

# Work Session

<b>Agenda Item #</b>	3
<b>Meeting Date</b>	March 18, 2013
<b>Prepared By</b>	Sara Anne Daines HCD Director
<b>Approved By</b>	Suzanne R. Ludlow Acting City Manager

<b>Discussion Item</b>	Discussion of Proposed Revisions to Takoma Park Code, Chapter 6.20 Rent Stabilization and Chapter 6.36 Unsafe Buildings – Public Nuisance Abatement
<b>Background</b>	<p>The is the fourth in a series of work session discussions scheduled to facilitate the updating of the Takoma Park Code, Title 6 Housing.</p> <p>The following revisions to Chapter 6.20 Rent Stabilization and Chapter 6.36 Unsafe Buildings - Public Nuisance Abatement have been developed in consultation with the City Attorney’s Office and the Rents Analyst. Suggested changes are offered to clarify confusing or vague language currently in the Code, address issues that have arisen since the Code was last revisited in 2003, and to reflect current procedures.</p> <p><b>Chapter 6.20 Rent Stabilization:</b></p> <p>Current Policy: To protect tenants from unwarranted rent increases, while allowing rents which provide landlords with a fair return.</p> <p>The more significant revisions proposed include the following:</p> <ol style="list-style-type: none"> <li>1. Expansion of exempt properties to include single family residences, owner occupied two unit dwellings, and accessory apartments. (Page 2 - Section 6.20.030 .020)</li> <li>2. Elimination of classification of rental facilities granted partial exemption from rent stabilization, (Page 2 – Section 6.20.030)</li> <li>3. Deletion of language regarding frequency of rent increases and notification requirements with transfer of requirements to Chapter 6.16 Landlord Tenant Relations (Page 3 - Section 6.20.030)</li> <li>4. Establishment of minimum percentage of units in a rental facility that must be regulated by a governmental agency for the rental facility to be eligible for an exemption from rent stabilization, (Page 3 – Section 6.20.040 (A)(2))</li> <li>5. Expansion of process for establishing base rents for certain units to include previously unlicensed rental units and rental facilities and renovated, reconfigured or consolidated rental units, (Page 5 – Section 6.20.050(A) and (B)).</li> </ol>

<b>Background</b> continued	<p>6. Expansion of definition of Imputed Base Year Net Operating Income providing the landlord with an opportunity to present additional information on rate increases for consideration during the review of a Fair Return Rent Increase petition (Page 10 – Section 6.20.090(B)(6)).</p> <p><b>Chapter 6.36 Unsafe Buildings – Public Nuisance Abatement</b></p> <p>Current Policy: To provide for the condemnation of unsafe structures and the vacation, securing, repair and /or demolition of properties declared to be a public nuisance.</p> <ol style="list-style-type: none"> <li>1. Adoption of Montgomery County Code addressing designation of unsafe structures, the repair or removal of condemned structures and the correction of severe conditions (Page 1 – Section 6.36.020).</li> <li>2. Amendment of language in adopted County Code referencing the "County" and redefining the term "Enforcing Agency" to include the City and City Officials. (Page 2 – Section 6.12.030)</li> <li>3. Deletion of corresponding language in current Code with the exception of the following: Right of Entry (Page 2 – Section 6.36.020), Vacating and Placarding (Page 6 – Section 6.36.060(C)), Vacating and Securing of Premises (Page 6 - Section 6.36.060(D), and Tenant Displacement (Page 7 - Section 6.36.060(E)).</li> </ol> <p>Assistant City Attorney Ken Sigman, HCD Director Sara Anne Daines, and Housing Manager Linda Walker will provide further detail on the proposed revisions and respond to any questions or concerns raised during the work session.</p>
<b>Policy</b>	<p>To protect tenants from unwarranted rent increases, while allowing rents which provide landlords with a fair return.</p> <p>To provide for the condemnation of unsafe structures and the vacation, securing, repair and /or demolition of properties declared to be a public nuisance.</p>
<b>Fiscal Impact</b>	NA
<b>Attachments</b>	<ul style="list-style-type: none"> <li>• Takoma Park Code, Chapter 6.20 Rent Stabilization (draft showing revisions)</li> <li>• Takoma Park Code, Chapter 6.20 Rent Stabilization (draft clean copy)</li> <li>• Chapter 6.36 Unsafe Buildings – Public Nuisance Abatement (draft showing revisions)</li> <li>• Chapter 6.36 Unsafe Buildings – Public Nuisance Abatement (draft clean copy)</li> </ul>
<b>Recommendation</b>	Provide comment on proposed revisions

<b>Special Consideration</b>	<p>The schedule for further discussion of Takoma Park Code, Chapter 6 Housing has been revised as follows.</p> <p><u>Monday, April 1 (tentative)</u></p> <ul style="list-style-type: none"> <li>• Chapter 6.40 Violations and Enforcement</li> <li>• Chapter 6.04 General Provisions and Definitions</li> </ul> <p><u>Monday, April 8 (tentative)</u></p> <ul style="list-style-type: none"> <li>• Follow-up Discussion of Proposed Revisions</li> </ul> <p><u>Monday, April 22 (tentative)</u></p> <ul style="list-style-type: none"> <li>• First Reading of Ordinance Amending Takoma Park Code, Chapter 6 Housing</li> </ul> <p><u>Monday, April 29 (tentative)</u></p> <ul style="list-style-type: none"> <li>• Second Reading of Ordinance Amending Takoma Park Code, Chapter 6 Housing</li> </ul>
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## Chapter 6.20

### RENT STABILIZATION\*

#### Sections:

~~6.20.010—Application of rent stabilization—Scope, rent increases, notification requirements, annual reporting.~~

~~6.20.020—Buildings exempted from rent stabilization without application for exemption.~~

~~6.20.030—Rental facilities granted partial exemption from rent stabilization without application for exemption.~~

~~6.20.040—Rental facilities and rental units exempt from rent stabilization pursuant to an application for a grant of exemption.~~

~~6.20.050—Establishment of base rent for certain units.~~

~~6.20.060—Annual rent increases.~~

~~6.20.070—Banking of authorized annual rent increases.~~

~~6.20.080—Annual reporting requirements.~~

~~6.20.090—Rent increases pursuant to a fair return petition.~~

~~\* Prior history: Prior code §§ 6-500—6-505 as amended by Ords. 2700, 2716, 2732, 1985-49, 1986-43, 1986-44, 1987-27A, 1987-33, 1987-45, 1988-9, 1989-51, 1990-40, 1992-2, 1992-9, 1992-26, 1995-43, 1997-9, 1999-38, 1999-40, 2003-7, 2006-31 and 2007-28.~~

#### **6.20.010 Application of rent stabilization—Scope, rent increases, notification requirements, annual reporting.**

A. Application of Rent Stabilization. The provisions of this chapter shall apply to all residential rental units except as provided in Sections 6.20.020 through 6.20.040030.

B. Rents—Rent Increases, Frequency and Notification Requirements.

1. Rent Increases. Rent increases shall be limited to the rent increase amounts authorized by this chapter for regulated rental units.

2. Frequency of Rent Increases. Rents for any individual rental unit may not be increased more often than permitted by this chapter.

3. Notice of Rent Increases. Notification of any rent increase authorized by this chapter shall be provided in writing to the tenant at least 2two months prior to the date the rent increase is to take effect.

C. Reporting of Rents. Landlords must file an annual rent report with the Department on a form prescribed by the Department in accordance with Section 6.20.080. ~~(Ord. 2007-40 § 1 (part), 2007)~~070.

**6.20.020 Buildings ~~exempted~~exempt from rent stabilization ~~without application for exemption.~~**

A. Scope of Exemptions. The provisions of this chapter shall not be applicable to the following:

1. Any unit in a licensed facility, the primary purpose of which is the diagnosis, cure, mitigation and treatment of illnesses;
2. Any unit in a facility owned or leased by an organization exempt from federal income taxes pursuant to Section 501(c)(3) of the Internal Revenue Code, the primary purpose of which is to provide temporary sanctuary or shelter for qualified clients, provided that the organization has notified the clients residing in the facility of the temporary nature of their housing at the inception of their residence;
3. Any owner-occupied group house;
4. Religious facilities such as churches, synagogues, parsonages, rectories, convents and parish homes;
5. Transient facilities such as ~~hotels,~~ motels, tourist homes, and bed and breakfast facilities; ~~and~~
6. School dormitories. ~~(Ord. 2007-40 § 1 (part), 2007);~~

**~~6.20.030 Rental~~7. Licensed assisted living facilities ~~granted partial exemption from rent stabilization without application for exemption.~~**

~~A. Scope of Exemptions. The provisions of this chapter shall not be applicable to the following rental facilities except as provided in subsections (B) and (C) of this section:~~nursing homes;

- ~~1.—~~8. Single family residences;
9. Any building ~~on a lot that contains~~ originally designed and constructed to contain only ~~one~~two dwelling ~~unit~~units one of which the owner currently occupies as his or her principal residence; and

210. Any accessory apartment for which the Montgomery County Planning Board has granted a special exception.

~~B.— Frequency of Rent Increases. The rents for rental facilities and rental units described in subsection (A) of this section may be increased only once within a 12-month period.~~

~~C.— Notification Requirements. Notification of any rent increase for rental units described in subsection (A) of this section shall be provided in writing to the tenant at least 2 months prior to the date the rent increase is to take effect. (Ord. 2007-40 § 1 (part), 2007)~~

**6.20.040030 Rental facilities and rental units exempteligible for exemption from rent stabilization pursuant to an application for ~~a grant of exemption.~~**

A. Grant of Exemption. The Department shall, upon application of the owner, grant an exemption from the provisions of this chapter ~~for to~~ the following rental units and rental facilities:

1. Rental-Individual rental units leased to tenants assisted under ~~Federal Tenant Based Assistance Programs under 42 U.S.C. Sections 1437f and 11403 et seq.~~ federal tenant based assistance programs or similar federally funded rent subsidy program. ~~However, this exemption shall apply only for so long as the rent demanded does not exceed the authorized Payment Standard, which, for purposes of this subsection, is the maximum monthly rental assistance potentially available to an assisted household before deducting the household share of income paid for rent and utilities as established by the Montgomery County Housing Opportunities Commission or successor agency.~~

2. ~~Any rental facility that is~~ Rental facilities subject to a regulatory agreement with a governmental agency that controls the rent levels of not less than one ~~or more~~ half of the rental units ~~so that they are available only in the rental facility and restricts the occupancy of those rental units~~ to low and moderate income tenants.

