

**DEPARTMENT OF CONSUMER AND REGULATORY AFFAIRS**

**NOTICE OF SECOND PROPOSED RULEMAKING**

The Director of the Department of Consumer and Regulatory Affairs, pursuant to authority set forth in Article III of Reorganization Plan No. 1 of 1983, effective March 31, 1983; Mayor's Order 83-92, dated April 7, 1983; Section 6(h) of An Act To provide for the abatement of nuisances in the District of Columbia by the Commissioners of said District, and for other purposes, approved April 14, 1906 (34 Stat. 115; D.C. Official Code § 42-3131.06(h) (2012 Repl.)); and Mayor's Order 2002-33, dated February 11, 2002, hereby gives notice of the intent to adopt amendments to Title 14 (Housing) of the District of Columbia Municipal Regulations (DCMR) (the "Housing Code").

The proposed rulemaking would repeal Subtitle A (Chapters 1-13) of Title 14 and replace Subtitle A with new Chapters 1-13 to harmonize the Housing Code with the 2013 District of Columbia Construction Codes (Title 12, Subtitles A-M, of the DCMR, published March 28, 2014 at 61 DCR 2782). While maintaining the core provisions of the Housing Code relating to landlord and tenant responsibilities and obligations, the proposed rulemaking would require landlords and tenants to comply with the applicable property maintenance provisions set forth in the 2013 District of Columbia Property Maintenance Code, which carries forward unique District of Columbia property maintenance requirements in the 2013 District of Columbia Property Maintenance Code Supplement, 12 DCMR Subtitle G, as well as model code requirements published by the International Code Council. The proposed rulemaking also amends the current rules to clarify the enforcement and notification procedures for unsafe and imminently dangerous buildings, premises and equipment, and clarifies the regulation and licensing of transient housing businesses.

The Notice of Second Proposed Rulemaking supersedes the Notice of Proposed Rulemaking published May 16, 2014 at 61 DCR 4951 and reflects changes made in response to comments submitted by the public.

**Strike the Housing Regulations, Chapters 1-13 of Title 14 DCMR, HOUSING, in their entirety, and insert the following in their place:**

**TITLE 14**

<b>CHAPTER 1</b>	<b>ADMINISTRATION AND ENFORCEMENT</b>
<b>CHAPTER 2</b>	<b>HOUSING BUSINESS LICENSES</b>
<b>CHAPTER 3</b>	<b>LEASES AND SECURITY DEPOSITS</b>
<b>CHAPTER 4</b>	<b>RESPONSIBILITIES OF HOUSING BUSINESSES</b>
<b>CHAPTER 5</b>	<b>TENANT RESPONSIBILITIES</b>
<b>CHAPTER 6</b>	<b>APARTMENTS AND APARTMENT HOUSES</b>
<b>CHAPTER 7</b>	<b>TRANSIENT HOUSING BUSINESSES</b>
<b>CHAPTER 8</b>	<b>TRANSIENT HOUSING BUSINESS LICENSES</b>
<b>CHAPTER 9</b>	<b>[RESERVED]</b>
<b>CHAPTER 10</b>	<b>[RESERVED]</b>
<b>CHAPTER 11</b>	<b>[RESERVED]</b>
<b>CHAPTER 12</b>	<b>[RESERVED]</b>
<b>CHAPTER 13</b>	<b>[RESERVED]</b>

## CHAPTER 1: ADMINISTRATION AND ENFORCEMENT

### SECTION

- 100 GENERAL**
- 102 REVIEW AND APPEALS**
- 103 DUTIES AND POWERS OF CODE OFFICIAL**
- 104 UNSAFE STRUCTURES AND EQUIPMENT**
- 105 EMERGENCY MEASURES**
- 106 DEMOLITION**
- 107 NOTICES AND ORDERS**
- 108 TRANSITORY PROVISIONS**
- 109 [RESERVED]**
- 110 [RESERVED]**
- 111 REQUESTS FOR REASONABLE ACCOMMODATION UNDER THE FAIR HOUSING ACT**
- 199 DEFINITIONS**

### **100 GENERAL**

- 100.1 The provisions of Chapters 1-8 of this title shall apply to every residential premises or part of any premises (including those owned by the District of Columbia government) that is offered for rent, lease or occupancy, or is occupied or used, as a [place for living or sleeping purposes](#) ~~habitation~~ by a person other than the owner or the owner's invitees, including, but not limited to, the rental of a dwelling unit or rooming unit in a residential building that the owner also occupies, and transitional housing as defined in 29 DCMR § 2599.1.
- 100.2 The provisions of the Property Maintenance Code, as defined in Section 199 of this chapter, shall apply to any residential premises or part of any premises within the scope of § 100.1, and are incorporated by this reference. These include, but are not limited to, the following provisions of the Property Maintenance Code:
- (a) Exterior Property Areas (12-G DCMR § 302);
  - (b) Pest Elimination (12-G DCMR § 309);
  - (c) Light, Ventilation and Occupancy Limitations (12-G DCMR Chapter 4);
  - (d) Plumbing Facilities and Fixture Requirements (12-G DCMR Chapter 5);
  - (e) Mechanical and Electrical Requirements (12-G DCMR Chapter 6); and
  - (f) Fire Safety Requirements (12-G DCMR Chapter 7).
- 100.3 The Property Maintenance Code establishes minimum requirements and standards for the following: premises, structures, equipment, and facilities for light, ventila-

tion, space, heating, sanitation, protection from the elements, life safety, safety from fire and other hazards, and safe and sanitary maintenance; the responsibilities of owners, operators, tenants, and occupants; and occupancy of existing structures and premises.

- 100.4 The purpose of the Property Maintenance Code is to ensure public health, safety and welfare insofar as they are affected by occupancy and maintenance of structures and premises. Existing structures and premises that do not comply with the Property Maintenance Code are required to be altered or repaired to provide a minimum level of health and safety as required therein.
- 100.5 Repairs, alterations, additions or other work done as a result of any requirement established in Chapters 1-8 of this title or in the Property Maintenance Code shall be accomplished under permit and in the manner provided in the Construction Codes.
- 100.6 Nothing herein or in the Property Maintenance Code shall be deemed to negate or impair tenant rights set forth in Title 14, including, but not limited to, the right to seek a preliminary or permanent injunction to abate public nuisances (Subsection 101.11), the implied warranty of habitability (Section 301), or the void lease doctrine (Section 302).
- 100.7 Owners and tenants have legal responsibilities with regard to maintenance of their buildings, including structures, equipment and exterior property, and to each other as set forth in the Property Maintenance Code, Title 14 of the District of Columbia Municipal Regulations (the "Housing Code"), and other applicable statutes and regulations.
- 100.8 Each section and subsection of Chapters 1-8 of this title shall be independent of and severable from every other section or subsection, and the finding or holding of any section or subsection to be void, invalid, or ineffective for any cause shall not be deemed to affect any other section or subsection.
- 100.9 No residential premises may be occupied, or offered for occupancy, for consideration unless the applicable license has been obtained from the District.

## **101 ENFORCEMENT AND PENALTIES**

- 101.1 Any person, other than a person licensed as a housing business or transient housing business under authority of D.C. Official Code § 47-2828 (2012 Repl.) and Chapters 2 and 8 of this title, who fails to comply with any applicable provision of Chapters 1-8 of this title shall, upon conviction, be punished by a fine not to exceed three hundred dollars (\$300), or by imprisonment for not more than ninety (90) days, in lieu of, or in addition to, any fine, for such failure to comply.

- 101.2 No further penalties shall be imposed under § 101.1 for an offense during the period in which an appeal from a criminal conviction of that offense is pending.
- 101.3 Any person licensed as a housing business or a transient housing business under authority of D.C. Official Code § 47-2828 (2012 Repl.) and Chapters 2 and 8 of this title, who fails to comply with any applicable provision of Chapters 1-8 of this title shall, upon conviction, be punished by a fine not to exceed three hundred dollars (\$300) or imprisonment for not more than ninety (90) days for each such failure to comply.
- 101.4 Civil fines, penalties, and fees may be imposed as additional sanctions to criminal prosecution or other civil actions for a violation of Chapters 1-8 of this title, pursuant to Titles I-III of the Department of Consumer and Regulatory Affairs Civil Infractions Act of 1985 (D.C. Official Code §§ 2-1801 *et seq.* (2012 Repl.)) (“Civil Infractions Act”) or, if applicable, the Rental Housing Act of 1985 as amended [D.C. Law 6-10; D.C. Official Code §§ 42-3501.01 *et seq.* (2012 Repl. & 2013 Supp.)] (the “Rental Housing Act”). Infractions of Chapters 1-8 shall be adjudicated pursuant to the Civil Infractions Act.
- 101.5 In addition to other penalties authorized by statute or regulation, the code official may serve one (1) or more notices or orders in accordance with Section 107, which may impose a fine or other penalty on any person or persons responsible for a violation of the provisions of Chapters 1-8 of this title.
- 101.6 Any person, including an owner, operator, occupant or tenant, who causes a violation of any provision of Chapters 1-8 of this title is subject to the penalties set forth in § 101.
- 101.7 In the event of any failure to comply with any provision of Chapters 1-8 of this title, each and every day such violation continues shall constitute a separate offense.
- 101.8 The penalties prescribed in §§ 101.1 and 101.3 shall be applicable to each separate offense, except as provided in § 101.2.
- 101.9 The violation of any provision of Chapters 1-8 of this title or the failure to comply with a requirement of Chapters 1-8 shall also be grounds for denial of any application for, or the institution of proceedings for suspension or revocation of, any housing business license, transient housing business license, or license endorsement issued under Chapter 2 of this title or Chapter 28 of Title 47 of the D.C. Official Code (2012 Repl. & 2014 Supp.).
- 101.10 Where any person violates a provision of Chapters 1-8 of this title or fails to comply therewith or with any of the requirements thereof, following notice as prescribed in Section 107 of this chapter, the code official may cause such condition to be corrected. The costs of any corrective action, and all expenses incident

thereto, shall be deemed a special assessment and shall be assessed as a tax against the property on which the violating condition existed, bear interest and be collected in the same manner as delinquent general taxes in the District are collected in accordance with D.C. Official Code § 47-1205 (2012 Repl.). Nothing herein shall be construed to abolish or impair existing remedies relating to abatement of nuisance property, including, but not limited to, Chapters 31 and 31A of Title 42 of the D.C. Official Code (2012 Repl. & 2014 Supp.).

