building code. Although a DLLR-certified inspector would likely be able to identify some substantially substandard defects, he or she may misidentify or omit others due both to lack of knowledge of the code, as well as conflicting instructions by DLLR. For example, DLLR regulations instruct that a home inspector “shall visually inspect installed heating equipment” and state further that the inspector “is not required to... [d]etermine the adequacy of the heat system.”² What, then, would HCD be relying on to understand whether a privately inspected rental unit has adequate heat as defined by the City’s code?

We propose that the bill include a requirement, in the registration provision, that the DLLR-certified inspector has undertaken 2 hours of training every 3 years specific to the Baltimore City Building/Fire code and rental licensing inspections.

RELOCATION ASSISTANCE FOR RENTERS

The bill’s provisions on license denial, suspension, and revocation (§§ 5-15, 5-16) must address the cost to renters of forced removal when HCD terminates a license because the owner cannot or will not remediate the property. Enforcement of the rental license law should not unduly harm renters and further destabilize housing. We propose that the bill should require HCD to provide relocation assistance funds up to \$5,000 to displaced renters whenever HCD terminates a license or otherwise issues a vacate notice.

We further propose that the bill provide for increased registration fees for high-risk properties. This revenue would provide HCD the funds for relocation assistance. Short of available funds, HCD would recover relocation costs through fines, litigation, and/or liens against the unlicensed owner or operator – including against any other rental property operated by the owner/operator. This recovery mechanism will minimize any fiscal impact on HCD. The bill should include additional language to integrate these powers to the agency. Without relocation assistance, the new law would punish renters potentially with homelessness, for the wrongdoing of the landlord.

² COMAR 09.36.07.09.

ENERGY EFFICIENCY

The bill offers a vital opportunity for City Council to push energy efficiency forward in the low-rent housing market. We know renters walk blindly into 1- and 2-unit rentals with inadequate energy systems and ultimately find themselves strapped to excessive utility bills and therefore behind on the rent. This is not a new problem, which is why Maryland energy efficiency program, EmPOWER, provides free efficiency upgrades for low-income renter households. Yet, shockingly, landlords often deny access to their properties when their tenants attempt to take advantage of EmPOWER services, most importantly energy audits. A Green and Healthy Homes pilot program found that refusal of landlords to grant access for an energy audit was the number one reason for the failure of a weatherization process for an otherwise qualified renter. Without an audit, EmPOWER funds cannot be used to improve efficiency. That is why we urge that the bill should provide HCD the power to deny, suspend, or revoke a license if the owner has denied access to the rental dwelling for a state-funded or HCD-approved energy audit.

LICENSE PREREQUISITES AND RENEWALS

Prerequisites

Section 5-6(6) of the bill undermines the bill's potential to improve health and housing by allowing issuance or renewal of a license even if there is an existing unabated violation notice or order less than 90 days old. In other words, an owner who has failed to correct violations for nearly 3 months could apply for and receive a new rental license. We propose that HCD provide allow this kind of "grace period" for no more than 45 days.

Similarly, in § 5-7(b)(2)(ii), the bill also allows a 90-day gap between the owner's inspection by the contractor and application to HCD. A lapse of up to three months increases the risk that defects arise between inspection and issuance of the license. By that token, too, the lapse decreases the effectiveness of the bill's proposed inspection audits by which HCD would ensure the quality/veracity of private inspections. We propose no more than 30 days between a passing inspection and submission of the license application.

We have also recommended that the bill require owners to submit all inspection documentation to HCD at the time of application. At § 5-7(b)(4), the bill currently has the privately contracted inspector submit the inspection report and the "certificate of satisfactory compliance" to the owner, under seal. We propose that the inspection contractor should include a copy of any failing inspection report, as well. This benefits the agency's understanding of what defects these properties present at the time of inspection. It benefits renters by providing historical documentation of recent defects and repairs.

Renewal terms

The bill offers 2- or 3-year renewals for properties without accounting for the number, frequency, or severity of defects found in them.

Under the bill, the initial license term is 24 months. Thereafter, renewal terms are based on a risk assessment that tracks the timeliness of violation/order abatement, without regard to the number, frequency, or severity of violations. If an owner abates a violation notice within 60 days of

issuance, the property remains eligible for a 3-year renewal; if the owner abates the violation within 60 to 90 days, then the property is eligible for 2-year renewal; and if otherwise, then the property falls into the 1-year renewal tier. To a degree, this scheme rewards owners for timely abatement; it should be noted that owners are nonetheless rewarded for, say, taking 90 days to correct a 30-day violation or taking 60 days to correct a 3-day violation. The reality is that this owner-friendly scheme will do little to promote long-term repairs to substandard rental properties. For example, this scheme would give top-tier status to a property that has been cited for roof leaks 12 times in the prior 24 months, so long as it passed reinspection within 60 days of each violation notice. The property would have been continually substandard and harmful to the residents but nonetheless receive a 3-year renewal term.