3. Newly Constructed Rental ~~Units~~ Facilities. For a period of ~~5~~ five years after the issuance of a rental license, any newly constructed rental facility with two or more dwelling units first offered for rent after July 1, 2006.

~~a.— Newly constructed rental unit shall mean any~~ Renovated or reconfigured rental unit constructed that results in a net gain in the number of rental units at a property over the ~~number of~~ facilities or combined rental units ~~at the property as of July 1, 2006, plus any rental units already added to the property, provided that the size of an existing rental unit or the indoor~~

common areas of the rental facility ~~is are~~ not reduced. The reconfiguration, renovation, change in description, or change in identification of a rental unit shall not result in a newly constructed rental unit.

~~b.—Replacement rental units not exempt.~~

~~i.—The maximum allowable rents applicable to pre-existing rental units shall be applicable to rental units that replace those units.~~

~~ii.—A rental unit is a replacement rental unit unless the unit is a newly constructed rental unit as defined in subsection (A)(3)(a) of this section.~~

~~iii.—If a replacement rental unit is smaller than the unit it replaces, the maximum allowable rent for the replacement unit shall be reduced by a percentage equal to the reduction in size of the unit eligible for an exemption from rent stabilization.~~

~~4.—All rental units in a building with 2 dwelling units in which the owner occupies one or more of the units as his or her principal residence, provided that the owner occupancy by the current owner or successive owners has been continuous and bona fide for a period of at least 24 months at the time a petition for an exemption is filed.~~

B. Termination of Exemption.

1. Exemptions granted pursuant to ~~subsections~~subsection (A)(1) ~~and (A)(4)~~ of this section shall expire after one year or when the conditions entitling the ~~facility~~rental unit to an exemption cease to exist, whichever shall first occur. The exemptions are renewable annually upon re-application. ~~Upon the termination of an exemption, the rental unit shall be subject to all of the provisions of this chapter.~~

2. Exemptions granted pursuant to subsection (A)(2) of this section shall expire upon the termination of the agreement with the governmental agency entitling the rental facility to the exemption or when the conditions entitling the rental facility to an exemption cease to exist, whichever shall first occur.

3. Exemptions granted pursuant to subsection (A)(3) of this section shall expire on the fifth anniversary date of the issuance of the rental facilities initial rental housing license, regardless of when the application for an exemption was made by the owner.

C. Rents upon Termination of Exemption.

1. For rental facilities and rental units receiving an exemption pursuant to subsections (A)(1) and (A)(2) of this section, upon the termination of the exemption, the base rent for the

units and the reference point from which the rent ~~ceiling~~ shall be ~~adjusted~~increased in accordance with this chapter shall be the allowable rent as reported in the annual rent report for each unit at the time the exemption commenced plus the annual rent stabilization allowance for each year that the unit was exempt.

2. For rental facilities ~~and rental units~~ receiving an exemption pursuant to ~~subsections~~subsection (A)(3) ~~and (A)(4)~~ of this section, upon the termination of the exemption, the base rent for the units and the reference point from which the rent ~~ceiling~~ shall be ~~adjusted~~increased in accordance with this chapter shall be the rent charged for each unit ~~set forth in~~at the most recent annual rent report preceding time of the expiration of the exemption. For any units not rented when the exemption period terminates, the base rent shall be the rent charged when the unit is first rented to a tenant. If the actual rent paid by a tenant differs from the rent stated in the report or the lease, then the actual rent shall be the base rent.

~~D.—Frequency of Rent Increases. The rents of occupied rental units exempt from rent stabilization under this section may be increased once within any 12-month period.~~

~~E.—Notice of Rent Increases. For rental units receiving an exemption pursuant to subsections (A)(2), (A)(3) and (A)(4) of this section, a landlord shall not increase or attempt to increase the rent for any rental unit without having first given the tenant living therein at least 2 months' written notice of the increase.~~

~~F.—Annual Rent Reports. Landlords must file annual rent reports for all rental units that are exempt from rent control under this section. (Ord. 2007-40 § 1 (part), 2007)~~

## **6.20.050040 Establishment of base rent for certain units.**

A. Rents for Previously Licensed Rental Facilities or Rental Units. The base rent for previously licensed rental units and rental units contained within a previously licensed rental facility and the reference point from which the rent shall be increased in accordance with this chapter shall be the allowable rent reported in the annual rent report at the time the rental housing license was discontinued plus the annual rent stabilization allowance for each year that the rental unit or rental facility was unlicensed and the unit or units were vacant and unoccupied.

B. Rents Following Renovation, Reconfiguration or Consolidation of Existing Rental Unit or Units. The rent reported for the unit prior to the renovation, reconfiguration or combination of units shall be the base rent for any renovated, reconfigured or consolidated rental



unit and the reference point from which the rent shall be increased in accordance with this chapter unless the total square footage of the unit is smaller or larger than the unit or units it replaces. The base rent for the unit shall be reduced or increased by a percentage equal to the reduction or increase in size of the unit prior to its renovation or reconfiguration. When two or more rental units are combined to create a single rental unit, the base rent for the new unit shall be established as percentage increase in the base rent of the largest of the combined units equal to the increase in the total square footage of the resulting rental unit.

C. Rents Following Purchase of an Owner Occupied Condominium Unit. The new owner of a previously owner occupied condominium unit, purchased in a bona fide arms length transaction, may charge market rent for the unit. The rent the owner charges his or her initial tenant shall establish the base rent for the unit and the reference point from which the rent shall be increased in accordance with this chapter. If the actual rent paid by the tenant differs from the rent stated in the lease, then the actual rent paid by the tenant shall be the base rent.

A.—D. Reset of Base Rent for Owner-Occupied Condominiums. Condominium Units. When the owner ~~or successive owners~~ of a previously rented condominium unit occupies the unit for at least 2412 consecutive months as his or her principal residence, ~~then~~ the owner may charge market rent for the unit when the owner next rents the unit to a tenant. The rent the owner charges the tenant shall establish the base rent for the unit until the owner again occupies the unit for at least 2412 consecutive months. If the actual rent paid by the tenant differs from the rent stated in the lease, then the actual rent paid by the tenant shall be the base rent and the reference point from which the rent shall be increased in accordance with this chapter.

~~B.— Rents Following Sale of a Condominium Unit. The owner of a condominium unit that purchases a condominium unit in a bona fide arms length transaction may charge market rent for the unit when the owner first rents the unit to a tenant after purchasing the unit. The rent the owner charges the tenant shall establish the base rent for the unit until the owner occupies the unit for at least 24 consecutive months~~

~~If the actual rent paid by the tenant differs from the rent stated in the lease, then the actual rent paid by the tenant shall be the base rent.~~

~~C. Establishment of Base Rent for Rental Units Not Subject to Rent Stabilization on July 1, 2007. For rental units that were not subject to rent stabilization on July 1, 2007, that become subject to rent stabilization pursuant to Ordinance No. 2007-40, the base rent shall be the rent~~

charged for the unit when the unit is first rented to a tenant after July 1, 2007. If the actual rent paid by the tenant differs from the rent stated in the lease, then the actual rent paid by the tenant shall be the base rent. (Ord. 2007-40 § 1 (part), 2007)

**6.20.060050 Annual rent increases, frequency of rent increases and notification.**

A. Annual Rent Stabilization Allowance.

1. The Department shall calculate an annual rent stabilization allowance ~~and provide notice of the allowance to all landlords. The rent stabilization allowance shall equal~~ equal to the percentage increase in the Consumer Price Index-All Urban Consumers all items, Washington-Baltimore (~~Series ID: CUURA311SAO~~) from March in the preceding year to March in the current year. ~~The CPI~~ Notice of the allowance shall be ~~the CPI~~ published ~~as of March in each year~~ the May edition of the Takoma Park Newsletter and on the City website.

2. ~~At any point during any~~ The annual rent stabilization allowance shall remain in effect for a 12-month period, commencing on beginning July ~~1st~~ 1 of each year, ~~the rent and ending on June 30 of the following year.~~

3. ~~a unit~~ Rent increases for rent stabilized rental units may be increased ~~over the rent charged as of June 30th by~~ by an amount not to exceed the annual rent stabilization allowance.

in effect at the time of ~~3. Annual rent stabilization allowances that a landlord does not assess to the rent increase.~~

4. ~~current tenant~~ Rent increases less than permitted in subsection (A)(3) of this section may be set aside and implemented banked in accordance with Section 6.20.070 ~~when the unit becomes vacant~~ 060.

B. Frequency of Rent Increases ~~for~~

1. Occupied Rental Units.

1. ~~Only one rent~~ stabilization increase pursuant to subsection (A)(~~4~~) 3 of this section shall be permitted within a 12-month period.

2. ~~During the pendency of a fair return petition to increase rents above the rent stabilization allowance, rent increases up to the rent stabilization allowance may be taken in accordance with subsection (B)(1) of this section. If an~~ Fair Return Rent Increases. An additional rent increase pursuant to a Fair Return Rent increase petition ~~is~~ subsequently approved by the Commission, ~~the rent increase in accordance with Section 6.20.080,~~ may be taken pursuant to the terms and the conditions of the Commission's administrative decision and final order.

~~C.—Frequency of Rent Increases for~~3. Vacant Rental Units. The rent for vacant rental units may be increased ~~by up to the banked rent and~~ the annual rent stabilization allowance ~~may be applied~~ prior to the leasing of the rental unit in accordance with ~~subsection (A) of this section~~Section 6.20.060.

~~D.C.~~ Notice of Annual Rent Increases.

1. A landlord shall not increase or attempt to increase the rent for any occupied rental unit without having first given the tenant living therein at least ~~2~~two months' written notice of the increase.