101.11 Nothing herein shall be deemed to abrogate any rights an owner, operator, occupant or tenant may have to pursue resolution of any legal disputes in Superior Court or Small Claims Court, through the Rental Accommodations Division of the District of Columbia Department of Housing and Community Development, the Office of Administrative Hearings, or any other adjudicative body with jurisdiction over such disputes.

101.12 Without negating, restricting or otherwise limiting any authorized remedies or penalties, this section expressly declares a public policy in favor of speedy abatement of public nuisances that violate this title, and preliminary and permanent injunction may be sought from Courts of competent jurisdiction where:

- (a) The maintenance of any habitation in violation of the provisions of Chapters 1-8 of this title or the Property Maintenance Code constitutes a danger to the health, welfare, or safety of the occupants; or.
- (b) The abatement of such public nuisances by criminal prosecution or by compulsory repair, condemnation, and demolition alone has been or will be inadequate; or
- (c) Such public nuisances cause specific, immediate, irreparable and continuing harm to the occupants of these habitations, and damage the quality of life and the mental development and well-being of the occupants, as well as their physical health and personal property, and this harm cannot be fully compensated for by an action for damages, rescission or equitable set-off for the reduction in rental value of the premises.

## **102 REVIEW AND APPEALS**

102.1 The owner of a building or other structure or any person adversely affected or aggrieved by a final decision or order of the code official based in whole or in part upon Chapters 1-8 of this title, may appeal to the Office of Administrative Hearings (OAH), unless D.C. Official Code § 42-3502.04(b) requires a petition to be filed with the Rent Administrator. Except where an expedited hearing is requested pursuant to § 102.2, the OAH appeal shall be filed within ten (10) business days after the date the person appealing the decision of the code official had notice or knowledge of the decision, or should have had notice or knowledge of the decision, whichever is earlier.

102.2 Timely appeals of notices or orders shall stay the enforcement of the notice or order until the appeal is heard by OAH, with the following exceptions:

- (a) Closure or imminent danger notices or orders issued pursuant to § 105, and related orders to vacate premises; or
- (b) Closure notices or orders issued pursuant to § 104, and related orders to vacate premises, except where the tenant or occupant has requested an expedited OAH hearing in accordance with § 102.2.

102.3 Where a notice or order to close or vacate residential premises is issued pursuant to § 104, a tenant or occupant of the premises affected by the closure has a right to request an expedited hearing by OAH prior to the closure, subject to the following conditions:

- (a) The tenant or occupant shall file the request for an expedited hearing with OAH no later than the date specified in the closure order for tenants or occupants to vacate the structure or unit;
- (b) OAH review shall be based solely on the issue of whether the premises are unsafe or unfit for occupancy requiring a building closure under the provisions of § 104;
- (c) Enforcement of the closure notice or order shall be stayed until OAH issues a written decision; and
- (d) OAH shall hold a hearing within seventy-two (72) hours of receipt of a timely request, and shall issue a decision within seventy-two (72) hours after the hearing. For purposes of computing the seventy-two (72) hour period, weekends and legal holidays shall be excluded.

Nothing herein shall be construed to authorize an expedited hearing for any notices or orders issued, or actions taken, pursuant to § 105.

102.4 Appeal of a closure notice or order issued pursuant to § 105, or a request for an expedited hearing pursuant to § 102.2, shall not preclude the code official from issuing a notice or order pursuant to § 105 for the same premises or structure, while such appeal or hearing is pending.

### **103 DUTIES AND POWERS OF THE CODE OFFICIAL**

103.1 The Director of the District of Columbia Department of Consumer and Regulatory Affairs, or a duly authorized representative, shall be the code official for purposes of enforcing the provisions of Chapters 1-8 of this title pertaining to (a) the condition of premises, or equipment thereon, and (b) the licensing of housing

businesses or transient housing businesses. The Director of the Department of Housing and Community Development, or a duly authorized representative, shall be the code official for purposes of enforcing the provisions of Chapters 1-8 of this title pertaining to the Rental Housing Act.

- 103.2 The code official is authorized to inspect the premises of any housing business or transient housing business, and shall make all of the required inspections or shall have authority to accept reports of inspection by approved agencies. The code official is authorized to engage such expert opinion as deemed necessary to report upon unusual technical issues that arise.
- 103.3 The code official is authorized to enter a structure or premises at all reasonable times to inspect and for the purpose of enforcing Chapters 1-8 of this title, subject to the provisions of this section. If entry is refused or not obtained, the code official is authorized to obtain an administrative search warrant issued pursuant to D.C. Official Code § 11-941 (2012 Repl.) or D.C. Superior Court Civil Rule 204, or to pursue any other recourse provided by law.
- 103.4 The code official, both prior to the issuance of a housing business license or a transient housing business license and during the license period, is authorized, at all reasonable hours, to enter and inspect the premises occupied or to be occupied by a housing business or transient housing business, except as provided in § 103.5.
- 103.5 If it appears that any portion of a premises is under the exclusive control of a tenant, or if the owner or operator of a housing business so claims, the code official shall not enter that portion of the premises without first having obtained permission from the tenant or the tenant's agent, except as provided in § 103.6 and subject to constitutional restrictions on unreasonable searches and seizures.
- 103.6 If a tenant of a housing business does not give permission to inspect that portion of the premises under the tenant's exclusive control, the code official shall not enter that portion of the premises unless the code official has:
- (a) A valid administrative warrant permitting the inspection, issued pursuant to D.C. Official Code § 11-941 (2012 Repl.) or D.C. Superior Court Civil Rule 204; or
  - (b) A reasonable basis to believe that exigent circumstances require immediate entry into that portion of the premises in order to prevent any imminent danger to the public health or welfare.
- 103.7 When the code official presents a valid administrative search warrant that permits inspection of premises under a tenant's exclusive control, the tenant of a housing business who refuses to give permission to inspect that portion of the premises shall be in violation of the Property Maintenance Code and Chapters 1-8 of this title.

- 103.8 If the owner or operator of a housing business or transient housing business, or agent of such owner or operator, refuses to permit the code official to inspect the premises occupied or to be occupied by a housing business or transient housing business, such refusal shall be cause for withholding the issuance of a license for those premises until the inspection is permitted, and/or cause for the revocation of any existing license.
- 103.9 As a condition of receiving a housing business or transient housing business license under D.C. Official Code § 47-2828 (2012 Repl.), the owner or operator of a housing business or transient housing business must agree to:
- (a) Allow access to the Department for any inspection required under the Construction Codes; and
  - (b) Notify any affected tenant whose unit requires inspection, where applicable.
- 103.10 The code official, and authorized representatives of the code official, shall carry proper credentials when inspecting structures or premises in the performance of their duties under Chapters 1-8 of this title.
- 103.11 The code official is authorized to issue all necessary notices or orders to ensure compliance with Chapters 1-8 of this title, and to institute administrative and legal actions to correct violations or infractions, including actions pursuant to An Act To provide for the abatement of nuisances in the District of Columbia by the Commissioners of said District, and for other purposes, approved April 14, 1906 (34 Stat. 115; D.C. Official Code §§ 42-3131.01 *et seq.* (2012 Repl.)), and the Abatement and Condemnation of Nuisance Properties Omnibus Amendment Act of 2002, effective April 27, 2001 (D.C. Law 13-281; D.C. Official Code §§ 42-3171.01 *et seq.* (2012 Repl.)).
- 103.12 Whenever in the enforcement of Chapters 1-8 of this title or another code or ordinance, the responsibility of more than one code official of the District is involved, it shall be the duty of the code officials involved to coordinate their inspections and administrative orders as fully as practicable so that the owners, operators, tenants and occupants of the structure shall not be subjected to visits by numerous inspectors or multiple or conflicting orders.

#### **104 UNSAFE STRUCTURES AND EQUIPMENT**

- 104.1 When premises, including structures or equipment thereon, are found by the code official, in whole or in part, to be unsafe or dangerous, or when a structure is found unfit for human occupancy, or is found to be unlawful, such structure may be closed by the code official pursuant to the provisions of this section or § 108 of the Property Maintenance Code, and may be referred to the Board of Condemna-

tion pursuant to An Act To create a board for the condemnation of insanitary buildings in the District of Columbia, and for other purposes, approved May 1, 1906 (34 Stat. 157; D.C. Official Code §§ 6-901 *et seq.* (2012 Repl. & 2014 Supp.)).

- 104.2 An unsafe structure is a building or other structure, or anything attached to or connected with a building or other structure, that is found to be unsafe or dangerous to the life, health, property or safety of the public or the occupants of the structure by not providing minimum safeguards to protect or warn occupants in the event of fire, or because such structure contains unsafe equipment, or is so damaged, decayed, dilapidated, structurally unsafe, or of such faulty construction or unstable foundation that partial or complete collapse is possible.
- 104.3 Unsafe equipment includes any boiler, heating equipment, elevator, moving stairway, electrical wiring or device, flammable liquid containers or other equipment on the premises or within the structure which is in such disrepair or condition that such equipment is a hazard to life, health, property or safety of the public or occupants of the premises or structure.
- 104.4 A structure is unfit for human occupancy whenever the code official finds that such structure is: unsafe; unlawful; or, due to the degree to which the structure is in disrepair or lacks maintenance, is unsanitary or vermin or rat infested, contains filth and contamination, or lacks ventilation, illumination, sanitary or heating facilities or other essential equipment required by the Property Maintenance Code; or whenever the code official finds that the location of the structure constitutes a hazard to the occupants of the structure or to the public.
- 104.5 An unlawful structure is one found in whole or in part to be occupied by more persons than permitted under the Property Maintenance Code, or erected, altered or occupied contrary to law.
- 104.6 For the purpose of this code, any structure or premises that has any or all of the conditions or defects described below shall be considered dangerous:
- (a) Any door, aisle, passageway, stairway, exit or other means of egress that does not conform to the Construction Codes as related to the requirements for existing buildings.
  - (b) Any walking surface of any aisle, passageway, stairway, exit or other means of egress that is so warped, worn loose, torn or otherwise unsafe as to not provide safe and adequate means of egress.
  - (c) Any portion of a building, structure or appurtenance that has been damaged by fire, earthquake, wind, flood, deterioration, neglect, abandonment, vandalism or any other cause to such an extent that it is likely to partially or completely collapse, or to become detached or dislodged.