We previously proposed a point-based tier scheme for license renewal terms. This model is used in Minneapolis and is recommended by the Center for Community Progress. It would give HCD the means to (1) measure risk more concretely based on multiple factors, the most obvious of which would be the severity of the defects, and (2) provide incentives to landlords for voluntarily undertaking substantial improvements or participating in HCD-approved programs (weatherization, energy audits, asthma prevention inspections, etc.)

NUISANCE ENFORCEMENT

§ 5-15(b) of the bill risks depriving renters their housing without any due process.

Section 5-15 adds “neighborhood nuisances and unruly social events,” as set forth in Article 19 § 43B, as a new basis to deny, suspend, or revoke a license. Art. 19 § 43B uses civil citation as the means of enforcement and provides no any opportunity for renters accused of “unruly social events” to defend themselves. This bill adopts Art. 19 § 43B but then fails to introduce any notice and opportunity provision to protect the rights of renters who face displacement due to HCD’s suspension/revocation action.

This section of the bill appears intended to force out renters even when their landlords prefer to merely pay the civil citation and keep the renters in place. Regardless of the merit of this nuisance abatement tactic, this bill is constitutionally flawed in failing to provide renters due process. Suspension/revocation hearings under § 5-16 of the bill are available to owners – to the exclusion of accused renters, who stands to lose their housing in this process. Essentially, when applied in a manner to reduce incidence of “unruly social events,” this bill would promote displacement of renters without providing them any meaningful opportunity to be heard. This defect could be cured simply by altering § 5-16 to apply not just to the “licensee,” but instead to “the owner, operator, and any lessee.” In fact, the analogous “neighborhood nuisance abatement” section of Art. 19 provides a hearing for all three types of interested parties.

It should be noted, too, that in terms of compelling abatement of an “unruly social event” nuisance, this section of the bill is redundant with the existing Art. 19 § 43B. Although § 43B does not provide abatement authority, it uses civil citation as the means of enforcement and allows owners to abate the citation by proof of repossession or having filed suit to repossess the property. In practice, then, the existing law incentivizes owners to avoid any financial loss simply by evicting the nuisance-causing renters for repossession. This bill attempts to

accomplish the same and is therefore unnecessary, particularly in comparison to other much-needed reforms in the legislation.

HOUSING AUTHORITY EXEMPTION

The bill goes much too far, at §5-4(b), in exempting Baltimore City Housing Authority’s “owned and operated” properties from the entire licensing scheme. It stands to reason that under § 5-7(c), HCD could accept the “governmental agency inspection” conducted for HABC’s 6,235 “owned and operated” units – thereby keeping those units within the coverage of this new law while avoiding redundancy in the inspection process. The total exemption of HABC means that those thousands of City residents will not benefit from all provisions in the bill. We believe the City can reduce redundancy without disregarding public housing renters. The exemption should be stricken and, instead, § 5-7(c) should apply to HABC’s properties.

Participating Coalition Members

Baltimore Healthy Start
Communities United
Homeless Persons Representation Project
Institute for Energy and Environmental Research
Jews United for Justice
Marylanders for Energy Democracy and Affordability
Public Justice Center
Right to Housing Alliance
Deborah Weimer, Director, University of Maryland School of Law Landlord-Tenant Clinic

APPENDIX A: INLINE PROPOSED AMENDMENTS

Yellow text – language added to First Reader bill

~~Gray text~~ – language deleted from First Reader bill



Legislation Text

File #: 18-0185, Version: 0

Explanation: Capitals indicate matter added to existing law.
[Brackets] indicate matter deleted from existing law.

* **Warning:** This is an unofficial, introductory copy of the bill.
The official copy considered by the City Council is the first reader copy.

Introductory*

**City of Baltimore
Council Bill**

Introduced by: Councilmember Henry

A Bill Entitled

An Ordinance concerning
**Non-Owner-Occupied Dwelling Units, Rooming Houses, and Vacant Structures - Rental Dwellings -
Registration and Licensing**

For the purpose of adding certain non-owner-occupied 1- and 2-family dwellings to the licensing, inspection, and related requirements for multi-family dwellings and rooming houses (collectively, “rental dwellings”); modifying the procedures and prerequisites for the registration of certain non-owner-occupied dwellings, rooming houses, and vacant structures; modifying the procedures and prerequisites for the licensing of rental dwellings; providing for the denial, suspension, or revocation of a rental dwelling license under certain circumstances; providing for judicial and appellate review of administrative decisions relating to the registration or the licensing of these structures; amending the underlying definition of “rooming house” to clarify its applicability to a bed and breakfast facility; defining and redefining certain other terms; imposing certain penalties; correcting, clarifying, and conforming related language; providing certain transition rules for pre-existing licenses; providing for a special effective date; and generally relating to the registration of non-owner-occupied dwellings, rooming houses, and vacant structures and to the licensing of rental dwellings.