2. Notice of a rent increase shall be in the form and manner prescribed by Department regulations. ~~(Ord. 2007-40 § 1 (part), 2007)~~

**~~6.20.070060~~ Banking of authorized annual rent stabilization increases.**

~~A.—Banking of Unused Rent Stabilization Allowances Authorized After 1992. Notwithstanding the provisions of Section 6.20.060, a~~A landlord may increase the rent for a vacant rental unit by the actual dollar amount of any annual rent stabilization allowances which were not charged to the tenant vacating the rental unit (hereinafter “unused rent stabilization increases”). Such increase may be taken if the rental unit became vacant as a result of a voluntary termination of the tenancy by the tenant or a termination of the tenancy by the landlord for cause. This rent increase may be in addition to any rent stabilization allowance increase that the landlord may impose on or after 12 months from the date of the last rent stabilization allowance increase for that rental unit.

~~B.—Banking of Unused Rent Stabilization Allowances Authorized Prior to 1992.~~

~~1.—Before a landlord may increase the rent for a vacant rental unit by the amount of any unused rent stabilization increases for any year or years prior to February 1, 1992, the landlord must submit verifiable documentation to the Department showing that the unused rent stabilization increases were not previously charged to the rental unit. Examples of verifiable documentation are rent ledgers, copies of leases, and rent reports.~~

~~2.—The Department must approve such documentation in writing before the landlord may increase the rent for a vacant rental unit by the amount of any unused rent stabilization increases for any year or years prior to February 1, 1992. The required documentation must be submitted 60 days in advance of the date of the proposed rent increase and must include the~~

~~name and contact information of the tenant vacating the affected unit. (Ord. 2007-40 § 1 (part), 2007)~~

#### **6.20.080070 Annual reporting requirements.**

A. Reporting Requirements. On or before September ~~30th~~30 of each year, each landlord shall complete and submit to the Department a rent report for the 12-month period beginning July 1 and ending on the preceding June ~~30th~~30 on a form provided by and in the manner prescribed by Department regulations.

B. Penalty for Failure to Comply with Reporting Requirements. Failure to file a complete or accurate rent report by September ~~30th~~30 of each year shall constitute a Class A violation of this chapter unless an extension of time for good cause is granted by the Department. ~~(Ord. 2007-40 § 1 (part), 2007)~~ prior to the due date.

#### **6.20.090080 Rent increases pursuant to a fair return petition.**

A.— Fair Return Rent Increase. Landlords have a right to petition for a rent increase in order to obtain a fair return. A fair return rent increase is intended to protect tenants from unwarranted rent increases, while allowing rent levels which provide landlords with a fair return.

B.— Standards for Rent Increases Pursuant to a Fair Return Petition.

1. — Fair Return. Fair return is defined as base year net operating income adjusted by 70% of the percentage increase in the Consumer Price Index (CPI) from the base year until 2007, and 100% of the percentage increase in the CPI since 2007.

2.— Base Year. The landlord may select any of the following as the base year when petitioning for a fair return rent increase:

- a.— 1979, unless the property contains 4 or fewer dwelling units;
- b. — 1987, if the property contains 4 or fewer rental units;
- c. — 1990;
- d. — 2000.

3.— Current Year. The current year shall either be the calendar year or the fiscal year (July 1st to June 30th) immediately preceding the date that the application is filed.

4.— Current Year CPI. If the current year is a calendar year, the current year CPI shall be the annual CPI for that year. If the current year is a fiscal year, the current year CPI shall be the CPI for December within the 12-month period including the fiscal year.

5.— Net Operating Income. Net operating income equals gross income minus operating expenses.

~~6.— Base Year Net Operating Income. The base year net operating income may be calculated, at the landlord's option, to equal 40% of the gross income of the rental facility in 1990.~~

6. Imputed Base Year Net Operating Income. If the base year is 1990, at the landlord's option, the 1990 net operating income shall be imputed based on estimated base year operating expenses. In estimating the base year operating expenses, it shall be presumed that each operating expense increased by the same percentage as the CPI since the base year. However, if data, rate information, or other sources of cost information indicate that particular operating expenses increased at a different percentage than the percentage increase in the CPI, the estimate of the percentage increase in that expense shall be based on the best available data on increases in that type of expense. Information on the rate of increases and/or other relevant data on trends in increases in particular types of expenses between the base year and the current year may be introduced by the landlord, affected tenants, the Department, and the Rents Analyst.

7. Gross Income. Gross income is the annual scheduled rental income for the property based on the rents and fees (other than fees that are reimbursed ~~by~~to the tenants) the landlord was permitted to charge at the time of the application.

8.— Operating Expenses. Operating expenses means all reasonable operating and maintenance expenses.

- a. Operating expenses shall include, but not be limited to, the following:
  - i. Utilities paid by the landlord, unless these costs are passed through to the tenants;
  - ii. Administrative expenses, such as advertising, legal fees, accounting fees, etc.;
  - iii. Management fees, whether performed by the landlord or a property management firm;

It shall be presumed that management fees increased by the percentage increase in the CPI between the base year and the current year, unless the level of management services either increased or decreased during this period. Management fees shall not exceed 6% of gross income unless the landlord demonstrates by a preponderance of the evidence that a higher percentage is reasonable.

iv. Payroll;

v. Amortized cost of capital improvements;

An interest allowance shall be allowed on the cost of amortized capital expenses; the allowance shall be equal to the interest the landlord would have incurred had the landlord financed the capital improvement with a loan for the amortization period of the improvement, making uniform monthly payments, at an interest rate equal to the Federal Reserve Board bank prime loan rate as of the date of the initial submission of the petition plus 2% per annum.

vi. Maintenance related material and labor costs, including self-labor costs computed in accordance with the regulations adopted pursuant to this section;

vii. Property taxes;

viii. Licenses, government fees and other assessments; and

ix. Insurance costs.

b. Reasonable operating and maintenance expenses do not include the following:

i. Expenses for which the landlord has been or will be reimbursed by any security deposit, insurance settlement, judgment for damages, agreed-upon payments or any other method;

ii. Payments made for mortgage expenses, either principal or interest;

iii. Judicial and administrative fines and penalties;

iv. Damages paid to tenants as ordered by COLTA or the courts;

v. Depreciation;

vi. Late fees or service penalties imposed by utility companies, lenders or other entities providing goods or services to the landlord or the rental facility;

vii. Membership fees in organizations established to influence legislation and regulations;

viii. Contributions to lobbying efforts;

ix. Contributions for legal fees in the prosecution of class-action cases;

x. Political contributions for candidates for office;

xi. -Any expense for which the tenant has lawfully paid directly or indirectly;

xii.— Attorney’s fees charged for services connected with counseling or litigation related to actions brought by the City under City regulations or this title, as amended. This provision shall apply unless the landlord has prevailed in such an action brought by the City;

xiii. —Additional, expenses incurred as a result of unreasonably deferred maintenance; and

xiv.— Any expense incurred in conjunction with the purchase, sale, or financing of the rental facility, including, but not limited to, loan fees, payments to real estate agents or brokers, appraisals, legal fees, accounting fees, etc.

c. When an expense amount for a particular year is not determined to be a reasonable projection of ongoing or future expenditures for that item, said expense shall be averaged with other expense levels for other years or amortized or adjusted by the CPI or may otherwise be adjusted, in order to establish an expense amount for that item which most reasonably serves the objectives of obtaining a reasonable comparison of base year and current year expenses.

#### C. Rent Increase Petition Based on Fair Return Standard.

1. Form of Petition. Whenever a landlord proposes a rent increase of more than the amount permitted by Section 6.20.060050 of this chapter, the landlord shall file a petition with the Commission on a form provided by the Department.

2. Required Submission of Income and Expense Information. The landlord shall be required to submit income and expense information for the 2two years prior to the current year with the petition.

3. Petition Restrictions. Petitions filed pursuant to this section must address an entire rental facility. The landlord filing a petition must own the rental facility for the entire current year.

#### 4. Adjustments to Petition—Base Year Net Operating Income.

a. Adjustment of Base Year Net Operating Income by Commission. It may be determined that the base year net operating income yielded other than a fair return, in which case the base year net operating income may be adjusted. In order to adjust the base year net operating income, the Commission must make at least one of the following findings:

i. Base year net operating income was abnormally low due to one of the following factors:

(A) The landlord made substantial capital improvements which were not reflected in the base year rents and the landlord did not obtain a rent adjustment for these capital improvements;

(B) Substantial repairs were made due to exceptional circumstances; or

(C) Other expenses were unreasonably high, notwithstanding prudent business practice.

ii. Base year rents did not reflect market transaction(s), due to one or more of the following types of circumstances:

(A) There was a special relationship between the landlord and tenant resulting in abnormally low rent charges (such as a family relationship);

(B) The rents had not been increased for 5 years preceding the base year;

(C) The tenant lawfully assumed maintenance responsibilities in exchange for low rent increases or no rent increases; or

(D) Other special circumstances which establish that the rent was not set as the result of an arms-length transaction.

b. Establishment of a New Base Year Net Operating Income—Prior Year Petitions. The net operating income, income, and expenses, determined to be fair and reasonable pursuant to a prior petition for a fair return rent increase, shall constitute the base year income, expenses, and net operating income in the new petition.

#### 5. Consideration of Fair Return Petition by Commission.

a. Issuance of a Decision by the Commission. The Commission shall, in good faith, endeavor to issue its preliminary administrative decision ruling on the request within 90 days of the review or hearing on the petition. Upon its determination of the rent increase to be granted to the landlord, the Commission shall issue a decision in accordance with Section 6.24.120 of this chapter and furnish a copy of the decision to the landlord.

#### b. Rejection of Petition.

i. The Commission shall not consider the landlord's fair return petition:

(A) Until the properly completed petition form, including required supporting documentation, has been submitted to the Commission;



(B) When the landlord has not properly registered the rental property with the City and/or when the landlord has outstanding fees or fines with the Department;

(C) When the landlord has not filed required rent reports for the 3 years prior to the filing date of the petition, provided that the Commission may, at its discretion, waive the above requirement for good cause shown; or

(D) When the landlord has failed to comply with a final order of the Commission concerning any rental unit owned by the landlord in the City. However, the failure to comply with an order of the Commission shall not constitute a basis to decline to consider the landlord's request if the order has been appealed to the Circuit Court and no decision has been rendered on appeal.

ii. If the Commission declines to consider the landlord's request, it shall provide a written explanation for its action.