- (d) Any portion of a building, or any member, appurtenance or ornamentation on the exterior thereof, which is not of sufficient strength or stability, or is not so anchored, attached or fastened in place so as to be capable of resisting natural or artificial loads of one and one-half the original designed value.
- (e) The building or structure, or part of the building or structure, is likely to collapse partially or completely, because of dilapidation, deterioration, decay, faulty construction, the removal or movement of some portion of the ground necessary for the support, or for any other reason, or some portion of the foundation or underpinning of the building or structure is likely to fail or give way.
- (f) The building or structure, or any portion thereof, is clearly unsafe for its use and occupancy.
- (g) The building or structure is neglected, damaged, dilapidated, unsecured or abandoned so as to become an attractive nuisance or hazard to children who might play in the building or structure or a harbor for vagrants, criminals or immoral persons, or that could enable persons to resort to the building or structure for committing a nuisance or an unlawful act.
- (h) The building or structure has been constructed, exists or is maintained in violation of any specific requirement or prohibition applicable to such building or structure provided by the Construction Codes, or of any law or ordinance, to such an extent as to present a substantial risk of fire, building collapse or any other threat to life and safety.
- (i) A building or structure, used or intended to be used for dwelling purposes, that is determined by the code official to be unsanitary, unfit for human habitation, or in a condition that is likely to cause sickness or disease because of inadequate maintenance, dilapidation, decay, damage, faulty construction or arrangement, inadequate light, ventilation, mechanical or plumbing system or other cause.
- (j) Any building or structure that is determined by the code official to be a threat to life or health because of a lack of sufficient or proper fire-resistance-rated construction, fire protection systems, electrical system, fuel connections, mechanical system, plumbing system or other cause.
- (k) Any portion of a building or structure that remains on a site after the demolition or destruction of the building or structure, or whenever any building or structure or portion thereof is abandoned so as to become an attractive nuisance or hazard to the public.

- 104.7 Whenever the code official determines that the repair record on any boiler, air conditioning system, heating equipment, elevator, moving stairway or other equipment on the premises or within a structure reflects the need for replacement of the equipment, the code official may declare the equipment “unserviceable” and order the replacement of the equipment.
- 104.8 If the structure is vacant and unfit for human habitation and occupancy, and is not in danger of structural collapse, the code official, after providing notice as prescribed in § 107, is authorized to post a closure placard on the premises and order the structure closed so as not to be an attractive nuisance. Upon failure of the owner to close the premises within the time specified in the order, the code official shall cause the premises to be closed and secured through any available public agency or by contract or arrangement with private persons, and the cost thereof shall be charged against the real estate upon which the structure is located and shall be a lien upon such real estate and may be collected by any legal resource.
- 104.9 The provisions of § 111.3, Authority to Disconnect Service Utilities, of 12-A DCMR, shall apply to Chapters 1-8 of this title and are hereby incorporated by reference.
- 104.10 Whenever the code official has found a premises or structure to be unsafe or unfit for occupancy or has found equipment on the premises or in the structure to be unsafe or unlawful under the provisions of this section, notice shall be posted in a conspicuous place in or about the premises or structure affected by such notice and shall be served on the owner or the person or persons responsible for the premises, structure or equipment in accordance with § 107 and An Act To authorize the Commissioners of the District of Columbia to remove dangerous or unsafe buildings and parts thereof, and for other purposes, as amended, approved March 1, 1899 (30 Stat. 923; D.C. Official Code §§ 6-801 *et seq.* (2012 Repl.)). If the notice pertains to equipment, it shall also be placed on the equipment found to be unsafe or unlawful. The notice shall be in the form prescribed in § 107. The code official is authorized to order the owner to close and barricade the structure or dwelling unit within a specified period of time.
- 104.11 Whenever the code official has found a premises or structure to be unsafe or unfit for occupancy or has found equipment on the premises or in the structure to be unsafe or unlawful under the provisions of this section, the code official is authorized to order tenants or occupants of residential premises to vacate the premises within a time sufficient to allow the owner to comply with the order to close and barricade the premises, subject to the provisions of § 107.6. If any tenant or occupant fails to vacate the premises within the time period set forth in the notice or order, the code official is authorized to order the removal of the tenants or occupants.
- 104.12 The code official is authorized to order tenants or occupants of residential premises to vacate the premises within a time sufficient to allow the owner to comply

with the order to close and barricade the premises, provided that tenants or occupants shall be given at least five calendar days to vacate the premises. If any tenant or occupant fails to vacate the premises within the time period set forth in the notice or order, subject to the appeal provisions of § 102.3, the code official is authorized to order the removal of the tenants or occupants.

- 104.13 The removal of tenants from unsafe residential premises, or the service of an order to vacate pursuant to this chapter shall not be considered an eviction or notice to vacate under D.C. Official Code § 42-3505.01 (2012 Repl.) except as provided by § 42-3505.01(n). Nothing herein shall be construed to nullify or abrogate any other rights to which a tenant or occupant is entitled under District laws or regulations, including relocation assistance, the right to reoccupy the rental unit following rehabilitation, or the right to pursue rights and remedies under D.C. Official Code, Title 42, Chapter 34 (2012 Repl. & 2014 Supp.).
- 104.14 Repairs to, or removal or demolition of, a historic landmark or building or structure located within an historic district shall comply with D.C. Official Code §§ 6-801 *et seq.* (2012 Repl.).
- 104.15 Upon failure of the owner or person responsible to comply with the notice provisions within the time given, the code official is authorized to post on the premises a closure placard bearing the words “These Premises are Unsafe and Its Occupancy Has Been Prohibited by the Code Official,” or to post the defective equipment with a placard bearing the words “Removed from Service.” The placard shall include a statement of the penalties provided for occupying the premises, operating the equipment, or removing the placard.
- 104.16 The code official shall authorize removal of the applicable placards whenever the defect or defects upon which the closure or removal from service actions were based have been eliminated. Any person who defaces or removes a placard without the approval of the code official shall be subject to the penalties provided by § 101.
- 104.17 Any occupied structure, closed and placarded by the code official, shall be vacated as ordered by the code official. Any person who occupies a placarded premises or operates placarded equipment, and any owner or any person responsible for the premises who allows anyone to occupy a placarded premises or operate placarded equipment, shall be liable for the penalties provided by § 101.
- 104.18 The owner, operator, or occupant of a structure, premises or equipment deemed unsafe by the code official shall abate or cause to be abated or corrected such unsafe conditions either by repair, rehabilitation, demolition or other approved corrective action. Notwithstanding any other penalties or remedies set forth in § 101, where the owner, operator or occupant of a structure, premises or equipment deemed unsafe by the code official fails to abate such unsafe condition following notice as prescribed in § 104.3, the code official may cause such condition to be

corrected and the costs of any corrective action, and all expenses incident thereto, shall be deemed a special assessment and shall be assessed as a tax against the property on which the violating condition existed, and shall bear interest and be collected in the same manner as delinquent general taxes in the District are collected in accordance with D.C. Official Code § 47-1205 (2012 Repl.). Nothing herein shall be construed to abolish or impair existing remedies relating to abatement of nuisance property, including, but not limited to, Chapters 31 and 31A of Title 42 of the D.C. Official Code.

- 104.19 The code official shall create and maintain a report on any unsafe condition. The report shall state the occupancy of the structure or building and the nature of the unsafe condition.
- 104.20 The code official is authorized to refer a building or structure determined to be unsafe under this § 104 to the Board for the Condemnation of Insanitary Buildings for issuance of an order of condemnation pursuant to D.C. Official Code § 6-903 (2012 Repl.).

**105 EMERGENCY MEASURES**

- 105.1 The code official is hereby authorized and empowered to order and require the tenants and occupants to vacate the premises forthwith when, in the opinion of the code official: there is imminent danger of failure or collapse of a building or other structure which endangers life; or when any structure or part of a structure has fallen and life is endangered by the occupation of the structure; or when there is actual or potential danger to the building occupants or those in the proximity of any structure because of explosives, explosive fumes or vapors, or the presence of toxic fumes, gases or materials; or when the health or safety of occupants of the premises or those in the proximity of the premises is immediately endangered by an unsanitary condition or by the operation of defective or dangerous equipment. The code official shall cause to be posted at each entrance to such structure a notice reading as follows: "This Structure Is Unsafe and Its Occupancy Has Been Prohibited by the [code official]." It shall be unlawful for any person to enter such structure except for the purpose of securing the structure, making the required repairs, removing the hazardous condition or of demolishing the same.
- 105.2 Where the code official posts a closure or imminent danger notice pursuant to this section, the code official is authorized to order all tenants or occupants to vacate the imminently dangerous structure or dwelling unit. The closure notice shall include the time by which the premises must be vacated, provided that tenants and occupants shall have at least twenty-four (24) hours to vacate unless the code official determines that tenants and occupants must leave the premises immediately for their personal safety. If any tenant or occupant fails to vacate the structure or unit within the time specified in the notice or order, the code official is authorized to order removal of the tenant or occupant from the structure or unit.

- 105.3 The removal of tenants and occupants from imminently dangerous premises, or the service of an order to vacate, pursuant to this section shall not be considered an eviction or notice to vacate under D.C. Official Code § 42-3505.01 (2012 Repl.) except as provided by § 42-3505.01(n). Nothing herein shall be construed to nullify or abrogate any other rights to which a tenant or occupant is entitled under District laws or regulations, including relocation assistance, the right to reoccupy the rental unit following rehabilitation, or the right to pursue rights and remedies under D.C. Official Code Title 42, Chapter 34.
- 105.4 Emergency measures affecting a historic landmark or a building or structure located within an historic district shall comply with D.C. Official Code § 6-803(b) (2012 Repl.).
- 105.6 Whenever, in the opinion of the code official, there is imminent danger due to an unsafe condition, the code official shall order the necessary work to be done, including the boarding up of openings, to render such structure temporarily safe, whether or not the legal procedure herein described has been instituted, and shall further cause such other action to be taken as the code official deems necessary to meet such emergency.
- 105.7 When necessary for the public safety, the code official is authorized to temporarily close sidewalks, streets, buildings, other structures, and places adjacent to such unsafe structure, and prohibit them from being used.
- 105.8 For the purposes of this section, the code official shall employ the necessary labor and materials to perform the required work as expeditiously as possible.
- 105.9 Where the code official causes emergency work to be done pursuant to § 105, the costs incurred in the performance of emergency work, and all expenses incident thereto, shall be deemed a special assessment and shall be assessed as a tax against the property on which the violating condition existed, bear interest and be collected in the same manner as delinquent general taxes in the District are collected in accordance with D.C. Official Code § 47-1205 (2012 Repl.). Nothing herein shall be construed to abolish or impair existing remedies relating to abatement of nuisance property, including, but not limited to, Chapters 31 and 31A of Title 42 of the D.C. Official Code.
- 105.10 If the code official determines that no other shelter is available to tenants or occupants removed from residential premises pursuant to § 105.6, the code official has discretion to assess all expenses incident to tenant relocation as a cost of emergency repairs, including, but not limited to, temporary housing, security deposits and the first month's rent if required, costs associated with cleaning the premises to comply with the Property Maintenance Code, utility removal or disconnection costs, court costs, fines, and penalties.
- 105.11 The code official is authorized to refer a building or structure determined to be

imminently dangerous under § 105 to the Board for the Condemnation of Insanitary Buildings for issuance of an order of condemnation pursuant to D.C. Official Code § 6-903 (2012 Repl.).