By repealing and reordaining, with amendments

Article 13 - Housing and Urban Renewal
Sections 4-1, 4-6, 4-8, and 4-9
Baltimore City Code
(Edition 2000)

By adding

Article 13 - Housing and Urban Renewal
New Section 4-12
Baltimore City Code
(Edition 2000)

By renumbering

Article 13 - Housing and Urban Renewal
Current Sections 4-12 and 4-13
to be
New Sections 4-13 and 4-14

Baltimore City Code
(Edition 2000)

By repealing and reordaining, with amendments
Article 13 - Housing and Urban Renewal
Subtitle 5, to be under the revised subtitle name,
“Subtitle 5. Licensing of Rental Dwellings”
Baltimore City Code
(Edition 2000)

By repealing and reordaining, with amendments
Article 13 - Housing and Urban Renewal
Section 8A-5(b)(2)
Baltimore City Code
(Edition 2000)

By repealing and reordaining, with amendments
Article 1 - Mayor, City Council, and Municipal Agencies
Section 40-14(e)(1)
Baltimore City Code
(Edition 2000)

By repealing and reordaining, with amendments
Article 19 - Police Ordinances
Sections 43-4(c)(1) and 43A-3(c)(1)
Baltimore City Code
(Edition 2000)

By repealing and reordaining, with amendments
Article - Building, Fire, and Related Codes
Section 2-103 (BC §§ 114.21.2b and 202.48-2c) and
Section 7-102 (PMC § 202.2.14.1)
Baltimore City Revised Code
(2015 Edition)

By repealing and reordaining, without amendments
Article - Building, Fire, and Related Codes
Section 7-102 (PMC §§ 202.2.3, 202.2.6, and 202.2.15)
Baltimore City Revised Code
(2015 Edition)

By repealing and reordaining, with amendments
Article - Health
Section 6-603.1(b)(1)(Article 13)
Baltimore City Revised Code
(Edition 2000)

Section 1. Be it ordained by the Mayor and City Council of Baltimore, That the Laws of Baltimore City read as follows:

Baltimore City Code

Article 13. Housing and Urban Renewal

Subtitle 4. Registration of Non-Owner-Occupied Dwellings, Rooming Houses, and Vacant Structures

§ 4-1. Definitions.

(a) In general.

In this subtitle, the following terms have the meanings indicated. (b) Commissioner.

“Commissioner” means the Commissioner of Housing and Community Development or the Commissioner’s designee.

(c) Dwelling unit.

“Dwelling unit” has the meaning stated in § 202.2 of the Baltimore City Property Maintenance Code. (d) Multiple-family dwelling.

“Multiple-family dwelling” has the meaning stated in § 202.2 of the Baltimore City Property Maintenance Code.

(e) *Non-owner-occupied dwelling unit.*

(1) *In general.*

“Non-owner-occupied dwelling unit” means any:

- (i) dwelling unit that is unoccupied;
- (ii) dwelling unit that, even if occupied, is not occupied by an owner of record; or
- (iii) dwelling unit that, even if occupied, is not designated by the State Department of Assessments and Taxation as the owner’s principle residence in accordance with the criteria governing the State Homestead Tax Credit.

(2) *Qualifications.*

For purposes of this definition:

- (i) an owner may only have one owner-occupied dwelling unit in Baltimore City; and
- (ii) an owner-occupied unit must be titled to a natural person.

(f) [(f-1)] *Rooming house.*

“Rooming house” has the meaning stated in § 202.2 of the Baltimore City Property Maintenance Code.

(g) [(f-2)] *Rooming unit*.

“Rooming unit” has the meaning stated in § 202.2 of the Baltimore City Property Maintenance Code.

(h) [(g)] *Vacant structure*.

(1) *In general*.

“Vacant structure” means any structure that is subject to an unabated violation notice issued under § 116 {“Unsafe Structures”} of the Baltimore City Building Code.

(2) *Exclusions*.

“Vacant structure” does not include an accessory structure that is not intended for occupancy, such as a garage, shed, or storage building.

§ 4-6. Registration statement - Contents.

(a) *In general*.

[(1)] Each registration statement must be in the form that the Commissioner requires and contain the following information:

(1) [(i)] a description of the premises by street number or by block-and-lot;

(2) [(ii)] the name, street address, telephone number, and email address of the premises’ owner of record; (3) [(iii)] the name, street address, telephone number, and email address of the premises’

managing

operator, if other than the owner; and

(4) [(iv)] if the owner is a corporation, partnership, limited partnership, limited liability company, or similar entity, the name, street address, telephone number, and email address of [its resident agent] a natural person who serves as the owner’s chief executive officer, managing partner, or managing member, or in a similarly authoritative position[; and].

[(v) if the owner is a partnership or other similar entity, the name, street address, telephone number, and email address of a responsible partner or officer.]

[(2) The failure to provide or maintain an email address is not cause to reject an application and is not a violation of this subtitle.]

(b) *Change of [operator, or agent] listed information*.

The Commissioner must be notified within 10 days of any change in the [managing operator or resident agent] identity of or contact information for the owner of record or any other person listed in the registration statement.

§ 4-8. Registration fees.