6. Ceiling on Fair Return Adjustments.

a. Fair Return Rent Increases on Occupied Rental Units. Fair return rent increases shall not exceed 15% in any 12-month period. If the Commission awards a fair return rent increase greater than 15%, then the landlord may impose the remainder of the increase in subsequent years in increments not to exceed 15%.

b. Fair Return Rent Increases on Vacant Rental Units. If the Commission determines that a rental unit requiring an increase of more than 15% is vacant or if the unit becomes vacant before the required rent increase has been taken in full, the Commission shall allow the required increase for that unit to be taken in one year or upon the vacancy of that unit, provided the unit became vacant as a result of a voluntary termination by the tenant or a termination of the tenancy by the landlord for cause.

7. Notification Requirements.

a. Notice of Petition for a Rent Increase. The landlord shall provide written notification to each tenant affected by a proposed rent increase within one week after the filing date of the petition. Such notification shall include a copy of the petition form and a listing of all requested rent increases.

b. Notice of a Rent Increase Granted Pursuant to a Rent Increase Petition. The landlord shall provide written notice to each affected tenant of the rent increase which has been authorized by the Commission, no less than two months prior to the date the proposed increase

is to take effect. Said increase shall be contingent on the decision of the Commission becoming final in accordance with Sections 6.24.120~~110~~ and 6.24.130 of this chapter.

8. Rollbacks—Bad Faith Fair Return Petitions.

a. Authority to Require Rollback. If, upon consideration of a fair return petition, the Commission finds that the adjusted base year net operating income included in the petition is less than the landlord's actual petition year net operating income and the fair return petition was filed in bad faith, the Commission may require the landlord to roll back the rents charged on the rental units covered by the petition to result in a net operating income equal to the adjusted base year net operating income.

b. Purpose of Rollbacks. The purpose of the rollback provision in this subsection is to ensure that fair return petitions are filed in good faith, that the landlord reviews the records of the rental property for which rent increases are sought to ensure that a rent increase is justified under this section and to balance both the tenant and the landlord interests in each petition to increase rents above the rent stabilization allowance.

c. Definition of Bad Faith.

i. Bad faith can be found, but is not limited to, instances in which the landlord:

- (A) Listed expenses for repairs or services never performed;
- (B) Materially misrepresented expenses claimed;
- (C) Knowingly filed a false rent report, in whole or in part; or
- (D) Acted in some manner which is a clear abuse of the petition process.

ii. The following shall not constitute bad faith under this provision:

- (A) Miscalculations and simple mathematical errors; or
- (B) Claims for expenses or other items which are not specifically addressed

in this section and which the Commission disallowed, but which could plausibly have fallen within this section.

d. Determination of Bad Faith by Commission. The Commission shall verify the information upon which it makes its findings of bad faith and shall issue a decision clearly stating the basis for its finding. The landlords shall be required to notify all tenants affected by the rent rollback, and, if the landlord was permitted to increase rents by the rent stabilization allowance pending a decision on the fair return petition, all rent increases so collected shall be refunded to the affected tenants within 30 days. If the landlord fails to roll back the rents or fails

to refund the rent increases collected, the affected tenants may begin paying the rolled-back rent or may deduct any rent refunds or rollbacks owed the tenants in accordance with subsection (C)(8)(a) of this section.

9. Scope of Commission Authority in Setting Rents. Notwithstanding any other provision of this chapter or regulations instituted pursuant to this chapter, the Commission shall be authorized to take into account any factors which it is required to consider by law and grant whatever rent increase is constitutionally required in order to yield a fair return.

10. Burden of Proof. The landlord shall have the burden of proof in demonstrating that a rent increase should be authorized pursuant to this section. ~~(Ord. 2007-40 § 1 (part), 2007)~~

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## **Chapter 6.20**

### **RENT STABILIZATION**

#### **6.20.010 Application of rent stabilization—Scope, rent increases, notification requirements, annual reporting.**

A. Application of Rent Stabilization. The provisions of this chapter shall apply to all residential rental units except as provided in Sections 6.20.020 through 6.20.030.

B. Rents—Rent Increases, Frequency and Notification Requirements.

1. Rent Increases. Rent increases shall be limited to the rent increase amounts authorized by this chapter for regulated rental units.

2. Frequency of Rent Increases. Rents for any individual rental unit may not be increased more often than permitted by this chapter.

3. Notice of Rent Increases. Notification of any rent increase authorized by this chapter shall be provided in writing to the tenant at least two months prior to the date the rent increase is to take effect.

C. Reporting of Rents. Landlords must file an annual rent report with the Department on a form prescribed by the Department in accordance with Section 6.20.070.

#### **6.20.020 Buildings exempt from rent stabilization**

A. Scope of Exemptions. The provisions of this chapter shall not be applicable to the following:

1. Any unit in a licensed facility, the primary purpose of which is the diagnosis, cure, mitigation and treatment of illnesses;

2. Any unit in a facility owned or leased by an organization exempt from federal income taxes pursuant to Section 501(c)(3) of the Internal Revenue Code, the primary purpose of which is to provide temporary sanctuary or shelter for qualified clients, provided that the organization has notified the clients residing in the facility of the temporary nature of their housing at the inception of their residence;

3. Any owner-occupied group house;

4. Religious facilities such as churches, synagogues, parsonages, rectories, convents and parish homes;

5. Transient facilities such as motels, tourist homes, and bed and breakfast facilities;
6. School dormitories;
7. Licensed assisted living facilities and nursing homes;
8. Single family residences;
9. Any building originally designed and constructed to contain only two dwelling units one of which the owner currently occupies as his or her principal residence; and
10. Any accessory apartment for which the Montgomery County Planning Board has granted a special exception.

**6.20.030 Rental facilities and rental units eligible for exemption from rent stabilization pursuant to an application for exemption**

A. Grant of Exemption. The Department shall, upon application of the owner, grant an exemption from the provisions of this chapter to the following rental units and rental facilities:

1. Individual rental units leased to tenants assisted under federal tenant based assistance programs or similar federally funded rent subsidy program.
2. Rental facilities subject to a regulatory agreement with a governmental agency that controls the rent levels of not less than one half of the rental units in the rental facility and restricts the occupancy of those rental units to low and moderate income tenants.
3. Newly Constructed Rental Facilities. For a period of five years after the issuance of a rental license, any newly constructed rental facility with two or more dwelling units first offered for rent after July 1, 2006. Renovated or reconfigured rental facilities or combined rental units are not eligible for an exemption from rent stabilization.

B. Termination of Exemption.

1. Exemptions granted pursuant to subsection (A)(1) of this section shall expire after one year or when the conditions entitling the rental unit to an exemption cease to exist, whichever shall first occur. The exemptions are renewable annually upon re-application.
2. Exemptions granted pursuant to subsection (A)(2) of this section shall expire upon the termination of the agreement with the governmental agency entitling the rental facility to the exemption or when the conditions entitling the rental facility to an exemption cease to exist, whichever shall first occur.

3. Exemptions granted pursuant to subsection (A)(3) of this section shall expire on the fifth anniversary date of the issuance of the rental facilities initial rental housing license, regardless of when the application for an exemption was made by the owner.

C. Rents upon Termination of Exemption.

1. For rental facilities and rental units receiving an exemption pursuant to subsections (A)(1) and (A)(2) of this section, upon the termination of the exemption, the base rent for the units and the reference point from which the rent shall be increased in accordance with this chapter shall be the allowable rent as reported in the annual rent report for each unit at the time the exemption commenced plus the annual rent stabilization allowance for each year that the unit was exempt.

2. For rental facilities receiving an exemption pursuant to subsection (A)(3) of this section, upon the termination of the exemption, the base rent for the units and the reference point from which the rent shall be increased in accordance with this chapter shall be the rent charged for each unit at the time of the expiration of the exemption. For any units not rented when the exemption period terminates, the base rent shall be the rent charged when the unit is first rented to a tenant. If the actual rent paid by a tenant differs from the rent stated in the report or the lease, then the actual rent shall be the base rent.

**6.20.040 Establishment of base rent for certain units.**

A. Rents for Previously Licensed Rental Facilities or Rental Units. The base rent for previously licensed rental units and rental units contained within a previously licensed rental facility and the reference point from which the rent shall be increased in accordance with this chapter shall be the allowable rent reported in the annual rent report at the time the rental housing license was discontinued plus the annual rent stabilization allowance for each year that the rental unit or rental facility was unlicensed and the unit or units were vacant and unoccupied.

B. Rents Following Renovation, Reconfiguration or Consolidation of Existing Rental Unit or Units. The rent reported for the unit prior to the renovation, reconfiguration or combination of units shall be the base rent for any renovated, reconfigured or consolidated rental unit and the reference point from which the rent shall be increased in accordance with this chapter unless the total square footage of the unit is smaller or larger than the unit or units it replaces. The base rent for the unit shall be reduced or increased by a percentage equal to the



reduction or increase in size of the unit prior to its renovation or reconfiguration. When two or more rental units are combined to create a single rental unit, the base rent for the new unit shall be established as percentage increase in the base rent of the largest of the combined units equal to the increase in the total square footage of the resulting rental unit.

C. Rents Following Purchase of an Owner Occupied Condominium Unit. The new owner of a previously owner occupied condominium unit, purchased in a bona fide arms length transaction, may charge market rent for the unit. The rent the owner charges his or her initial tenant shall establish the base rent for the unit and the reference point from which the rent shall be increased in accordance with this chapter. If the actual rent paid by the tenant differs from the rent stated in the lease, then the actual rent paid by the tenant shall be the base rent.

D. Reset of Base Rent for Owner-Occupied Condominium Units. When the owner of a previously rented condominium unit occupies the unit for at least 12 consecutive months as his or her principal residence, the owner may charge market rent for the unit when the owner next rents the unit to a tenant. The rent the owner charges the tenant shall establish the base rent for the unit until the owner again occupies the unit for at least 12 consecutive months. If the actual rent paid by the tenant differs from the rent stated in the lease, then the actual rent paid by the tenant shall be the base rent and the reference point from which the rent shall be increased in accordance with this chapter.