**106 DEMOLITION**

106.1 The code official is authorized to initiate proceedings pursuant to D.C. Official Code §§ 42-3173.01 *et seq.* (2012 Repl.) to demolish or enclose a “deteriorated structure” as defined in that section.

**107 NOTICES AND ORDERS**

107.1 In addition to other penalties authorized by statute or regulation, whenever the code official determines that there has been a violation of Chapters 1-8 of this title or has reasonable grounds to believe that a violation has occurred, the code official is authorized to serve one or more of the following notices or orders, which may impose a fine or other penalty, on an owner or the person or persons responsible for the violation:

- (a) A notice of violation;
- (b) A notice of infraction;
- (c) A combined notice of violation and notice of infraction; or
- (d) Any other order or notice authorized to be issued by the code official.

107.2 Service of a notice of violation or order shall be in the manner prescribed in §§ 107.7-107.10, except as otherwise provided herein. Notices of infraction shall be issued in accordance with the procedures and fine amounts set forth in § 201 of the Civil Infractions Act and Title 16 of the DCMR.

107.3 Issuance of a notice of violation, notice of infraction, or combined notice of violation and notice of infraction pursuant to this section, prior to taking other enforcement action, is at the discretion of the code official. Issuance of notice of violation, notice of infraction, or combined notice of violation and notice of infraction shall not be a prerequisite to criminal prosecution, civil action, corrective action, or civil infraction proceeding based upon a violation of Title 14, Chapters 1-10.

107.4 Additional notice procedures may apply to historic buildings pursuant to D.C. Official Code §§ 6-801 *et seq.* (2012 Repl.).

107.5 A notice of violation or order shall direct the discontinuance of the illegal action or condition and/or require abatement of the illegal action or condition, and must:

- (a) Be in writing;

- (b) Include the name and address of the person or entity being cited;
- (c) Include a description of the real estate sufficient for identification;
- (d) Include a statement of the violation or violations, the code section(s) violated and why the notice or order is being issued;
- (e) Include, if the notice or order affords an opportunity to abate a violation, a reasonable period of time by which the required repairs and improvements must be made;
- (f) Include, if applicable, a specific time by which unsafe or imminently dangerous premises shall be closed, barricaded and/or vacated, or equipment placed out of service;
- (g) Include a statement informing the property owner of the right to appeal pursuant to § 102; and
- (h) Include a statement of the rights of the District of Columbia, pursuant to § 101.10, to abate the violation without the owner's consent if the owner fails to comply with the notice or file a timely appeal; to assess the costs of such abatement against the owner; and to place a tax lien on the property for the costs of such abatement.

107.6

- (a) Where the code official issues an order to close and barricade a residential structure or dwelling unit pursuant to §§ 104 or 105, the closure order shall include all information required by § 107.5 and shall also include the following:
  - (i) The date by which tenants or occupants of the structure or unit are required to vacate the structure or unit; and
  - (ii) A statement informing tenants or occupants of the structure or unit of the right to appeal and/or request an expedited hearing pursuant to § 102.
- (b) A copy of the closure order shall be provided to tenants in accordance with § 107.10.
- (c) If any tenant or occupant fails to vacate the structure or unit within the time specified in the closure order, the code official is authorized to order removal of the tenant or occupant from the structure or unit.

107.7

The code official shall effect service of a notice or order (not including notices of

infraction) upon the property owner or person(s) responsible for the violation or violations by one of the following methods, any of which shall be deemed proper service:

- (a) Personal service on the property owner or persons responsible, or the agents thereof; or
- (b) By electronic mail to the last-known electronic mail address of the person or business to be notified, provided that a copy of the notice or order is posted in a conspicuous place in or about the structure or premises affected by such notice; or
- (c) Delivering the notice to the last known home or business address of the property owner or persons responsible as identified by the tax records, business license records, or corporate registration records, and leaving it with a person over the age of sixteen (16) years residing or employed therein; or
- (d) Mailing the notice, via first class mail postage pre-paid, to the last known home or business address of the property owner or persons responsible or the agents thereof as identified by the tax records, business license records or corporate registration records; or
- (e) If the notice is returned as undeliverable by the U.S. Post Office authorities, or if no address is known or can be ascertained by reasonable diligence, by posting a copy of the notice in a conspicuous place in or about the structure or premises affected by such notice.

107.8 After an inspection of a dwelling unit occupied by a tenant, the code official shall provide the tenant with a copy of any notice or order with respect to that unit issued to the owner pursuant to Chapters 1-8 of this title. This requirement will be satisfied by mailing a copy to the tenant by first-class mail, leaving a copy at the tenant's residence, or any other reasonable method in the code official's discretion. Upon request to the code official by a person or agency acting on behalf of a tenant entitled to receive a copy of a notice or order under this section, with a written authorization from the tenant, such person or agency shall be provided with a copy of the notice or order by any reasonable method in the code official's discretion.

107.9 In any instance where a violation of Chapters 1-8 of this title affect more than one tenant of a residential building or dwelling, including violations involving common space, the code official shall post a copy of any notice or order issued to the owner pursuant to § 107 for a reasonable time in one or more locations within the building or buildings in which the deficiency exists. The locations for posting the notification shall be reasonably selected to give notice to all tenants affected. Any tenant directly affected by the violation(s) shall, upon request to the code official,

be provided with a copy of the posted notification by any reasonable method in the code official's discretion. Upon request to the Director by a person or agency acting on behalf of a tenant entitled to receive a copy of a notice or order under this section, with a written authorization from the tenant, such person or agency shall be provided with a copy of the notice or order by any reasonable method in the code official's discretion.

- 107.10 Where closure notices or orders are issued pursuant to §§ 104 or 105 and the building or structure has multiple dwelling units, in addition to posting the notice pursuant to § 107.9, the code official shall leave a copy of the closure notice or order at each unit in the building or structure subject to closure.
- 107.11 Signs, placards, tags or seals posted or affixed by the code official shall not be mutilated, destroyed, obstructed or tampered with, or removed without authorization from the code official.
- 107.12 The code official shall not be subject to any other tenant notification provisions, except as set forth in this § 107.
- 107.13 It shall be unlawful for the owner of any dwelling unit or structure upon whom a notice of violation or order has been served to sell, transfer, mortgage, lease or otherwise dispose of such dwelling unit or structure to another person or entity until the provisions of the notice or order have been complied with, or until such owner shall first furnish the grantee, transferee, mortgagee or lessee a true copy of any notice or order issued by the code official and shall furnish to the code official a signed and notarized statement from the grantee, transferee, mortgagee or lessee, acknowledging the receipt of such notice or order and fully accepting the responsibility without condition for making the corrections or repairs required by such notice or order.

## 108 TRANSITORY PROVISIONS

108.1 The laws and regulations in force on the date of adoption of this amendment to 14 DCMR shall remain in effect for the purposes specified in Subsection 108.2.

108.2 The laws and regulations in force on \_\_\_\_\_ [the date of adoption of this amendment to 14 DCMR] (the "Transition Date") shall apply with respect to violations or infractions committed or occurring prior to the Transition Date said date, whether the prosecutions or adjudications of those violations or infractions are begun before or after said date. Nothing herein shall extinguish, or be deemed to extinguish, liability for any conduct or conditions occurring prior to the Transition Date, provided, however, that where violative conduct or conditions occur or are committed for a continuous period of time, starting before and continuing after the Transition Date, the laws and regulations in force on the Transition Date shall apply with respect to violations or infractions committed or occurring prior to the Transition Date.

**109** [RESERVED]

**110** [RESERVED]

**111** **REQUESTS FOR REASONABLE ACCOMMODATION UNDER THE FAIR HOUSING ACT**

111.1 This section implements the policy of the District of Columbia regarding requests for reasonable accommodation, as required by the Fair Housing Act, as amended, 42 U.S.C. § 3604(f)(3)(B) (“Fair Housing Act”), in its rules, policies, and procedures for handicapped individuals. The policy of the District of Columbia is to facilitate housing for individuals with disabilities and to comply fully with the spirit and the letter of the Fair Housing Act.

111.2 Individuals with disabilities seeking reasonable accommodation in housing programs provided by the District of Columbia Housing Authority (DCHA) should follow procedures set forth in 14 DCMR, Chapter 74.

111.3 Any person who is eligible under the Fair Housing Act may request a reasonable accommodation pursuant to the provisions of this chapter, as provided by 42 U.S.C. § 3604(f)(3)(B). A request for a reasonable accommodation does not affect a person’s obligations to act in compliance with other applicable District laws and regulations not at issue in the requested accommodation.

111.4 All requests for reasonable accommodation under the Fair Housing Act shall be submitted to the Director, Department of Consumer and Regulatory Affairs, 1100 Fourth Street, SW, Washington, D.C. 20014, or such office as the Mayor may assign or delegate.

111.5 All requests for reasonable accommodation shall be in writing. The Director, or his or her designee, will assist any individual with reducing a reasonable accommodation request to writing, upon request by that individual. Each reasonable accommodation request shall provide, at a minimum, the following information:

- (a) Name and address of person(s) requesting accommodation;
- (b) Name and address of dwelling owner;
- (c) Name and address of dwelling at which accommodation is requested;
- (d) Description of the requested accommodation and specific regulation or regulations for which accommodation is sought;

- (e) Reason that the requested accommodation may be necessary in order for the person or persons with a handicap, as such term is defined by the Fair Housing Act, 42 U.S.C. § 3602(h), to use and enjoy the dwelling; and
  - (f) If the requested accommodation relates to the number of persons allowed to occupy a dwelling, the anticipated number of residents, including facility staff (if any).
- 111.6 The applicant shall mark as “CONFIDENTIAL” any information submitted with the application that the applicant believes should not be made public. The Director shall maintain this information in a confidential file separate from the application. Only agency personnel expressly authorized by the Director shall have access to the confidential file.
- 111.7 The Director, or his or her designee, or such other officer as the Director may assign or delegate, may conduct an appropriate inquiry into the request for reasonable accommodation and may:
  - (a) Grant the request;
  - (b) Grant the request subject to specified conditions; or
  - (c) Deny the request.
- 111.8 If necessary to reach a decision on the request for reasonable accommodation, the Director may request further information from the applicant consistent with the Act, specifying in detail the information required.
- 111.9 The Director may consult with other District agencies in assessing the impact of the requested accommodation on the rules, policies, and procedures of the District.
- 111.10 The Director shall issue a written final decision on the request not more than forty-five (45) days after receiving written request for reasonable accommodation; however, in the event that the Director requests further information under § 111.7, the running of this period shall be tolled from the date of the request through the date of the applicant’s response.
- 111.11 The Director may consider the following criteria when deciding whether a request for accommodation is reasonable:
  - (a) Whether the requested accommodation would require a fundamental alteration of a legitimate District policy; and
  - (b) Whether the requested accommodation would impose undue financial or administrative burdens on the District government.