(a) [(a-1)] Rooming houses.

Except as otherwise specified in this section, an annual registration fee must be paid for rooming houses at the rate of \$25 per rooming unit.

(b) [(a)] Non-owner-occupied dwelling units.

Except as otherwise specified in this section, an annual registration fee must be paid for non-owner-occupied dwelling units at the following rates:

- (1) for properties with 1 and 2 dwelling units - \$30 per dwelling unit.
- (2) for multiple-family dwellings - \$35 per dwelling unit, plus \$25 per rooming unit.
- (3) for any non-owner-occupied dwelling units that do not qualify for a 2- or 3-year renewal under Subtitle 5 §§ 5-9(c) or 5-9(d) – an additional \$15 per dwelling unit or rooming unit.**

(c) [(b)] Vacant structures.

Except as otherwise specified in this section, an annual registration fee, in addition to any fee that might also be required by subsection (a) of this section, must be paid for vacant structures at the following rates:

- (1) for residential structures - \$100 per structure.
- (2) for all other structures - \$250 per structure.

(d) [(c)] When payable.

These fees must all be paid at the time of registration. (e) [(d)] Exceptions.

No fee is charged for:

- (1) any dwelling unit, rooming house, or vacant structure that is owned by a governmental entity or an instrumentality or unit of a governmental entity; or
 - (2) any dwelling unit that is not in a vacant structure and is owned by a nonprofit religious, charitable, or educational institution or organization[; or].
- [(3) an unoccupied, habitable dwelling unit last occupied by its current owner as his or her residence.]

§ 4-9. Term and renewal.

A registration expires on [August 30] December 31 of each year, unless it is renewed and the annual registration fee paid before then.

§ 4-12. Judicial and appellate review.

(a) *Judicial review.*

A person aggrieved by a decision of the Housing Commissioner under this subtitle may seek judicial review of that decision by petition to the Circuit Court for Baltimore City in accordance with the Maryland Rules of Procedure.

(b) *Stays.*

(1) The filing of a petition for judicial review does not stay the decision of the Commissioner.

(2) However, on motion and after hearing, the Court may grant a stay as provided in the Maryland Rules of Procedure.

(c) *Appellate review.*

A party to the judicial review may appeal the court's final judgment to the Court of Special Appeals in accordance with the Maryland Rules of Procedure.

§ 4-13. [§ 4-12.] Enforcement by citation.

(a) *In general.*

In addition to any other civil or criminal remedy or enforcement procedure, this subtitle may be enforced by issuance of an environmental citation as authorized by City Code Article 1, Subtitle 40 {"Environmental Control Board"}.

(b) *Process not exclusive.*

The issuance of an environmental citation to enforce this subtitle does not preclude pursuing any other civil or criminal remedy or enforcement action authorized by law.

§ 4-14. [§ 4-13.] Penalties.

(a) *In general.*

Any person who violates a provision of this subtitle or of a rule, regulation, or order adopted or issued under this subtitle is guilty of a misdemeanor and, on conviction, is subject to a fine of not more than \$500 for each offense.

(b) *Each day a separate offense.*

Each day that a violation continues is a separate offense.

Subtitle 5. Licensing of Rental Dwellings [Multiple-Family Dwellings and Rooming Houses]

§ 5-1. Definitions.

(a) *In general.*

In this subtitle, the following terms have the meanings indicated.

(b) [(c)] Dwelling unit.

“Dwelling unit” has the meaning stated in § 202.2 of the Property Maintenance Code of Baltimore City. (c) [(b)] Housing Commissioner; Commissioner.

“Housing Commissioner” or “Commissioner” means the Commissioner of Housing and Community Development or the Commissioner’s designee.

(d) Multiple-family dwelling.

“Multiple-family dwelling” has the meaning stated in § 202.2 of the Property Maintenance Code of Baltimore City.

(e) *Non-owner-occupied dwelling unit.*

“Non-owner-occupied dwelling unit” has the meaning stated in § 4-1 of this article.

(f) [(e)] *Person.*

(1) *In general.*

“Person” means:

- (i) an individual;
- (ii) a partnership, firm, association, corporation, or other entity of any kind; and
- (iii) a receiver, trustee, guardian, personal representative, fiduciary, or representative of any kind.

(2) *Inclusions.*

“Person” includes, except as used in § 5-21 {“Penalties”} of this subtitle, a governmental entity or an instrumentality or unit of a governmental entity.

(g) *Rental dwelling.*

“Rental dwelling” means:

- (1) any multiple-family dwelling;
- (2) any rooming house; and
- (3) any non-owner-occupied dwelling unit in a 1- or 2-family dwelling that is leased or rented or offered or available for lease or rental in exchange for any form of consideration.

(h) [(f)] *Rooming house.*

“Rooming house” has the meaning stated in § 202.2 of the Property Maintenance Code of Baltimore City.

(i) [(g)] *Rooming unit.*

“Rooming unit” has the meaning stated in § 202.2 of the Property Maintenance Code of Baltimore City.