#### **6.20.050 Annual rent increases, frequency of rent increases and notification.**

A. Annual Rent Stabilization Allowance.

1. The Department shall calculate an annual rent stabilization allowance equal to the percentage increase in the Consumer Price Index-All Urban Consumers all items, Washington-Baltimore from March in the preceding year to March in the current year. Notice of the allowance shall be published in the May edition of the Takoma Park Newsletter and on the City website.

2. The annual rent stabilization allowance shall remain in effect for a 12 month period beginning July 1 of each year and ending on June 30 of the following year.

3. Rent increases for rent stabilized rental units may be increased by an amount not to exceed the annual rent stabilization allowance in effect at the time of the rent increase.

4. Rent increases less than permitted in subsection (A)(3) of this section may be banked in accordance with Section 6.20.060.

**B. Frequency of Rent Increases.**

1. Occupied Rental Units. Only one rent stabilization increase pursuant to subsection (A)(3) of this section shall be permitted within a 12-month period.

2. Fair Return Rent Increases. An additional rent increase pursuant to a Fair Return Rent increase petition subsequently approved by the Commission in accordance with Section 6.20.080, may be taken pursuant to the terms and the conditions of the Commission's administrative decision and final order.

3. Vacant Rental Units. The rent for vacant rental units may be increased up to the banked rent and the annual rent stabilization allowance may be applied prior to the leasing of the rental unit in accordance with Section 6.20.060.

**C. Notice of Annual Rent Increases.**

1. A landlord shall not increase or attempt to increase the rent for any occupied rental unit without having first given the tenant living therein at least two months' written notice of the increase.

2. Notice of a rent increase shall be in the form and manner prescribed by Department regulations.

**6.20.060 Banking of authorized annual rent stabilization increases.**

A landlord may increase the rent for a vacant rental unit by the actual dollar amount of any annual rent stabilization allowances which were not charged to the tenant vacating the rental unit (hereinafter "unused rent stabilization increases"). Such increase may be taken if the rental unit became vacant as a result of a voluntary termination of the tenancy by the tenant or a termination of the tenancy by the landlord for cause. This rent increase may be in addition to any rent stabilization allowance increase that the landlord may impose on or after 12 months from the date of the last rent stabilization allowance increase for that rental unit.

**6.20.070 Annual reporting requirements.**

A. Reporting Requirements. On or before September 30 of each year, each landlord shall complete and submit to the Department a rent report for the 12-month period beginning July 1

and ending on the preceding June 30 on a form provided by and in the manner prescribed by Department regulations.

B. Penalty for Failure to Comply with Reporting Requirements. Failure to file a complete or accurate rent report by September 30 of each year shall constitute a Class A violation of this chapter unless an extension of time for good cause is granted by the Department prior to the due date.

#### **6.20.080 Rent increases pursuant to a fair return petition.**

A. Fair Return Rent Increase. Landlords have a right to petition for a rent increase in order to obtain a fair return. A fair return rent increase is intended to protect tenants from unwarranted rent increases, while allowing rent levels which provide landlords with a fair return.

B. Standards for Rent Increases Pursuant to a Fair Return Petition.

1. Fair Return. Fair return is defined as base year net operating income adjusted by 70% of the percentage increase in the Consumer Price Index (CPI) from the base year until 2007, and 100% of the percentage increase in the CPI since 2007.

2. Base Year. The landlord may select any of the following as the base year when petitioning for a fair return rent increase:

- a. 1979, unless the property contains 4 or fewer dwelling units;
- b. 1987, if the property contains 4 or fewer rental units;
- c. 1990;
- d. 2000.

3. Current Year. The current year shall either be the calendar year or the fiscal year (July 1st to June 30th) immediately preceding the date that the application is filed.

4. Current Year CPI. If the current year is a calendar year, the current year CPI shall be the annual CPI for that year. If the current year is a fiscal year, the current year CPI shall be the CPI for December within the 12-month period including the fiscal year.

5. Net Operating Income. Net operating income equals gross income minus operating expenses.

6. Imputed Base Year Net Operating Income. If the base year is 1990, at the landlord's option, the 1990 net operating income shall be imputed based on estimated base year operating expenses. In estimating the base year operating expenses, it shall be presumed that

each operating expense increased by the same percentage as the CPI since the base year. However, if data, rate information, or other sources of cost information indicate that particular operating expenses increased at a different percentage than the percentage increase in the CPI, the estimate of the percentage increase in that expense shall be based on the best available data on increases in that type of expense. Information on the rate of increases and/or other relevant data on trends in increases in particular types of expenses between the base year and the current year may be introduced by the landlord, affected tenants, the Department, and the Rents Analyst.

7. Gross Income. Gross income is the annual scheduled rental income for the property based on the rents and fees (other than fees that are reimbursed to the tenants) the landlord was permitted to charge at the time of the application.

8. Operating Expenses. Operating expenses means all reasonable operating and maintenance expenses.

- a. Operating expenses shall include, but not be limited to, the following:
  - i. Utilities paid by the landlord, unless these costs are passed through to the tenants;
  - ii. Administrative expenses, such as advertising, legal fees, accounting fees, etc.;
  - iii. Management fees, whether performed by the landlord or a property management firm; It shall be presumed that management fees increased by the percentage increase in the CPI between the base year and the current year, unless the level of management services either increased or decreased during this period. Management fees shall not exceed 6% of gross income unless the landlord demonstrates by a preponderance of the evidence that a higher percentage is reasonable.
  - iv. Payroll;
  - v. Amortized cost of capital improvements; An interest allowance shall be allowed on the cost of amortized capital expenses; the allowance shall be equal to the interest the landlord would have incurred had the landlord financed the capital improvement with a loan for the amortization period of the improvement, making uniform monthly payments, at an interest rate equal to the Federal Reserve Board bank prime loan rate as of the date of the initial submission of the petition plus 2% per annum.

vi. Maintenance related material and labor costs, including self-labor costs computed in accordance with the regulations adopted pursuant to this section;

vii. Property taxes;

viii. Licenses, government fees and other assessments; and

ix. Insurance costs.

b. Reasonable operating and maintenance expenses do not include the following:

i. Expenses for which the landlord has been or will be reimbursed by any security deposit, insurance settlement, judgment for damages, agreed-upon payments or any other method;

ii. Payments made for mortgage expenses, either principal or interest;

iii. Judicial and administrative fines and penalties;

iv. Damages paid to tenants as ordered by COLTA or the courts;

v. Depreciation;

vi. Late fees or service penalties imposed by utility companies, lenders or other entities providing goods or services to the landlord or the rental facility;

vii. Membership fees in organizations established to influence legislation and regulations;

viii. Contributions to lobbying efforts;

ix. Contributions for legal fees in the prosecution of class-action cases;

x. Political contributions for candidates for office;

xi. Any expense for which the tenant has lawfully paid directly or indirectly;

xii. Attorney's fees charged for services connected with counseling or litigation related to actions brought by the City under City regulations or this title, as amended. This provision shall apply unless the landlord has prevailed in such an action brought by the City;

xiii. Additional, expenses incurred as a result of unreasonably deferred maintenance; and

xiv. Any expense incurred in conjunction with the purchase, sale, or financing of the rental facility, including, but not limited to, loan fees, payments to real estate agents or brokers, appraisals, legal fees, accounting fees, etc.

c. When an expense amount for a particular year is not determined to be a reasonable projection of ongoing or future expenditures for that item, said expense shall be

averaged with other expense levels for other years or amortized or adjusted by the CPI or may otherwise be adjusted, in order to establish an expense amount for that item which most reasonably serves the objectives of obtaining a reasonable comparison of base year and current year expenses.

C. Rent Increase Petition Based on Fair Return Standard.

1. Form of Petition. Whenever a landlord proposes a rent increase of more than the amount permitted by Section 6.20.050 of this chapter, the landlord shall file a petition with the Commission on a form provided by the Department.

2. Required Submission of Income and Expense Information. The landlord shall be required to submit income and expense information for the two years prior to the current year with the petition.

3. Petition Restrictions. Petitions filed pursuant to this section must address an entire rental facility. The landlord filing a petition must own the rental facility for the entire current year.

4. Adjustments to Petition—Base Year Net Operating Income.

a. Adjustment of Base Year Net Operating Income by Commission. It may be determined that the base year net operating income yielded other than a fair return, in which case the base year net operating income may be adjusted. In order to adjust the base year net operating income, the Commission must make at least one of the following findings:

i. Base year net operating income was abnormally low due to one of the following factors:

(A) The landlord made substantial capital improvements which were not reflected in the base year rents and the landlord did not obtain a rent adjustment for these capital improvements;

(B) Substantial repairs were made due to exceptional circumstances; or

(C) Other expenses were unreasonably high, notwithstanding prudent business practice.

ii. Base year rents did not reflect market transaction(s), due to one or more of the following types of circumstances:

(A) There was a special relationship between the landlord and tenant resulting in abnormally low rent charges (such as a family relationship);

(B) The rents had not been increased for 5 years preceding the base year;

(C) The tenant lawfully assumed maintenance responsibilities in exchange for low rent increases or no rent increases; or

(D) Other special circumstances which establish that the rent was not set as the result of an arms-length transaction.

b. Establishment of a New Base Year Net Operating Income—Prior Year Petitions. The net operating income, income, and expenses, determined to be fair and reasonable pursuant to a prior petition for a fair return rent increase, shall constitute the base year income, expenses, and net operating income in the new petition.

5. Consideration of Fair Return Petition by Commission.

a. Issuance of a Decision by the Commission. The Commission shall, in good faith, endeavor to issue its preliminary administrative decision ruling on the request within 90 days of the review or hearing on the petition. Upon its determination of the rent increase to be granted to the landlord, the Commission shall issue a decision in accordance with Section 6.24.120 of this chapter and furnish a copy of the decision to the landlord.

b. Rejection of Petition.

i. The Commission shall not consider the landlord's fair return petition:

(A) Until the properly completed petition form, including required supporting documentation, has been submitted to the Commission;

(B) When the landlord has not properly registered the rental property with the City and/or when the landlord has outstanding fees or fines with the Department;

(C) When the landlord has not filed required rent reports for the 3 years prior to the filing date of the petition, provided that the Commission may, at its discretion, waive the above requirement for good cause shown; or

(D) When the landlord has failed to comply with a final order of the Commission concerning any rental unit owned by the landlord in the City. However, the failure to comply with an order of the Commission shall not constitute a basis to decline to consider the landlord's request if the order has been appealed to the Circuit Court and no decision has been rendered on appeal.

ii. If the Commission declines to consider the landlord's request, it shall provide a written explanation for its action.