- 111.12 The Director shall set forth in writing the decision on the request for reasonable accommodation. If the Director denies the request in whole or in part, the Director shall explain in detail the basis of the decision, including the Director's findings on the criteria set forth in § 111.10. The Director's decision and notice shall be sent to the applicant by certified mail.
- 111.13 If the Director fails to render his or her decision on a request for reasonable accommodation within the time allotted by § 111.10, the request shall be deemed granted.
- 111.14 The Director's decision pursuant to § 111.12 shall be deemed a final decision of the District of Columbia government, and, therefore, there shall not be any further resort to administrative remedies.
- 111.15 The Director shall maintain a file of all requests for reasonable accommodation under the Fair Housing Act, and a file of all decisions made on such requests. The file may be reviewed in the Office of the Director upon request during regular business hours, or such other office as the Mayor may designate; provided, however, that any material identified as "CONFIDENTIAL" by the applicant as permitted by § 111.6 shall not be made available for public inspection.
- 111.16 Upon written notice to the Director, an applicant for a reasonable accommodation may withdraw the request without prejudice.
- 111.17 While a request for reasonable accommodation is pending, all laws and regulations otherwise applicable to the dwelling that is the subject of the request shall remain in full force and effect.

## **199 DEFINITIONS**

- 199.1 Where terms used in Chapters 1-8 of this title are not defined therein but are defined in the Construction Codes, such terms shall have the meanings ascribed to them as stated in the Construction Codes.
- 199.2 For the purpose of Chapters 1-8 of this title, the following words and terms shall have the meanings ascribed. Whenever the words "dwelling unit," "dwelling," "premises," "building," "rooming house," "rooming unit," "sleeping unit" or "housekeeping unit," are stated in Chapters 1-8, they shall be construed as though they were followed by the words "or any part thereof." Wherever the word or words "occupied," "is occupied," "used," or "is used" appear, such word or words shall be construed as if followed by the words "or is intended, arranged or designed to be used or occupied".

**Apartment** – a dwelling unit.

**Apartment house** – Any building or part of a building in which there are three (3) or more dwelling units which are occupied, or offered for occupancy, for consideration.

**Boarding house** – Any building or part of a building where meals, or sleeping accommodations and meals, are furnished for a consideration, or offered for a consideration, to three (3) or more guests. A boarding house shall be considered a housing business if sleeping accommodations are furnished or offered on a monthly or longer basis.

**Building Code** – The 2012 International Building Code published by the International Code Council, and any subsequent editions thereof, as adopted by the District of Columbia with additions, insertions, deletions and changes as set forth in the 2013 District of Columbia Building Code Supplement, 12-A DCMR, or any successor thereto.

**Code official** – The government official or other designated authority charged with the administration and enforcement of this code or portions thereof, or a duly authorized representative.

**Construction Codes** – The most recent edition of the codes published by the International Code Council, or by a comparable nationally recognized and accepted code development organization, as adopted by the District of Columbia with additions, insertions, deletions and changes as set forth in Title 12 of the District of Columbia Municipal Regulations (or any successor thereto).

**Common space** – Also referred to herein as “common areas.” See § 202 of the Property Maintenance Code.

**Director** – The Director of the District of Columbia Department of Consumer and Regulatory Affairs.

**Dwelling** – A building that contains one (1) or two (2) dwelling units used, intended or designed to be used, rented, leased, let or hired out to be occupied for living purposes.

**Dwelling (for purposes of Section 111)** – Any building, structure, or portion thereof which is occupied as, or designed or intended for occupancy as, a residence by one or more families. See § 3604(f)(3)(B) of the Fair Housing Act, as amended (42 U.S.C. 3604(f)(3)(B)).

**Dwelling, multiple** – A building that contains more than two (2) dwelling units used, intended or designed to be used, rented, leased, let or hired out to be occupied for living purposes. A multiple dwelling may be occu-

ped for permanent residence or transiently, as the more or less temporary abode of persons who are lodged with or without meals.

**Dwelling unit** – A single unit providing complete independent living facilities for one or more persons, including permanent provisions for living, sleeping, eating, cooking and sanitation.

**Existing Building Code**- The 2012 International Existing Building Code published by the International Code Council, and any subsequent editions thereof, as adopted by the District of Columbia with additions, insertions, deletions and changes as set forth in the 2013 District of Columbia Existing Building Code Supplement, 12-J DCMR , or any successor thereto.

**Fire Code** – The 2012 International Fire Code published by the International Code Council, and any subsequent editions thereof, as adopted by the District of Columbia with additions, insertions, deletions and changes as set forth in the 2013 District of Columbia Fire Code Supplement, 12-H DCMR, or any successor thereto.

**Habitation** – Any building or part of any building used for living or sleeping purposes, including, but not limited to, buildings with dwelling units, sleeping units, housekeeping units or rooming units.

**Hotel** – A building or part of a building in which not less than thirty (30) habitable rooms or suites are reserved primarily for transient guests who rent the rooms or suites on a daily basis and where meals, prepared in a kitchen on the premises by the management or a concessionaire of the management, may be eaten in a dining room accommodating simultaneously not less than thirty (30) persons. The dining room shall be internally accessible from the lobby.

If kitchen or dining room facilities are operated by a concessionaire, the hotel licensee and its manager shall be liable for compliance with all regulations applicable to the kitchen and dining area, including the penalties under those regulations, unless otherwise specifically provided in Chapters 1-8 of this title.

**Household** – One (1) family related by blood, marriage, adoption, or foster agreement, or not more than six (6) persons who are not so related, living together as a single house-keeping unit; provided, that the term household shall include a religious community having not more than fifteen (15) members.

~~**Housing accommodation**—Any structure or building in the District of Columbia containing one (1) or more rental units and the land appurtenant thereto. The term “housing accommodation” does not include (a) any hotel, inn or~~

~~other lodging with a valid certificate of occupancy; (b) any structure, including any room in the structure, used primarily for transient occupancy and in which at least sixty percent (60%) of the rooms devoted to living quarters for tenants or guests were used for transient occupancy as of May 20, 1980.~~

~~For the purposes of Chapters 38 through 44 of this title, a rental unit shall be deemed to be used for transient occupancy only if the owner or operator of the rental unit is subject to and pays the sales tax imposed by § 114(a)(3) of the District of Columbia Sales Tax Act, approved May 27, 1949 (63 Stat. 112; D.C. Official Code § 47-2001(n)(1)(e) (2012 Repl.)).~~

**Housing Business** – A business licensed, or required to be licensed, under D.C. Official Code § 47-2828 (2012 Repl.), including, but not limited to, a residential building with a dwelling unit or rooming unit offered for rent or lease, regardless of whether the housing business owner or operator also occupies the building.

A housing business shall not include any premises used for lodging.

~~**Landlord** – The owner or operator of a housing business as defined herein.~~

**Lodging** - A building or part thereof where, for compensation, customers are provided with, or offered, temporary housing for an agreed upon term of less than thirty (30) consecutive days. Lodging includes, but is not limited to, hotels, motels, inns, and bed and breakfast establishments. Lodging also includes dwellings, or parts of dwellings, that the owner also occupies, where the owner furnishes for a consideration, or offers for a consideration, sleeping accommodations on a transient basis to three (3) or more guests. Lodging does not include emergency shelters.

**Motel** – a building containing at least thirty (30) non-connecting rooming units or sleeping units, reserved exclusively for transient guests. Each unit must have a private bath and at least one (1) private parking space. The term “motel” shall include motor courts, tourist courts, and motor lodges.

**Occupant** – See § 202 of the Property Maintenance Code.

**Operator** – See § 202 of the Property Maintenance Code. The term “operator” when used in Chapters 1-8 of this title also includes any agent of the operator.

**Owner** – See § 202 of the Property Maintenance Code. The term “owner” when used in Chapters 1-8 of this title also includes any agent of the owner or any operator appointed by the owner to conduct the business of the owner.

**Person** – See § 202 of the Property Maintenance Code.

**Premises** – See § 202 of the Property Maintenance Code.

**Property Maintenance Code** – The 2012 Property Maintenance Code published by the International Code Council, and any subsequent editions thereof, as adopted by the District of Columbia with additions, insertions, deletions and changes as set forth in the 2013 District of Columbia Property Maintenance Code Supplement, 12-G DCMR, or any successor thereto.

**Property Manager** – See 14 DCMR § 204.1.

**Recyclable**- as defined in the District of Columbia Solid Waste Management and Multi-Material Recycling Act of 1988, effective March 16, 1989 (D.C. Law 7-226; D.C. Official Code §§ 8-1001 *et seq.* (2012 Repl.)).

**Rental Housing Act** - The Rental Housing Act of 1985, effective July 17, 1985 (D.C. Law 6-10; D.C. Official Code §§ 42-3501.01 *et seq.* (2012 Repl. & 2014 Supp.)).

**Rental unit** – Any part of a building or structure which is rented or offered for rent for residential (non-transient) occupancy, including, but not limited to, an apartment, dwelling unit, rooming unit, sleeping unit, housekeeping unit, single-family house and the land appurtenant thereto, suite of rooms, or duplex.

**Residential building** – Any building which is wholly or partly used or intended to be used for living and sleeping by human occupants.

**Residential premises** – Any building wholly or partly used or intended to be used for living and sleeping by human occupants; any fences, walls, sheds, garages, or other accessory buildings or structures appurtenant to the building; and the lot, plot or parcel of land on which the building and appurtenant structures are located.