§ 5-2. Rules and regulations.

(a) Commissioner [may] to adopt.

The Housing Commissioner [may] must adopt rules and regulations to carry out this subtitle. (b) Filing with Legislative Reference.

A copy of all rules and regulations adopted under this subtitle must be filed with the Department of Legislative Reference before they take effect.

§ 5-3. {Reserved}

§ 5-4. License required.

(a) *In general.*

[No] Except as provided in subsection (b) of this section, no person may:

- (1) [operate] rent or offer to rent to another all or any part of any [multiple-family dwelling or rooming house] rental dwelling without a currently effective license to do so from the Housing Commissioner; or
- (2) charge, accept, retain, or seek to collect any rental payment or other compensation for providing to another the occupancy of all or any part of any rental dwelling unless the person was licensed under this subtitle at both the time of offering to provide and the time of providing this occupancy.

(b) *Exception.*

A license is not required under this subtitle for any rental dwelling that is owned and operated by the Housing Authority of Baltimore City.

§ 5-5. Application for new or renewal license.

(a) *In general.*

The application for a new or renewal rental dwelling license must be made in the form and contain the information and documentation that the Housing Commissioner requires.

(b) *By whom to be made.*

The application must be made and signed by:

- (1) the owner of the premises; and
 - (2) the [lessee] managing operator of the premises, if [any] other than the owner[, who will operate the business].
- (c) Application period for renewal.

To renew a license issued under this subtitle, an application for renewal must be submitted to the Commissioner no less than 30 days nor more than 60 days before the license expires.

§ 5-6. Prerequisites for new or renewal license - In general.

A rental dwelling license may be issued or renewed under this subtitle only if:

- (1) all dwelling units and rooming units are currently registered [under] as required by Subtitle 4 {“Registration of Non-Owner-Occupied Dwellings[;], Rooming Houses, and Vacant Structures”} of this article;
- (2) [the] all registration fees for these units and all [outstanding] related interest and late fees required by Subtitle 4 have been paid;
- (3) the premises have [been inspected] passed a recent inspection [by the Commissioner], as required by § 5-7 {“Prerequisites ... - Inspection”} of this subtitle;
- (4) the premises are in compliance with all Federal, State, and City laws and regulations governing lead paint;
- (5) [(6) if] for [the] premises that include a hotel or motel subject to City Code Article 15 {“Licensing and Regulation”}, Subtitle 10 {“Hotels”}, the hotel or motel is in compliance with the training, certification, and posting requirements of that subtitle[.];
- (6) [(5)] the premises are not subject to [an unabated] any violation notice or order that:
 - (i) has been issued under [§ 116 {“Unsafe Structures”} of] the Baltimore City [Building Code] Building, Fire, and Related Codes Article; and
 - (ii) notwithstanding the passage of more than ~~90~~ 45 days since its issuance, has not been abated before the license issuance or renewal[; and].

§ 5-7. Prerequisites for new or renewal license - Inspection.

(a) *In general.*

- (1) The inspection required by § 5-6 {“Prerequisites ... - In general”} of this subtitle must comply with either ~~(1)~~ subsection (b) {“Third-party home inspections”} of this section; or ~~(2)~~ subsection (c) {“Governmental agency inspections”} of this section.
- (2) For any rental dwelling that comprises 9 or fewer dwelling or rooming units, all dwelling and rooming units must be inspected under this subsection.**
- (3) For any multiple-family dwelling or rooming house that comprises 10 or more dwelling or rooming units, the number of units that must be inspected are as determined in the rules and regulations adopted under this subtitle.**

(b) *Third-party home inspections.*

(1) *Definitions.*

(i) *In general.*

In this subsection, the following terms have the meanings indicated.

(ii) *Home inspection.*

“Home inspection” means a home inspector’s written evaluation of a rental dwelling’s compliance with the City’s health and safety standards specified in the Housing Commissioner’s rules and regulations adopted under this subtitle. **inspection criteria established by the Housing Commissioner pursuant to § 5-7(b)(3).**

(iii) *Home inspector.*

“Home inspector” means an individual:

(A) who is licensed as a home inspector under Title 16, Subtitle 3A of the State Business Occupation and Professions Article; and

(B) who, as required by the rules and regulations adopted under this subtitle:

1. has registered with the Housing Commissioner as generally available to inspect and certify rental dwellings under this subsection **and has submitted a statement of financial disclosure**; and
2. for each home inspection to be performed under this subsection, certifies that neither the home inspector nor any owner, partner, director, officer, employee, or agent of the home inspector or of the home inspector’s business has any financial interest in:
 - a. the rental dwelling to be inspected;
 - b. the owner or operator of that rental dwelling; or
 - c. any owner, partner, director, officer, employee, or agent of the rental dwelling’s owner or operator.

(2) *Applicant to contract for timely inspection.*

(i) Before applying for a rental dwelling license or renewal license, the applicant must, at the applicant’s expense, contract with a home inspector to perform a home inspection under this section.