6. Ceiling on Fair Return Adjustments.

a. Fair Return Rent Increases on Occupied Rental Units. Fair return rent increases shall not exceed 15% in any 12-month period. If the Commission awards a fair return rent increase greater than 15%, then the landlord may impose the remainder of the increase in subsequent years in increments not to exceed 15%.

b. Fair Return Rent Increases on Vacant Rental Units. If the Commission determines that a rental unit requiring an increase of more than 15% is vacant or if the unit becomes vacant before the required rent increase has been taken in full, the Commission shall allow the required increase for that unit to be taken in one year or upon the vacancy of that unit, provided the unit became vacant as a result of a voluntary termination by the tenant or a termination of the tenancy by the landlord for cause.

7. Notification Requirements.

a. Notice of Petition for a Rent Increase. The landlord shall provide written notification to each tenant affected by a proposed rent increase within one week after the filing date of the petition. Such notification shall include a copy of the petition form and a listing of all requested rent increases.

b. Notice of a Rent Increase Granted Pursuant to a Rent Increase Petition. The landlord shall provide written notice to each affected tenant of the rent increase which has been authorized by the Commission, no less than two months prior to the date the proposed increase is to take effect. Said increase shall be contingent on the decision of the Commission becoming final in accordance with Sections 6.24.110 and 6.24.130 of this chapter.

8. Rollbacks—Bad Faith Fair Return Petitions.

a. Authority to Require Rollback. If, upon consideration of a fair return petition, the Commission finds that the adjusted base year net operating income included in the petition is less than the landlord's actual petition year net operating income and the fair return petition was filed in bad faith, the Commission may require the landlord to roll back the rents charged on the rental units covered by the petition to result in a net operating income equal to the adjusted base year net operating income.

b. Purpose of Rollbacks. The purpose of the rollback provision in this subsection is to ensure that fair return petitions are filed in good faith, that the landlord reviews the records of the rental property for which rent increases are sought to ensure that a rent increase is justified



under this section and to balance both the tenant and the landlord interests in each petition to increase rents above the rent stabilization allowance.

c. Definition of Bad Faith.

i. Bad faith can be found, but is not limited to, instances in which the landlord:

- (A) Listed expenses for repairs or services never performed;
- (B) Materially misrepresented expenses claimed;
- (C) Knowingly filed a false rent report, in whole or in part; or
- (D) Acted in some manner which is a clear abuse of the petition process.

ii. The following shall not constitute bad faith under this provision:

- (A) Miscalculations and simple mathematical errors; or
- (B) Claims for expenses or other items which are not specifically addressed

in this section and which the Commission disallowed, but which could plausibly have fallen within this section.

d. Determination of Bad Faith by Commission. The Commission shall verify the information upon which it makes its findings of bad faith and shall issue a decision clearly stating the basis for its finding. The landlords shall be required to notify all tenants affected by the rent rollback, and, if the landlord was permitted to increase rents by the rent stabilization allowance pending a decision on the fair return petition, all rent increases so collected shall be refunded to the affected tenants within 30 days. If the landlord fails to roll back the rents or fails to refund the rent increases collected, the affected tenants may begin paying the rolled-back rent or may deduct any rent refunds or rollbacks owed the tenants in accordance with subsection (C)(8)(a) of this section.

9. Scope of Commission Authority in Setting Rents. Notwithstanding any other provision of this chapter or regulations instituted pursuant to this chapter, the Commission shall be authorized to take into account any factors which it is required to consider by law and grant whatever rent increase is constitutionally required in order to yield a fair return.

10. Burden of Proof. The landlord shall have the burden of proof in demonstrating that a rent increase should be authorized pursuant to this section.

## **Chapter 6.36**

### **UNSAFE BUILDINGS—PUBLIC NUISANCE ABATEMENT\***

Sections:

6.36.010 — Unsafe buildings—Public nuisance declared.

6.36.020 — Adoption of Montgomery County Code

6.12.030 Amendments to Chapter 26, Housing and Building Standards, of the Montgomery County Code.

6.36.040 Right of entry.

6.36.030—Emergencies.

6.36.040—Notice of violation and correction order—Service of notice and order.

6.36.050 —Reinspection—Report to City Manager Vacating and Placarding.

6.36.060 —Standards for repair, vacation or demolition Vacating and Securing of Premises.

6.36.070 —Extensions of Time. Tenant Displacement.

6.36.080—Appeals.

6.36.090—Recordation—Liability of transferee.

\*—Legislative History: M.C. 1961, Arts. 13 & 15; Ord. No. 2561, 4/13/1981; Ord. No. 1987-59, 11/16/1987; Ord. No. 1993-2, 1/25/1993; Ord. No. 1993-5, 4/12/1993; Ord. No. 2002-26, 7/29/2002.

#### **6.36.010 Unsafe buildings—Public nuisance declared.**

A.—Any building or structure or part thereof which ~~may have any~~ is determined to have become a hazard to the life, health, safety, or ~~all~~ general wellbeing of the ~~following defects~~ occupants or the public may be deemed an unsafe building or public nuisance.

#### **6.36.020 Adoption of Montgomery County Code**

The provisions of the following sections of Chapter 26, Housing and Building Maintenance Standards, of the Montgomery County Code, as amended from time to time, are incorporated herein Chapter 6.36 adopted as the Unsafe Buildings – Public Nuisance Abatement Code.

A. Section 26-13. Designation of unfit dwellings and unsafe nonresidential structures; condemnation.

B. Section 26-14. Repair or removal of ~~condemned as unsafe for occupancy buildings~~ or ~~use:structures.~~

~~1. Those which have been damaged by fire, wind, storm or other causes so as to have become dangerous to life, safety or the general health and welfare of the occupants or the public;~~

~~2. Those which have become or are so dilapidated, decayed, damaged, unsanitary, unsafe or vermin or rodent infested that they create a hazard to the health, safety or general welfare of the occupants or the public;~~

~~3. Those having light, air, sanitary, plumbing or heating facilities or other essential equipment which are inadequate to protect the health, safety or general welfare of the occupants or the public;~~

~~4. Those having inadequate facilities for egress in case of fire or panic or which are dangerous to life, health, property or the safety of its occupants by not providing minimum protection from fire;~~

~~5. Those which contain unsafe equipment, including any boiler, heating equipment, elevator, electrical wiring or device, flammable liquid containers or other equipment, on the premises or in the building or structure which is in such disrepair or condition that it is a hazard to the life, health, property or safety of the occupants or the public;~~

~~6. Those which are structurally unsound, dangerous or of such faulty construction or unstable foundation that they are likely to partially or completely collapse or which have parts thereof which are so attached that they may fall and injure the occupants or the public or damage property;~~

~~7. Those which are abandoned or are blighting or deteriorating factors in the neighborhood or which because of their general condition are unsafe, unsanitary or otherwise dangerous to the health, safety or general welfare of the occupants or the public.~~

~~B. All unsafe buildings are hereby declared to be public nuisances and shall be repaired or demolished as provided in this chapter. (Ord. 2003-7 § 1 (part), 2003: prior code § 6-900)~~

C. Section 26-15. Severe conditions and corrective actions.

**6.12.030 Amendments to Chapter 26, Housing and Building Standards, of the Montgomery County Code.**

A. The word “County” in Sections 26-13, 26-14 and 26-15 is amended to read “City.”

B. The phrase “Enforcing Agency” is defined as:

1. the Department of Housing and Community Affairs;

2. the City of Takoma Park; or

3. any employee, agency or department of the City government or any City contractor or agent which the City Manager assigns to enforce the Property Maintenance Code or any provision thereof.

### **6.36.020040 Right of entry.**

A.— The City Manager, Code Official, and police, or their designated representatives, upon exhibiting the proper credentials or proof of identity on request, shall have the right to enter any building in the City at any reasonable hour or at such other times as may be necessary in an emergency that endangers life, property or public safety for the purpose of performing duties under this chapter or enforcing the provisions thereof.

B.— Police, fire, health and other departments having authority in the City shall render necessary assistance in the enforcement of this chapter when requested to do so by the City Manager. (~~Ord. 2003-7 § 1 (part), 2003: prior code § 6-901~~)

### **6.36.030 Emergencies.**

~~A.— In cases where it reasonably appears that there is actual and immediate danger to the life, health or safety of any person resulting from a violation of this chapter, of the Property Maintenance Code, or of other provisions of the Charter and Code of the City of Takoma Park or applicable law, the Code Official may, without notice, conference or hearing, order the owner, agent or operator of the building to take action to correct or abate the emergency. The Code Official shall notify the owner, agent or operator of the building of the emergency order. The order must be served on the owner, agent or operator, as set forth in Section 6.36.040(D)(1); provided, however, that if the Code Official determines that the emergency does not permit sufficient time for the order to be personally served, then notice to the owner, agent or operator of the building of the emergency order may be made by telephone or any other reasonable means under the circumstances. If the owner, agent or operator does not abate or correct the emergency within the time stated in the emergency order, or within 24 hours if the order does not specify a~~

~~correction time, then the Code Official, after determining that an emergency still exists which endangers the life, health, or safety of the occupants or the public, may take any action reasonably necessary to abate or correct the emergency.~~

~~B.—For purposes of this section, the Code Official shall employ the necessary labor and secure the necessary materials to abate or correct the emergency as expeditiously as possible.~~

~~C.—All reasonable and necessary costs incurred by the City as a result of an emergency action taken under subsections (A) and (B) of this section shall be paid by the owner of the real property upon which the building stands or did stand. The City shall send the owner a bill for the costs of such emergency repair, vacation or demolition by certified mail, return receipt requested, and by regular mail to the owner's last known address or by any other means reasonably calculated to bring the bill to the owner's attention. If the owner does not pay the bill within one month after it is presented, the cost shall be a lien against the real property which may be collected and enforced in the same manner as are taxes, special assessments and other liens on real property or collected as provided for in Section 6.40.020(C). (Ord. 2003-7 § 1 (part), 2003; prior code § 6-902)~~