**Rooming house** – Any building or part of a building containing sleeping accommodations occupied for a consideration by, or offered for occupancy for a consideration to, three (3) or more persons who are not members of the household of the owner or lessee of the building or part of the building, and which accommodations are not under the exclusive control of the occupants of the accommodations. A rooming house may be a housing business or a transient housing business depending on whether or not the accommodations are occupied or furnished for occupancy by transient guests.

**Rooming unit** – Any room or group of rooms forming a single habitable unit occupied or intended to be occupied for sleeping or living, but not for cooking purposes.

**Sleeping unit** – See § 202 of the Property Maintenance Code.

**Structure** - See § 202 of the Property Maintenance Code.

**Tenant** – Any person, including a tenant, subtenant, lessee, sublessee, or other person entitled to the possession, occupancy, or the benefits of any rental unit owned by another person.

**Transient** – less than thirty (30) consecutive days.

**Transient housing business** - A business licensed, or required to be licensed, under D.C. Official Code § 47-2828 (2012 Repl.) and Chapter 7 of this title, that provides or offers lodging for a consideration. Transient housing businesses include, but are not limited to, hotels, motels, inns, rooming houses, bed and breakfast establishments and boarding houses. A transient housing business also includes any building or part of a building that the owner also occupies where customers are provided with, or offered, lodging, for consideration for a period of less than thirty (30) consecutive days.

## CHAPTER 2: HOUSING BUSINESS LICENSES

### SECTION

- 200 GENERAL LICENSING REQUIREMENTS**
- 201 APPLICABILITY**
- 202 INSPECTION OF PREMISES**
- 203 REGISTERED AGENT FOR NON-RESIDENT LICENSEES**
- 204 LICENSING OF PROPERTY MANAGERS**
- 205 RENEWAL OF HOUSING BUSINESS LICENSES**
- 206 DENIAL, SUSPENSION AND REVOCATION OF LICENSES**
- 207 LICENSE AND USER FEES**
- 299 DEFINITIONS**

### **200 GENERAL LICENSING REQUIREMENTS**

- 200.1 The provisions of this chapter shall be applicable to residential housing businesses (“housing businesses”) as defined in § 199.2.
- 200.2 No person shall operate a housing business, as that term is defined in § 199.2, in any premises in the District of Columbia without first receiving a business license for the premises from the Department of Consumer and Regulatory Affairs (Department).
- 200.3 A housing business licensee shall conspicuously post the license or a copy of the license on the premises indicated on the license, and such license shall be available for inspection by any authorized District government official or any person lawfully residing at the premises.
- 200.4 Each applicant for a housing business license shall, as a condition to the issuance of a license, indicate on the license application the name and contact information of the person responsible for the daily management of the premises, which includes the facilitation of maintenance and repairs. Except for property owners who manage their own premises, such person shall be a property manager licensed in the District of Columbia as provided in Section 204.
- 200.5 The appointment or employment of a person to conduct property maintenance and repairs shall be maintained during the period of time for which a license is issued; whenever any change is made in the appointment or employment of such person, or the contact information for such person, the licensee shall deliver to the Director of the Department of Consumer and Regulatory Affairs a written notice of the change not later than five (5) days after the change.

200.6 For purposes of Chapter 2, the person owning and operating a housing business shall be the owner of the premises where such business is conducted; provided, however, where premises are leased or otherwise legally transferred to another person, and such person (a) is operating a housing business on the premises, or in any part thereof, and (b) is legally responsible for maintenance and repairs of said premises, then such person shall be deemed to be the owner and operator of the housing business.

**201 APPLICABILITY**

201.1 Housing business licenses shall be required for all residential housing businesses, including, but not limited to, the following:

- (a) Rental of a detached one-family dwelling or townhouse for a term of ninety days or more, which shall include the rental of duplexes, individual condominium units, and individual rooms (including individual rooms in a residential building that the licensee also occupies);
- (b) Rental of a basement apartment, or accessory structure in a single-family home where the main residence is occupied by the property owner or another tenant;
- (c) Apartment houses, which shall include the rental of buildings with three (3) or more dwelling units;
- (d) Boarding houses or rooming houses where sleeping accommodations are furnished or offered to guests on a monthly or longer basis; and
- (e) Any part of a building or structure which is rented or offered for residential occupancy for thirty or more consecutive days. ~~Other housing accommodations.~~

201.2 A valid Certificate of Occupancy issued by the Department shall be required at the time of application for licensure, except that a certificate of occupancy shall not be required for a one-family dwelling.

201.3 A housing business license shall not be required for rental to one household for a term of less than ninety (90) days of (a) a detached one-family dwelling, (b) a townhouse, (c) a condominium unit, or (d) an individual room in any of the foregoing.

201.4 Each housing provider, as defined in the Rental Housing Act (D.C. Official Code § 42-3501.03(15) (2014 Supp.)), shall file a registration/claim of exemption with the Department of Housing and Community Development's Rental Accommodations Division at the time of application for licensure, unless excluded pursuant to § 42-3502.05(e) (2012 Repl.).

**202 INSPECTION OF PREMISES**

202.1 As a condition of licensure, the owner or operator of a housing business shall allow the Department, and any other District government agency responsible for enforcement of this title and the Construction Codes, to inspect the premises of its housing business.

202.2 The owner or operator of a housing business shall:

- (a) Comply with all statutes and regulations relating to:
  - (1) Rodents, waste storage and disposal, and maintenance of waste containers;
  - (2) Maintenance of common spaces under the licensee's control so that they are free of trash and debris; and
  - (3) Height of grass or weeds;
- (b) Maintain the premises in a manner that complies with the applicable provisions of the D.C. Official Code, the Property Maintenance Code, the Fire Code, Chapters 1-8 of this title and other applicable District of Columbia laws and regulations pertaining to fire, life safety and public welfare; and
- (c) Comply with all other District of Columbia and federal statutes and regulations that govern housing businesses as applicable.

202.3 The Director shall determine whether a licensee is in compliance with all applicable provisions of the business license laws and regulations and shall require that the building or part of the building to be licensed complies with all laws and regulations.

202.4 In accordance with § 202.1, the Director may develop an inspection program establishing a regular system of inspections for housing business licensees, with more frequent inspections for any licensee found to be in violation of the applicable statutes or regulations.

**203 REGISTERED AGENT FOR NON-RESIDENT LICENSEES**

203.1 Any non-resident person who owns or operates a housing business in the District of Columbia, or a licensee that is a non-resident owner of at least one (1) rental unit in the District of Columbia, shall appoint and continuously maintain a registered agent for service of process.

- 203.2 The non-resident owner or operator shall appoint a registered agent by filing a written statement with the Director on a prescribed form.
- 203.3 The registered agent shall be an individual who is a resident of the District of Columbia or an organization incorporated in the District of Columbia.
- 203.4 The non-resident owner or operator shall, within seven (7) business days of occurrence, file a written statement notifying the Director of any change of registered agent, or any change in name, address or other information about the agent provided pursuant to § 203.2.
- 203.5 Pursuant to D.C. Official Code § 42-903(b)(2) (2012 Repl.) and Mayor’s Order 2002-33, effective February 11, 2002, the Director shall serve as the registered agent for the non-resident owner if:
- (a) A registered agent is not appointed under § 203.1; or
  - (b) The individual or organization appointed under § 203.1 ceases to serve as the resident agent and no successor is appointed.
- 203.6 Pursuant to D.C. Official Code § 42-903(d) (2012 Repl.), a non-resident owner or operator of one (1) or more rental units in the District in violation of this section shall be subject to a penalty of three hundred dollars (\$300).

**204 LICENSED PROPERTY MANAGER REQUIREMENT**

- 204.1 Each housing business licensee shall designate the person responsible for the daily management of the property, which includes the facilitation of maintenance and repairs on the property, as provided in Subsections 200.4 and 200.5.
- 204.2 Except for property owners who manage their own buildings, the person designated under Sections 200.4 and 200.5 shall be licensed as a property manager in accordance with D.C. Official Code § 47-2853.01 *et seq.* (2012 Repl.), and Chapter 26 of Title 17 of the District of Columbia Municipal Regulations.
- 204.3 For purposes of this chapter, the term “property manager” means an agent for the owner of real estate in all matters pertaining to property management, as defined in D.C. Official Code § 47-2853.141 (2012 Repl.), which are under his or her direction, and who is paid a commission, fee, or other valuable consideration for his or her services.
- 204.4 The property manager shall comply with the requirements of D.C. Official Code §§ 47-2853.141 through 47-2853.143 (2012 Repl.), and any regulations issued pursuant thereto.

**205 RENEWAL OF HOUSING BUSINESS LICENSES**

- 205.1 The Director may, upon application by a licensee, issue a renewal of a housing business license subject to subsequent determination that all provisions of the applicable laws and regulations are being observed by the licensee.
- 205.2 The premises of each license renewal applicant shall be subject to the inspection provisions of this chapter.

**206 DENIAL, SUSPENSION, AND REVOCATION OF LICENSES**

- 206.1 Refusal to permit any authorized District of Columbia official to inspect the premises occupied or to be occupied by a housing business shall be cause for withholding the issuance of a license for the premises until such time as inspection is permitted; provided, that the refusal of any residential tenant to permit such an inspection shall not result in the revocation or suspension of the housing business license, nor shall such refusal result in the assessment of penalties against the owner or operator of a housing business.
- 206.2 The Director may refuse to issue or renew, or may suspend or revoke, a license issued under this chapter on any of the following grounds:
- (a) Refusal to permit any authorized District of Columbia official to inspect the premises owned or operated by a licensed housing business;
  - (b) Conviction of the business license holder for any criminal offense involving fraudulent conduct arising out of or based on the business being licensed;
  - (c) Willful or fraudulent circumvention by the business operator of any provision of District statute or regulation relating to the conduct of the business;
  - (d) Operation of the business in violation of the District's Zoning Regulations;
  - (e) Failure to maintain any qualification for licensure;
  - (f) Employment of any fraudulent or misleading device, method, or practice relating to the conduct of the business; or
  - (g) The making of any false statement in the license application.
  - (h) Multiple, uncorrected violations of Chapters 1-8 of this title and the Property Maintenance Code.
- 206.3 All qualifications set forth in this chapter as prerequisite to the issuance of a license shall be maintained for the entire license period.

206.4 [RESERVED]

206.5. Revocations or suspensions of housing business licenses are proposed actions and shall become final upon occurrence of one of the following conditions:

- (a) Fifteen (15) business days after service of the notice of revocation or suspension in accordance with § 206, when the license holder fails to request a hearing from the Office of Administrative Hearings within the filing period prescribed in § 206.11; or
- (b) Upon issuance of an order by the Office of Administrative Hearings affirming the license revocation or suspension following a hearing requested by the license holder pursuant to § 206.11.