(ii) The inspection must be performed not more than ~~90~~ **30** days before a completed application for a license or renewal license is submitted to the Housing Commissioner.

~~(3) *Number of units to be inspected.*~~

~~(i) For any rental dwelling that comprises 9 or fewer dwelling or rooming units, all dwelling and rooming units must be inspected under this subsection.~~

~~(ii) For any multiple family dwelling or rooming house that comprises 10 or more dwelling or~~

rooming units, the number of units that must be inspected are as determined in the rules and regulations adopted under this subtitle.

Inspection criteria.

Inspection criteria required under this subsection shall be:

- (i) Set forth by the Housing Commissioner to ensure that the premises substantially comply with Section 304 of the International Property Maintenance Code as adopted under Part VII of the Building, Fire, and Related Codes Article;**
- (ii) Reviewed and readopted biannually by a “Health Housing” task force membered by community stakeholders, residents, rental dwelling owners or operators, and experts from the fields of health, housing and energy affordability, public safety, and education, as appointed by the Mayor; and**
- (iii) Made publicly available on the Department’s website.**

(4) Inspector’s report and certification.

- (i) After the home inspection, the home inspector must issue to the applicant:
 - (A) a copy of the **any** inspection report **conducted pursuant to this subsection**; and
 - (B) if the rental dwelling meets the City’s health and safety standards specified in the rules and regulations adopted under this subtitle, a certificate of satisfactory compliance with those standards.
- (ii) The **report reports** and the certificate must be in the form required by the Commissioner and under the home inspector’s seal.

(c) Governmental agency inspections.

(1) Scope of subsection.

This subsection applies to any rental dwelling unit that is required to undergo periodic inspections conducted by a governmental agency in accordance with Federal or State inspection standards.

(2) Required evidence of compliance with most recent inspection.

For a rental dwelling unit described in paragraph (1) of this subsection, the applicant for a license or renewal license may, in lieu of the requirements of subsection (b) {“Third-party home inspections”} of this section, submit evidence satisfactory to the Housing Commissioner that the unit has passed the most recent periodic inspection by the applicable governmental agency.

(d) Commissioner’s inspection authority not affected.

- (1) This section does not in any way prevent or limit the authority of the Housing Commissioner to conduct routine, spot, quality-control, or other inspections of rental dwellings under the City Building, Fire, and Related Codes Article.**
- (2) As prescribed by the rules and regulations adopted under this subtitle, the Commissioner shall conduct an annual audit of at least 20 percent of inspections performed under this subsection.**

§ 5-8. [§ 5-7.] License fees.

No fee is imposed for a rental dwelling license issued under this subtitle.

§ 5-9. [§ 5-8.] [Term and renewal] Tiered terms of licenses.

(a) *In general.*

[Except as otherwise provided under this section,] unless timely renewed, each rental dwelling license issued under this subtitle expires [1 year from] on the 1st, 2nd, or 3rd anniversary of [the date of] its issuance [and may be renewed annually], as provided in this section.

[(b) *Stagger.*]

[The Commissioner may provide for staggered license terms, by issuing an original license or, on a 1-time basis, a renewal license for a period of less than 1 year or for a period of more than 1 year but less than 2 years.]

[(c) *Notice of renewal and reinspection.*]

[(1) Before a license expires, the Commissioner will mail notice to the licensee, specifying a date and time when an inspector will be present to reinspect the premises.]

[(2) Within 1 week of receiving the notice, the licensee may reschedule the inspection to a date no more than 2 weeks after the date specified in the notice.]

[(3) The license will not be renewed if the licensee fails to provide entry for a scheduled inspection or unduly delays the inspection.]

[(d) *Vacant dwellings.*]

[If a dwelling has remained vacant for more than a year, a renewal license may be issued only if reoccupancy of the dwelling would not violate the Zoning Code of Baltimore City.]

(B) *Initial license.*

A dwelling unit license initially issued under this subtitle to any rental dwelling expires 2 years from the date of its issuance, unless timely renewed.

(c) 1st renewal of initial license.

Subject to compliance with § 5-6 {“Prerequisites for ... renewal license - In general”} of this subtitle, the 1st renewal of an initial 2-year license will be for a 3-, 2-, or 1-year renewal term, based on the following risk factors:

(1) 3-Year Term: The renewal license will be for a 3-year term if, during the 24 months immediately preceding submission of a completed renewal application, all violation notices or orders issued during those months under the City Building, Fire, and Related Codes Article have been abated within 60 days of their issuance.

(2) 2-Year Term: The renewal license will be for a 2-year term if, during the 24 months immediately preceding submission of a completed renewal application, all violation notices or orders issued during those months under the City Building, Fire, and Related Codes Article have been abated within 90 days of their issuance.

(3) 1-Year Term: The renewal license will be for a 1-year term if the rental dwelling does not qualify under this subsection for a 2- or 3-year renewal.

(d) Subsequent renewals.