#### **~~6.36.040 Notice of violation and correction order—Service of notice and order.~~**

~~A.—Whenever the Code Official determines that there has been a violation of this chapter, the Code Official shall give written notice and a correction order to the owner and/or the agent or operator of any building found by the Code Official to be an unsafe building.~~

~~B.—The notice and correction order provided for in subsection (A) of this section shall:~~

- ~~1.—Specify the particulars which make the building or part of it an unsafe building;~~
- ~~2.—Describe with reasonable accuracy the unsafe building and its location;~~
- ~~3.—Describe in general terms the corrective action which, if taken, will effect compliance with this chapter;~~
- ~~4.—Establish a reasonable time to do or have done the work or act required by the notice and correction order.~~

~~C.—An owner, agent or operator served with a notice and correction order shall correct the violation of this chapter within the time specified in the notice and correction order.~~

~~D.—Any notices or orders provided for in this chapter shall be in writing and served upon the owner, agent, operator, or occupant of the building as the case may require. Unless a different~~

~~manner of service is specified in this chapter, a notice or order is properly served if:~~

~~1.—A copy is personally delivered, which shall mean delivering a copy to the individual personally or leaving a copy at the individual's residence or usual place of abode with some individual of suitable age and discretion then residing therein or, in the case of a corporation, limited liability company, or a partnership or other unincorporated association, by delivering a copy to an officer, member, managing or general partner, or to any agent authorized by appointment or by law to receive service;~~

~~2.—A copy is sent by certified mail, return receipt requested, to the last known address of the owner, agent, operator, or occupant of the building, as the case may require;~~

~~3.—A copy is posted on the building or premises in a conspicuous location and is either mailed to the last known address or delivered to the residence or place of business of the owner, agent, operator, or occupant of the building, as the case may require; or~~

~~4.—The owner, agent, operator, or occupant of the building, as the case may require, is served by any other method authorized by State law. (Ord. 2003-7 § 1 (part), 2003: prior code § 6-903)~~

#### **6.36.050 Reinspection—Report to City Manager.**

~~A.—Following the expiration of the period of time provided in Section 6.36.040(B)(4), the Code Official shall reinspect the unsafe building described in the notice and correction order.~~

~~B.—When, after a reinspection, the Code Official determines that the violation specified in the notice and correction order has not been corrected or has only been partially corrected, the Code Official shall report such noncompliance to the City Manager and take any other action authorized by this chapter to ensure compliance with or prevent violation of its provisions. (Ord. 2003-7 § 1 (part), 2003: prior code § 6-904)~~

#### **6.36.060 Standards for repair, vacation or demolition.**

~~The following standards shall be followed in substance in ordering the repair, demolition, vacating and placarding and securing of any unsafe building:~~

##### ~~A.—Repair.~~

~~1.—If the unsafe building can be reasonably repaired so that it will no longer be in violation of the terms of this chapter, it shall be ordered to be repaired.~~

~~2.—The owner of an unsafe building that has been ordered to be repaired shall be given notice of the required repairs and a reasonable time to make the repairs.~~

~~B.—Demolition.~~

~~1.—In any case where an unsafe building is substantially damaged or decayed or deteriorated from its current tax assessed value or from its original structure and the building cannot reasonably be repaired or reconstructed so that it will no longer be in violation of the terms of this chapter, it shall be ordered to be demolished. If a building is damaged, decayed or deteriorated by more than 50% from its current tax assessed value or from its original structure, then the building shall be considered not reasonable to repair or to reconstruct and it shall be demolished in order to remove the public nuisance.~~

~~2.—In all cases where an unsafe building is a fire hazard and the fire hazard cannot be abated by any reasonable means other than demolition, then the building shall be ordered to be demolished.~~

~~3.—The owner of an unsafe building that has been ordered to be demolished shall be given notice of this determination and a reasonable time to remove the building.~~

~~4.—Whenever the owner fails, neglects or refuses to remedy the conditions which led to the condemnation of the building as unsafe by causing the building to be put in full compliance with this chapter or to demolish and remove the unsafe building within the specified time, the City may, after 30 days' written notice to the owner, order the demolition of the building, the filling of any excavation and the clearing of the property so that it will be in safe condition. After the expiration of the notice period, the City Manager shall cause the unsafe building to be demolished as soon as practicable.~~

~~5.—The costs of the demolition work, if performed by the City or by a person awarded a contract for the work in accordance with the laws of the City, shall be paid by the owner of the real property upon which the building stands or did stand. The City shall send the owner a bill for the costs of such demolition by certified mail, return receipt requested, and by regular mail to the owner's last known address or by any other means reasonably calculated to bring the bill to the owner's attention. If the owner does not pay the bill within one month after it is presented, the cost shall be a lien against the real property which may be collected and enforced in the same manner as are taxes, special assessments and other liens on real property or collected as provided~~

~~for in Section 6.40.020(C).~~

~~6.— Demolition, whether carried out by the owner, by the City, or by a person awarded a contract for the work, shall include the removal of the debris resulting from the demolition and the filling in of the excavation remaining on the property on which the demolished building was located in a manner so as to eliminate potential danger to the public health, safety or welfare arising from the excavation.~~

**C.—Vacating and Placarding.**

1.— A. If an unsafe building or part of it is in such condition as to make it dangerous to life, property or public safety, the building or part of it shall be ordered to be placarded and vacated.

2.— B. The owner and any occupants of an unsafe building that has been ordered to be vacated shall be given notice to vacate the building immediately or within a specified time, and a warning placard shall be posted at each entrance to such a building.

a.— 1. The warning placard shall include language similar to the following:

“THIS BUILDING IS UNSAFE AND ITS USE OR OCCUPANCY HAS BEEN PROHIBITED BY THE ~~City~~CITY OF TAKOMA PARK.”

The warning placard shall remain posted until the required repairs are made or demolition is completed.

b.— 2. No person shall deface or remove any warning placard after it has been posted until the required ~~repairs~~repair or demolition ~~have~~has been completed.

e.— 3. No person shall remain in or enter any building which has been condemned as unsafe for occupancy or use and posted with a warning placard except for the purpose of making the required repairs or of demolishing the same.

**6.36.060D.— Vacating and Securing of Premises.**

1.— A. Any person occupying an unsafe building or part of it which has been ordered to be vacated shall vacate the building or part of it in accordance with the terms of the order to vacate.

2.— B. A person shall not occupy and an owner shall not permit a person to occupy an unsafe building or part of it which has been posted with a warning placard and ordered to be vacated until the Code Official approves the ~~reoccupancy~~re-occupancy and removes the warning placard.



3.— C. Once the unsafe building is vacant, the owner shall secure and board all windows and doors that are accessible from the ground, from an adjacent structure or by the reasonably foreseeable use of a ladder, table or other device and must keep them secured against unauthorized entry. All exterior boards must be completely painted in accordance with the predominant tone of the building. The boards shall not extend beyond the perimeter of the openings and shall cover the entire opening. Door openings shall be secured by having the doors locked and inaccessible.

4.— D. Upon the failure of an owner or occupant of an unsafe building which has been ordered to be vacated to vacate the building or part of it or the failure of an owner to properly secure the dangerous building, the City may cause the building to be vacated or secured. The costs thereof, including reasonable attorney's fees, shall be paid by the owner. The City shall send the owner a bill for the costs by certified mail, return receipt requested, and by regular mail to the owner's last known address or by any other means reasonably calculated to bring the bill to the owner's attention. If the owner does not pay the bill within one month after it is presented, the costs shall be a lien against the real property which may be collected and enforced in the same manner as are taxes, special assessments and other liens on real property or collected as provided for in Section 6.40.020(C).

#### **6.36.070E.— Tenant Displacement.**

A tenant of an unsafe building who is required to leave the building or part of it as a result of an order to vacate issued under this chapter is displaced.

1.— A. The owner is not required to locate alternative housing if the tenant's displacement was the result of an act of God or other conditions beyond the control of the property owner or was caused by the tenant's negligent, wrongful or malicious acts or omissions.

2.— B. Except as provided in subsection ~~(E)(1) above~~ A) of this section, the owner is required to locate alternative housing for a displaced tenant until such time as the ~~Code Official~~ City authorizes reoccupation of the unsafe building or approves any repairs made in accordance with this chapter or until the lease term of the tenant expires, whichever occurs first. The lease term of the tenant shall be deemed to include any notice period required by applicable law for the landlord to terminate the tenancy of the tenant. Any displaced tenant shall continue to be

responsible for payment of the rent in the same amount as paid to the owner immediately preceding the displacement, which rent may be paid either to the owner or to the provider of the alternative housing pursuant to the conditions herein described. The owner shall be responsible for the difference between the rent as paid prior to the displacement and the rent required for the alternative housing, except that the owner is not responsible for such difference beyond the lease term of the tenant.