206.6 The license holder shall be provided written notice of the code official's order to revoke or suspend the license. This notice shall include the following:

- (a) A copy of the written order;
- (b) A statement of the grounds for revocation or suspension of the license; and
- (c) A statement advising the license holder of the right to appeal the revocation or suspension in accordance with § 206.

206.7 The code official shall effect service of a notice to revoke or suspend a housing business license by one of the following methods:

- (a) Personal service on the license holder or the license holder's agent;
- (b) Delivering the notice to the last known home or business address of the license holder as identified by the license application, the tax records, or business license records, and leaving it with a person over the age of sixteen (16) residing or employed therein;
- (c) Mailing the notice, via first class mail at least ten (10) days prior to the date of the proposed action, to the last known home or business address of the license holder or the license holder's agent as identified by the license application, the tax records, or business license records; or
- (d) If the notice is returned as undeliverable by the Post Office authorities, or if no address is known or can be ascertained by reasonable diligence, by posting a copy of the notice in a conspicuous place in or about the structure affected by such notice.

206.8 For the purposes of this section, respondent's agent shall mean a general agent, employee, registered agent or attorney of the respondent.

- 206.9 Once the initial notice has been served:
- (a) The respondent shall notify the Department within five (5) days of service of all changes of address or of a preferred address to receive all future notices regarding the revocation. This notification by the respondent shall be in writing; and
  - (b) All other notices, orders, or any other information regarding the revocation may be sent by the Department via first class mail.
- 206.10 The license holder may request a hearing by the Office of Administrative Hearings (OAH) as provided in § 206.11.
- 206.11 The license holder may appeal a notice of revocation or suspension to the Office of Administrative Hearings (OAH) no later than ten (10) business days after service upon the license holder of written notice of the revocation or suspension, pursuant to Chapter 18A of Title 2 of the D.C. Official Code (D.C. Official Code §§ 2-1801.01 *et seq.* (2012 Repl. & 2014 Supp.)) and any regulations promulgated thereunder.
- 206.12 Within ten (10) business days after the revocation or suspension of a housing business license becomes final in accordance with § 206.5, DCRA shall notify the Rent Administrator of the revocation or suspension, and shall provide the Rent Administrator with a copy of the code official's notice of revocation or suspension, or a copy of the OAH decision relating thereto.
- 206.13 The Director's refusal to issue or renew a housing business license may be appealed to OAH pursuant to the provisions of § 102.1.

## **207 LICENSE AND USER FEES**

- 207.1 The Department is authorized to collect
- An annual rental unit fee in the amount of twenty-one dollars and fifty cents (\$21.50) per rental unit as established by the Rental Housing Act (D.C. Official Code § 42-3504.01 (2012 Repl. & 2014 Supp.)) which shall be collected at the initial issuance of the housing business license and biennially at the renewal of the license in an amount of forty-three dollars (\$43) per rental unit.
- 207.2 The Department is authorized to establish and collect the following fees, applicable to housing businesses, in addition to the fees required for obtaining the business license:
- (a) A re-inspection fee of one hundred twenty dollars (\$120) pursuant to D.C. Official Code § 42-3131.01(d) (2012 Repl.), for each re-inspection of a housing business premises to determine whether noted violations of this

title or the Construction Codes including, but not limited to, Property Maintenance Code violations, have been abated. The fee shall be collected after the re-inspection has occurred.

- (b) An initial administrative fee of one hundred seventy-five dollars (\$175) for any abatement undertaken by the Department to correct conditions violative of this title or the Construction Codes. This fee shall be in addition to the actual cost of the abatement or the fair market value of the abatement, whichever is higher, and all expenses incident thereto, as authorized by D.C. Official Code § 42-3131.01(d) (2012 Repl.) Where the corrective actions are undertaken by Department employees, each person-hour of labor performed on the abatement shall be assessed at the rate of sixty dollars (\$60).
- (c) To cover the cost of the Department's proactive inspection program, a fee of fifty dollars (\$50) per unit on rental accommodations of three (3) units or more shall be charged at the issuance and renewal of the license. The maximum fee for each building owned or operated by the licensee shall be two thousand five hundred dollars (\$2,500) every two years. The Department is authorized, at the Director's discretion, to combine the proactive inspection fee with the fees for housing business license issuance and renewal in order to facilitate billing and collection of the fees.

## 299

### DEFINITIONS

- 299.1 The provisions and definitions set forth in § 199 shall be applicable to this chapter.

### CHAPTER 3: LEASES AND SECURITY DEPOSITS

#### SECTION

- 300 LEASE PROVISIONS**
- 301 IMPLIED WARRANTY AND OTHER REMEDIES**
- 302 VOIDING LEASE FOR VIOLATIONS OF PROPERTY MAINTENANCE CODE**
- 303 SIGNED COPIED OF AGREEMENTS AND APPLICATIONS**
- 304 PROHIBITED WAIVER CLAUSES IN LEASE AGREEMENTS**
- 305 INSPECTION OF PREMISES AFTER BREACH OF WARRANTY OR VOIDED LEASE**
- 306 WRITTEN RECEIPTS FOR PAYMENTS BY TENANT**
- 307 PROHIBITION OF RETALIATORY ACTS AGAINST TENANTS**
- 308 SECURITY DEPOSITS**
- 309 REPAYMENT OF SECURITY DEPOSITS TO TENANTS**
- 310 RETURN OF SECURITY DEPOSIT: INSPECTION OF PREMISES**
- 311 INTEREST ON SECURITY DEPOSIT ESCROW ACCOUNTS**
- 312 [RESERVED]**
- 313 [RESERVED]**
- 314 [RESERVED]**
- 315 DISCLOSURES REQUIRED**
- 399 DEFINITIONS**

#### **300 LEASE PROVISIONS**

- 300.1 Every owner of a rental unit shall advise each tenant in writing, either in the lease between the parties or otherwise, of the maximum number of occupants permitted in the rental unit leased or rented to that tenant.
- 300.2 The owner of a rental unit shall, at the commencement of any tenancy, provide to each tenant a copy of the provisions of Chapter 3 and a copy of the following sections of Chapter 1 of this title:
  - (a) Section 101 (Enforcement and Penalties); and
  - (b) Section 107 (Copies of Notices and Orders).

#### **301 IMPLIED WARRANTY AND OTHER REMEDIES**

- 301.1 There shall be deemed to be included in the terms of any lease or rental agreement covering a rental unit an implied warranty that the owner will maintain the premises in compliance with the Property Maintenance Code and Chapters 1-8 of this title. Nothing herein shall be deemed to nullify or supersede any tenant maintenance responsibilities established by the Property Maintenance Code or Chapters 1-8 of this title.

301.2 The rights, remedies, and duties set forth in this chapter and the Property Maintenance Code shall not be deemed to be exclusive of one another unless expressly so declared or to preclude a court of law from determining that practices, acts, lease provisions and other matters not specifically dealt with in this chapter are contrary to public policy, unconscionable, or otherwise unlawful.

**302 VOIDING LEASE FOR VIOLATION OF THE PROPERTY MAINTENANCE CODE**

302.1 The leasing of any rental unit, including associated common space, which the owner knows or should reasonably know at the beginning of the tenancy is unsafe or unsanitary due to violations of the Property Maintenance Code or Chapters 1-8 of this title (whether or not those violations are the subject of a notice issued under the Property Maintenance Code or Chapters 1-8), shall render void the lease or rental agreement for the rental unit.

302.2 After the beginning of the tenancy, if the rental unit becomes unsafe or unsanitary due to violations of the Property Maintenance Code or Chapters 1-8 of this title within that unit or in the common space of the premises (whether or not the violations are the subject of a notice issued under the Property Maintenance Code or Chapters 1-8 of this title), the lease or rental agreement for the unit shall be rendered void if both of the following apply:

- (a) The violations did not result from the intentional acts or negligence of the tenant or his or her invitees or guests; and
- (b) The violations are not corrected within the time allowed for correction under a notice or order issued pursuant to the Property Maintenance Code or Chapters 1-8 of this title (or, if a notice or order has not been issued, within a reasonable time after the owner or operator has knowledge or reasonably should have knowledge of the violations).

**303 SIGNED COPIES OF AGREEMENTS AND APPLICATIONS**

303.1 In each lease or rental of a rental unit entered into after June 12, 1970, the owner or operator shall provide to the tenant upon execution (or within seven (7) days after execution) an exact, legible, completed copy of any agreement or application which the tenant has signed.

303.2 This section shall not be subject to the notice requirements of Section 107 of Chapter 1 of this title.

**304 PROHIBITED WAIVER CLAUSES IN LEASE AGREEMENTS**

- 304.1 Any provision of any lease or agreement contrary to, or providing for a waiver of, the terms of this chapter, or § 101 of Chapter 1, or § 107.7 of the Property Maintenance Code shall be void and unenforceable.
- 304.2 No person shall cause any provision prohibited by this section to be included in a lease or agreement respecting the use of the property in the District of Columbia, or demand that any person sign a lease or agreement containing any such provision.
- 304.3 No owner shall cause to be placed in a lease or rental agreement any provision exempting the owner or premises from liability or limiting the liability of the owner or the residential premises from damages for injuries to persons or property caused by or resulting from the negligence of the owner (or the owner's agents, servants, or employees) in the operation, care, or maintenance of the leased premises, or any facility upon or portion of the property of which the leased premises are a part.
- 304.4 No owner shall place (or cause to be placed) in a lease or rental agreement a provision waiving the right of a tenant of residential premises to a jury trial, or requiring that the tenant pay the owner's court costs or legal fees, or authorizing a person other than the tenant to confess judgment against a tenant. This subsection shall not preclude a court from assessing court or legal fees against a tenant in appropriate circumstances.
- 304.5 The provisions of this section shall not be subject to any notice requirements of Section 107 of Chapter 1 of this title.

**305 INSPECTION OF PREMISES AFTER BREACH OF WARRANTY OR VOIDED LEASE**

- 305.1 Following a judicial determination that the owner has breached the implied warranty of habitability applying to the premises (under § 301 of this chapter), or following a judicial determination that a lease or rental agreement is void (under § 301 of this chapter), the owner shall obtain a certificate from the Director that the housing accommodation is in compliance with the Property Maintenance Code prior to the next reletting of the rental units subject to the judicial determination.