Subject to compliance with § 5-6 {“Prerequisites for ... renewal license - In general”} of this subtitle, all subsequent renewal terms will be based on the following risk factors:

- (1) 3-Year Term: The renewal license will be for a 3-year term if, during the 36 months immediately preceding submission of a completed renewal application, all violation notices or orders issued during those months under the City Building, Fire, and Related Codes Article have been abated within 60 days of their issuance.
- (2) 2-Year Term: The renewal license will be for a 2-year term if, during the 24 months immediately preceding submission of a completed renewal application, all violation notices or orders issued during those months under the City Building, Fire, and Related Codes Article have been abated within 90 days of their issuance.
- (3) 1-Year Term: The renewal license will be for a 1-year term if the rental dwelling does not qualify under this subsection for a 2- or 3-year renewal.

§ 5-10. [§ 5-9.] {Reserved}

§ 5-11. [§ 5-10.] Posting license.

The license issued under this subtitle must be prominently displayed:

- (1) for a multiple-family dwelling or rooming house, in the vestibule, lobby, or other public place on the premises; and
- (2) for a 1- or 2-family dwelling, in an area of each dwelling unit that is accessible to that unit’s occupants and to housing inspectors.

§ 5-12. [§ 5-11.] Transfer of license.

(a) In general.

Any person who assumes the ownership or operation of a licensed [multiple-family] rental dwelling [or rooming house] must, within 15 days of assuming ownership or operation, apply to the Housing Commissioner for transfer of the license.

(b) Fee.

The fee for a transfer is \$25.

§ 5-13. [§ 5-12.] Discontinuance of [use] multiple-family or rooming house operations .

Notwithstanding [a] any discontinuance, in whole or in part, of a multiple-family dwelling’s or a rooming house’s operations, [an annual] a license issued under this subtitle [must be obtained] is still required unless the Housing Commissioner has issued a permit reflecting a change of use for the property.

§ 5-14. [§§ 5-13 and 5-14.] {Reserved}

§ 5-15. [Revocation] Denial, suspension, or revocation of license- In general.

(a) “Nuisance property” defined.

In this section, “nuisance property” means any property that, in accord with 1 or another of the following laws, has been found to constitute a public nuisance or to be maintained or operated so as to cause or allow a public nuisance:

- (1) State Code Real Property Article § 14-120 {“Actions to abate nuisances”} {See esp. subsection (a)(5) (defining “nuisance”)};

- (2) City Code Article 19, Subtitle 43 {“Public Nuisances”} {*See esp.* § 43-1(l) (defining “public nuisance”)}; and
- (3) City Code Article 19, Subtitle 43B {“Neighborhood Nuisances and Unruly Social Events”} {*See esp.* § 43B-1(b) (defining “neighborhood nuisance”), § 43B-1(k) (defining “person responsible”), and § 43B-1(o) (defining “unruly social event”)}

(b) *Causes for denial, suspension, or revocation.*

Subject to the hearing provisions of § 5-16 of this subtitle, the Housing Commissioner may deny, suspend, or revoke a rental dwelling license or renewal license for any of the following causes:

- (1) making any material false statement in an application for an initial or renewal license;
- (2) fraudulently or deceptively obtaining a rental dwelling license for oneself or for another;
- (3) fraudulently or deceptively using a rental dwelling license;
- (4) falsifying any inspection report or certificate;
- (5) refusal by an owner or operator of a rental dwelling to allow the Commissioner to conduct a routine, spot, quality-control, or other inspection of the rental dwelling as authorized by the City Building, Fire, and Related Codes Article;
- (6) **refusal by an owner or operator of a rental dwelling to allow access to the premises for performance of a State-funded or Department-approved energy audit;**
- (7) failing to abate within 120 days of issuance any violation notice, order, or citation for violating any provision of the City Building, Fire, and Related Codes Article, the City Health Article, or the Zoning Code of Baltimore City;
- ~~(7)~~(8) failing to comply with any provision of this subtitle or of any rule or regulation adopted under this subtitle; or
- ~~(8)~~**(9)** if the Housing Commissioner finds, or if the Fire Chief, Health Commissioner, or Police Commissioner certify to the Housing Commissioner, that:
 - (i) [(1)] the owner or lessee of a [multiple-family dwelling or rooming house] rental dwelling has failed to comply with any lawful notice, [or] order, or citation to correct a violation that affects the health, safety, morals, or general welfare of the occupants of the property or of the general public; or
 - (ii) [(2)] the owner or lessee of a [multiple-family dwelling or rooming house] rental dwelling, or any agent of the owner or lessee:
 - (A) [(i)] has allowed the premises to be used [for the purpose prostitution, drug trafficking, or other criminal activity or for any other activity that creates or constitutes] as a nuisance property; or
 - (B) [(ii)] knew or should have known that the premises were being used [for one of these purposes] as a nuisance property and failed to prevent them from being so used.

§ 5-16. [Revocation] Denial, suspension, or revocation of license - Notice and hearing.