3.— C. Any costs, including reasonable attorney's fees, incurred by the City in the relocation of any displaced tenants shall be paid by the owner. The City shall send the owner a bill for the costs of such relocation by certified mail, return receipt requested, and by regular mail to the owner's last known address or by any other means reasonably calculated to bring the bill to the owner's attention. If the owner does not pay the bill within one month after it is presented, the cost shall be a lien against the real property which may be collected and enforced in the same manner as are taxes, special assessments and other liens on real property or collected as provided for in Section 6.40.020(C). ~~(Ord. 2003-7 § 1 (part), 2003: prior code § 6-905)~~

#### ~~6.36.070 Extensions of time.~~

~~A. The City, in its discretion, may grant an extension of time within which to complete the repair, demolition, vacating or securing of the unsafe building, if:~~

~~1. No violation presents an immediate danger to the health, safety or welfare of the occupants of the unsafe building or the public; and~~

~~2. a. The owner is experiencing extreme financial hardship, has insufficient resources and cannot obtain financing to rehabilitate the unsafe building to comply with this chapter;~~

~~b. Physical conditions of the site or other conditions beyond the control of the owner make it impossible or impracticable to bring the unsafe building into compliance with this chapter; or~~

~~c. Legal or other unusual constraints, such as unclear title or probate proceedings, prevent or delay the owner from bringing the unsafe building into compliance with this chapter.~~

~~B. The City, in its sole discretion, may revoke an extension of time at any time.~~

~~C. Nothing in this section prevents the reasonable enforcement of this chapter or alleviates the requirement to keep buildings and premises in as sanitary, safe, and healthful condition as circumstances permit. (Ord. 2003-7 § 1 (part), 2003: prior code § 6-906)~~

### **6.36.080 Appeals.**

A. ~~A person aggrieved by a notice or order issued in connection with an alleged violation of this chapter or by a notice and correction order requiring the repair, demolition, vacating, placarding or securing of an unsafe building issued under Section 6.36.040 may file with the City Manager a written notice of appeal specifying the reasons for contesting the notice or order.~~

B. ~~The notice of appeal shall be filed within the earlier of either 30 days after the notice or order has been served on the person or within the time specified for correction of the violation in a notice and correction order issued under Section 6.36.040.~~

C. ~~Upon receipt of a properly filed notice of appeal or a report of noncompliance with a notice and correction order from the Code Official pursuant to Section 6.36.050(B), the City Manager shall give written notice to the owner, agent, operator, and/or occupant of the building, as the case may require, in the manner provided by Section 6.36.040, to appear before the City Manager on a date and at a time and place specified to show cause why the unsafe building should not be repaired, demolished, vacated or secured in accordance with the statement of particulars set forth in the notice and correction order or in such other notice or order which is being appealed.~~

D. ~~The City Manager shall hold a hearing within 30 days of the date of receipt of the notice of appeal or report of noncompliance and hear such testimony as the Code Official, owner, agent, operator, occupant, and any other person having an interest in the property shall offer relative to the unsafe building.~~

E. ~~Within 30 days after the date of the hearing, the City Manager shall:~~

1. ~~Make written findings of fact as to whether or not the building in question is an unsafe building;~~

2. ~~Issue a final order based upon the findings of fact affirming, modifying or revoking the notice and correction order or such other notice or order which is the subject of the appeal and, if applicable, commanding the owner, agent, operator, occupant, and all other persons having an interest in the property, as the case may require, to repair, demolish, vacate or secure any building found to be an unsafe building.~~

F. ~~If the City Manager fails to hold a hearing within 30 days of the date of receipt of the notice of appeal or report of noncompliance or to make written findings of fact and issue a final~~

~~order within 30 days after the date of the hearing, then the original notice or order shall be treated as a final order of the City Manager for the purposes of subsection (G) of this section, provided that, with the written consent of the person who filed the notice of appeal, the time period for the City Manager to hold a hearing or to make findings of fact and issue a final order may be extended for up to 60 additional days.~~

~~G.—Any person aggrieved by a final order of the City Manager issued under this section may file an order for appeal with the Clerk of the Circuit Court of the County in which the building is located. The procedures for an appeal from a final order of the City Manager shall be governed by Title 7, Chapter 200 (Judicial Review of Administrative Agency Decisions), of the Maryland Rules, as amended.~~

~~1.—An order for appeal shall be filed within 30 calendar days from the date of the final order of the City Manager.~~

~~2.—The filing of an order for appeal shall not act as a stay of the action appealed from or any action under this chapter, except that the Circuit Court, after notice to the City and a hearing, may grant a stay upon such condition or such security or bond as it deems proper. (Ord. 2003-7 § 1 (part), 2003: prior code § 6-907)~~

#### **~~6.36.090 Recordation—Liability of transferee.~~**

~~A.—The City Manager may cause a final order issued under Section 6.36.080(E) or (F) to be recorded in the Montgomery County Land Records.~~

~~B.—A transferee, successor or assignee of the unsafe building described in a recorded final order shall be considered to have notice of the continuing existence of the violations and is subject to the penalties and procedures provided by this chapter to the same degree as was the transferor, predecessor or assignor.~~

~~C.—On determining that there has been compliance with a recorded final order issued under this chapter, the City Manager shall cause a notice of compliance to be recorded among the Montgomery County Land Records. The notice of compliance shall recite the liber and folio land record reference of the recorded final order. (Ord. 2003-7 § 1 (part), 2003: prior code § 6-908)~~

## **Chapter 6.36**

### **UNSAFE BUILDINGS—PUBLIC NUISANCE ABATEMENT**

#### Sections:

- 6.36.010 Unsafe buildings—Public nuisance declared.
- 6.36.020 Adoption of Montgomery County Code
- 6.12.030 Amendments to Chapter 26, Housing and Building Standards, of the Montgomery County Code.
- 6.36.040 Right of entry.
- 6.36.050 Vacating and Placarding.
- 6.36.060 Vacating and Securing of Premises.
- 6.36.070 Tenant Displacement.

#### **6.36.010 Unsafe buildings—Public nuisance declared.**

Any building or structure or part thereof which is determined to have become a hazard to the life, health, safety, or general wellbeing of the occupants or the public may be deemed an unsafe building or public nuisance.

#### **6.36.020 Adoption of Montgomery County Code**

The provisions of the following sections of Chapter 26, Housing and Building Maintenance Standards, of the Montgomery County Code, as amended from time to time, are incorporated herein Chapter 6.36 adopted as the Unsafe Buildings – Public Nuisance Abatement Code.

- A. Section 26-13. Designation of unfit dwellings and unsafe nonresidential structures; condemnation.
- B. Section 26-14. Repair or removal of condemned buildings or structures.
- C. Section 26-15. Severe conditions and corrective actions.

#### **6.12.030 Amendments to Chapter 26, Housing and Building Standards, of the Montgomery County Code.**

- A. The word “County” in Sections 26-13, 26-14 and 26-15 is amended to read “City.”
- B. The phrase “Enforcing Agency” is defined as:

1. the Department of Housing and Community Affairs;
2. the City of Takoma Park; or
3. any employee, agency or department of the City government or any City contractor or agent which the City Manager assigns to enforce the Property Maintenance Code or any provision thereof.

#### **6.36.040 Right of entry.**

A. The City Manager, Code Official, and police, or their designated representatives, upon exhibiting the proper credentials or proof of identity on request, shall have the right to enter any building in the City at any reasonable hour or at such other times as may be necessary in an emergency that endangers life, property or public safety for the purpose of performing duties under this chapter or enforcing the provisions thereof.

B. Police, fire, health and other departments having authority in the City shall render necessary assistance in the enforcement of this chapter when requested to do so by the City Manager.

#### **6.36.050 Vacating and Placarding.**

A. If an unsafe building or part of it is in such condition as to make it dangerous to life, property or public safety, the building or part of it shall be ordered to be placarded and vacated.

B. The owner and any occupants of an unsafe building that has been ordered to be vacated shall be given notice to vacate the building immediately or within a specified time, and a warning placard shall be posted at each entrance to such a building.

1. The warning placard shall include language similar to the following: “THIS BUILDING IS UNSAFE AND ITS USE OR OCCUPANCY HAS BEEN PROHIBITED BY THE CITY OF TAKOMA PARK.” The warning placard shall remain posted until the required repairs are made or demolition is completed.

2. No person shall deface or remove any warning placard after it has been posted until the required repair or demolition has been completed.

3. No person shall remain in or enter any building which has been condemned as unsafe for occupancy or use and posted with a warning placard except for the purpose of making the

required repairs or of demolishing the same.

#### **6.36.060 Vacating and Securing of Premises.**

A. Any person occupying an unsafe building or part of it which has been ordered to be vacated shall vacate the building or part of it in accordance with the terms of the order to vacate.

B. A person shall not occupy and an owner shall not permit a person to occupy an unsafe building or part of it which has been posted with a warning placard and ordered to be vacated until the Code Official approves the re-occupancy and removes the warning placard.

C. Once the unsafe building is vacant, the owner shall secure and board all windows and doors that are accessible from the ground, from an adjacent structure or by the reasonably foreseeable use of a ladder, table or other device and must keep them secured against unauthorized entry. All exterior boards must be completely painted in accordance with the predominant tone of the building. The boards shall not extend beyond the perimeter of the openings and shall cover the entire opening. Door openings shall be secured by having the doors locked and inaccessible.

D. Upon the failure of an owner or occupant of an unsafe building which has been ordered to be vacated to vacate the building or part of it or the failure of an owner to properly secure the dangerous building, the City may cause the building to be vacated or secured. The costs thereof, including reasonable attorney's fees, shall be paid by the owner. The City shall send the owner a bill for the costs by certified mail, return receipt requested, and by regular mail to the owner's last known address or by any other means reasonably calculated to bring the bill to the owner's attention. If the owner does not pay the bill within one month after it is presented, the costs shall be a lien against the real property which may be collected and enforced in the same manner as are taxes, special assessments and other liens on real property or collected as provided for in Section 6.40.020(C).

#### **6.36.070 Tenant Displacement.**

A tenant of an unsafe building who is required to leave the building or part of it as a result of an order to vacate issued under this chapter is displaced.

A. The owner is not required to locate alternative housing if the tenant's displacement was

the result of an act of God or other conditions beyond the control of the property owner or was caused by the tenant's negligent, wrongful or malicious acts or omissions.

B. Except as provided in subsection (A) of this section, the owner is required to locate alternative housing for a displaced tenant until such time as the City authorizes reoccupation of the unsafe building or approves any repairs made in accordance with this chapter or until the lease term of the tenant expires, whichever occurs first. The lease term of the tenant shall be deemed to include any notice period required by applicable law for the landlord to terminate the tenancy of the tenant. Any displaced tenant shall continue to be responsible for payment of the rent in the same amount as paid to the owner immediately preceding the displacement, which rent may be paid either to the owner or to the provider of the alternative housing pursuant to the conditions herein described. The owner shall be responsible for the difference between the rent as paid prior to the displacement and the rent required for the alternative housing, except that the owner is not responsible for such difference beyond the lease term of the tenant.

C. Any costs, including reasonable attorney's fees, incurred by the City in the relocation of any displaced tenants shall be paid by the owner. The City shall send the owner a bill for the costs of such relocation by certified mail, return receipt requested, and by regular mail to the owner's last known address or by any other means reasonably calculated to bring the bill to the owner's attention. If the owner does not pay the bill within one month after it is presented, the cost shall be a lien against the real property which may be collected and enforced in the same manner as are taxes, special assessments and other liens on real property or collected as provided for in Section 6.40.020(C).