(a) *In general.*

No license may be denied, suspended, or revoked unless the Housing Commissioner first gives the licensee **owner or operator, and any lessee currently occupying the rental dwelling unit to which the license applies:**

- (1) not less than 10 days notice in writing of the Commissioner's intent to deny, suspend, or revoke the license; and
- (2) an opportunity to be heard as to why the license should not be denied, suspended, or revoked.

(b) *Exception.*

The Commissioner may deny, suspend, or revoke a license without prior notice and opportunity to be heard if, in the opinion of the Commissioner or the Fire Chief, Health Commissioner, or Police Commissioner, the health, safety, or welfare of the occupants or of the general public are in imminent danger.

(c) *Assistance to tenant upon revocation of license.*

Pursuant to rules and regulations adopted under this subtitle, the Commissioner shall provide financial assistance of up to \$5,000 for relocation, to any lessee ordered to vacate a rental dwelling unit by order of the Department or a court because of revocation of the license as provided under this section. Expenditures by the Department on such relocation, together with all incidental costs and all accrued penalties, may be treated and collected as a liability under Section 118 of the International Building Code as adopted in Part II of the Building, Fire, and Related Codes Article.

§ 5-17. [§ 5-18.] Vacating premises.

The Commissioner may require a [multiple-family dwelling or rooming house] rental dwelling to be vacated within 24 hours if:

- (1) the property is being operated without a valid license; and
- (2) vacating the premises is necessary for the public health, safety, and welfare.

§ 5-18. {Reserved}

§ 5-19. [§ 5-22. Constitutional] Impairing constitutional rights.

(a) *"Reasonable accommodation" defined.*

In this section, "reasonable accommodation" means affirmative steps that do not impose an undue financial hardship or a substantial burden.

(b) *Prohibited conduct.*

No bylaw, rule, or regulation governing a [multiple-family] rental dwelling, nor any action or inaction of the governing body or management of a [multiple-family] rental dwelling, may:

- (1) unreasonably impair any rights guaranteed by the Free-Exercise Clause of the First Amendment

to the United States Constitution or by Article 36 of the Maryland Declaration of Rights; or

- (2) prohibit or deny any reasonable accommodation for religious practices.

§ 5-20. Sanitation Guide.

(a) *Preparation of Guide.*

The owner or managing operator of every rental dwelling, other than a hotel or motel, must prepare, in the form and containing the information required by the Commissioner, a Sanitation Guide for the premises that provides notice to all occupants of the requirements and procedures for the separation, disposition, collection, and proper storage pending collection of mixed refuse, recyclable materials, yard waste, bulk trash, and all other forms of garbage, rubbish, waste, and trash.

(b) *Dissemination.*

A copy of the Sanitation Guide must be:

- (1) provided to each dwelling unit on the premises; and
- (2) prominently posted within each common collection room, if any, on the premises.

§§ 5-21 to 5-23.

{Reserved}

§ 5-24. Judicial and appellate review.

(a) *Judicial review.*

A person aggrieved by a decision of the Housing Commissioner under this subtitle may seek judicial review of that decision by petition to the Circuit Court for Baltimore City in accordance with the Maryland Rules of Procedure.

(b) *Stays.*

- (1) The filing of a petition for judicial review does not stay the decision of the Commissioner.
- (2) However, on motion and after hearing, the Court may grant a stay as provided in the Maryland Rules of Procedure.

(c) *Appellate review.*

A party to the judicial review may appeal the court's final judgment to the Court of Special Appeals in accordance with the Maryland Rules of Procedure.

§ 5-25. [§ 5-20.] Enforcement by citation.

(a) *In general.*

In addition to any other civil or criminal remedy or enforcement procedure, this subtitle may be enforced by issuance of an environmental citation as authorized by City Code Article 1, Subtitle 40 {"Environmental Control Board"}.

(b) *Process not exclusive.*

~~The issuance of an environmental citation to enforce this subtitle does not preclude pursuing any other~~

civil or criminal remedy or enforcement action authorized by law.

§ 5-26. [§ 5-24.] Penalties.

(a) *In general.*

Any person who violates [a] any provision of this subtitle (including any offense listed in § 5-15 of this subtitle as potential cause for a denial, suspension, or revocation of a license) or any provision of a rule, regulation, or order adopted or issued under this subtitle is guilty of a misdemeanor and, on conviction, is subject to [the following penalties:]

[(1) for a violation of § 5-22 {" Constitutional rights"} of this subtitle,] a fine of not more than \$1,000 for each offense[; and].

[(2) for any other violation, a fine of not more than \$500 for each offense.] (b) Each day a separate offense.

Each day that a violation continues is a separate offense.

§ 5-27. Access to information.

The Commissioner shall make freely available for review and download through the Department's website the license status of any rental dwelling unit subject to this section and any of the following records:

- (1) Documents submitted to the Department in application for a license or renewal under this section;**
- (2) Violation notices, citation notices, and orders issued by the Department to a licensee;**
- (3) Notices of denial, suspension, or revocation issued pursuant to this section**

....

Section 5. And be it further ordained, That this Ordinance takes effect on August 1, 2018.