**306 WRITTEN RECEIPTS FOR PAYMENTS BY TENANT**

- 306.1 In each lease or rental of a rental unit, the owner shall provide written receipts for all monies paid to him or her by the tenant as rent, security, or otherwise, unless the payment is made by personal check.
- 306.2 Each receipt issued under this section shall state the following:
- (a) The exact amount received;

- (b) The date the monies are received; and
- (c) The purpose of the payment.

306.3 Each receipt shall also state any amounts still due which are attributable to late charges, court costs, or any other such charge in excess of rent.

306.4 If payment is made by personal check, and there is a balance still due which is attributable to late charges, court costs, or any other such charge in excess of rent, the owner shall provide a receipt stating the nature of the charges and the amount due.

306.5 The provisions of this section shall not be subject to the notice requirements of § 107 of Chapter 1 of this title.

### **307 PROHIBITION OF RETALIATORY ACTS AGAINST TENANTS**

307.1 No action or proceeding to recover possession of a rental unit may be brought against a tenant, nor shall an owner otherwise cause a tenant to quit a rental unit involuntarily, in retaliation for any of the actions listed in § 307.3.

307.2 No demand for an increase in rent from the tenant, nor decrease in the services to which the tenant has been entitled, nor increase in the obligations of a tenant shall be made in retaliation against a tenant for any of the actions listed in § 307.3.

307.3 This section prohibits retaliation by an owner or an agent of an owner against a tenant for taking any of the following actions:

- (a) The making of a good faith complaint or report to the owner or a governmental authority concerning housing deficiencies, directly by the tenant or through a tenant organization;
- (b) The good faith organization of a tenant organization, or membership in a tenant organization;
- (c) The good faith assertion of rights under Chapters 1-8 of this title, including rights under § 301 and § 302 of this chapter, and § 101 of Chapter 1.

### **308 SECURITY DEPOSITS**

308.1 For purposes of this chapter, the term “security deposit” shall mean all monies paid to the owner by the tenant as a deposit or other payment made as security for performance of the tenant’s obligations in a lease or rental of the property.

- 308.2 Any security deposit or other payment required by an owner as security for performance of the tenant's obligations in a lease or rental of a rental unit shall not exceed an amount equivalent to the first full month's rent charged to that tenant for the unit, and shall be charged only once by the owner to the tenant with regard to that unit.
- 308.3 All monies paid to an owner by tenants for security deposits or other payment made as security for performance of the tenant's obligations shall be deposited by the owner in an interest bearing escrow account established and held in trust in a financial institution in the District of Columbia insured by a federal or state agency for the sole purposes of holding such deposits or payments.
- 308.4 The owner of more than one residential building may establish one (1) escrow account for holding security deposits or other payments by the tenants of those buildings.
- 308.5 For each security deposit or other payment covered by this section, the owner shall clearly state in the lease or agreement or on the receipt for the deposit or other payment the terms and conditions under which the payment was made.
- 308.6 The housing business provider shall post in the lobby of the building and rental office at the end of each calendar year, the following information: where the tenants' security deposits are held and what the prevailing rate was for each six-month period over the past year. At the end of a tenant's tenancy, the housing provider shall list for the tenant the interest rate for each six-month period during the tenancy.
- 308.7 The provisions of this section shall not be applicable to Federal or District of Columbia agencies' dwelling units leased in the District of Columbia, or to units for which rents are Federally-subsidized.
- 308.8 The Office of Administrative Hearings (OAH) is authorized to adjudicate complaints for the non-return of tenant security deposits and for the nonpayment of interest on tenant security deposits.

**309 REPAYMENT OF SECURITY DEPOSITS TO TENANTS**

- 309.1 Within forty-five (45) days after the termination of the tenancy, the owner shall do one of the following:
- (1) Tender payment to the tenant, without demand, of any security deposit and any similar payment paid by the tenant as a condition of tenancy in addition to the stipulated rent, and any interest due the tenant on that deposit or payment as provided in § 311; or

- (2) Notify the tenant in writing, to be delivered to the tenant personally or by certified mail at the tenant's last known address, of the owner's intention to withhold any security deposit or other monies and apply the monies toward defraying the cost of expenses properly incurred under the terms and conditions of the security deposit agreement.

309.2 The owner, within thirty (30) days after notifying the tenant pursuant to § 309.1 (2) of the owner's intention to withhold the security deposit or other monies, shall tender a refund of the balance of the deposit or other payment, including interest not used to defray such expenses, and at the same time give the tenant an itemized statement of the repairs and other uses to which the monies were applied and the cost of each repair or other use.

309.3 Failure by the owner to comply with § 309.1 and § 309.2 of this section shall constitute prima facie evidence that the tenant is entitled to full return, including interest as provided in § 311, of any deposit or other payment made by the tenant as security for performance of his or her obligations or as a condition of tenancy, in addition to the stipulated rent.

309.4 Failure by the owner to serve the tenant personally or by certified mail, after good faith effort to do so, shall not constitute a failure by the owner to comply with § 309.1 and § 309.2.

309.5 (a) Any housing provider violating the provisions of this section by failing to return a security deposit rightfully owed to a tenant in accordance with the requirements of this section shall be liable for the amount of the deposit withheld or, in the event of bad faith, for treble that amount.

- (b) For the purposes of this paragraph, the term "bad faith" means any frivolous or unfounded refusal to return a security deposit or other similar payment, as required by law, that is motivated by a fraudulent, deceptive, misleading, dishonest, or unreasonably self-serving purpose and not by simple negligence, bad judgment, or an honest belief in the course of action taken.

**310 RETURN OF SECURITY DEPOSIT: INSPECTION OF PREMISES**

310.1 In order to determine the amount of the security deposit or other payment to be returned to the tenant, the owner may inspect the rental unit within three (3) days, excluding Saturdays, Sundays, and holidays, before or after the termination of the tenancy.

310.2 The owner or owner's agent shall conduct the inspection, if the inspection is to be conducted, at the time and place specified in the notice provided to the tenant pursuant to this section.

- 310.3 The owner shall notify the tenant in writing of the time and date of the inspection.
- 310.4 The notice of inspection shall be delivered to the tenant, or at the rental unit in question, at least ten (10) days before the date of the intended inspection.

**311 INTEREST ON SECURITY DEPOSIT ESCROW ACCOUNTS**

- 311.1 The interest in the escrow account described in § 308.3 on all money paid by the tenant prior to or during the tenancy as a security deposit, decorating fee, or similar deposit or fee, shall commence on the date the money is actually paid by the tenant and shall accrue at not less than the statement savings rate then prevailing on January 1st and on July 1st for each six- (6-) month period (or part thereof) of the tenancy which follows those dates. On those dates, the statement savings rate in the District of Columbia financial institution in which the escrow account is held shall be used. All interest earned shall accrue to the tenant except as provided in § 309.
- 311.2 Interest on an escrow account shall be due and payable by the owner to the tenant upon termination of any tenancy of a duration of twelve (12) months or more, unless an amount is deducted under procedures set forth in § 309.1 and § 309.2. Any housing provider violating the provisions of this section by failing to pay interest on a security deposit escrow account that is rightfully owed to a tenant in accordance with the requirements of this section, shall be liable to the tenant, as applicable, for the amount of the interest owed, or in the event of bad faith, for treble that amount. For the purposes of this paragraph, the term ‘bad faith’ means any frivolous or unfounded refusal to pay the interest on the security deposit, as required by law, that is motivated by a fraudulent, deceptive, misleading, dishonest, or unreasonably self-serving purpose and not by simple negligence, bad judgment, or an honest belief in the course of action taken. Any housing provider who willfully violates the provisions of this section by failing to pay interest on a security deposit escrow account that is rightfully owed to a tenant in accordance with the requirements of this section shall be subject to a civil fine of not more than \$5,000 for each violation.
- 311.3 If the housing provider invests the security deposit in an account with an interest rate that exceeds that of the statement savings rate as required in § 311.1, the housing provider may apply up to thirty percent (30%) of the excess interest for administrative costs or other purposes.
- 311.4 Except in cases where no interest is paid to the tenant as provided in § 311.2, the owner shall not assign the account or use it as security for loans.
- 311.5 It is the intent of this section that the account referred to in this section and § 309 shall be used solely for the purpose of securing the lessees’ performance under the lease.

311.6 Sections 309-311 shall not be subject to the notice requirements of § 107 of Chapter 1 of this title.

**312 [RESERVED]**

**313 [RESERVED]**

**314 [RESERVED]**

**315 DISCLOSURES REQUIRED**

315.1 At the time a prospective tenant files an application to lease any rental unit, and prior to the acceptance of a nonrefundable application fee or security deposit, the owner of the housing business shall provide the disclosures required by § 222 of the Rental Housing Act (D.C. Official Code § 42-3502.22(b)(1)).

315.2 A violation of this section shall be adjudicated pursuant to D.C. Official Code §42-3502.04(b) (2012 Repl.).

**399 DEFINITIONS**

399.1 The provisions and definitions set forth in § 199 shall be applicable to this chapter.

## CHAPTER 4: RESPONSIBILITIES OF HOUSING BUSINESSES

### SECTION

#### 401 RESPONSIBILITIES OF HOUSING BUSINESSES

#### 499 DEFINITIONS

#### 401 RESPONSIBILITIES OF HOUSING BUSINESSES

401.1 The owner or operator of a housing business shall comply with the provisions of this title and of the Property Maintenance Code as applicable including, but not limited to, the following provisions of the Property Maintenance Code:

- (a) Exterior Property Areas (12-G DCMR § 302);
- (b) Exterior Structure (12-G DCMR 304);
- (c) Interior Structure (12-G DCMR § 305);
- (d) Pest Elimination (12-G DCMR § 309);
- (e) Light, Ventilation and Occupancy Limitations (12-G DCMR Chapter 4);
- (f) Plumbing Facilities and Fixture Requirements (12-G DCMR Chapter 5);
- (g) Mechanical and Electrical Requirements (12-G DCMR Chapter 6); and
- (h) Fire Safety Requirements (12-G DCMR Chapter 7).

401.2 The provisions of the Property Maintenance Code are intended to supersede any property maintenance provisions now or previously set forth in Title 14 applicable to housing businesses, and, any such property maintenance provisions shall be enforced pursuant to the administrative and enforcement provisions set forth in Chapter 1 of the Property Maintenance Code.

401.3 No owner or operator of a housing business shall rent or offer to rent or permit the occupancy of any rental unit which is in violation of the provisions of the Property Maintenance Code or Chapters 1-8 of this title.

401.4 The owner or operator of a housing business, in addition to any duties imposed upon such owner or operator by Chapters 1-8 of this title, shall be responsible for compliance with the requirements of the Property Maintenance Code, except insofar as responsibility for compliance is imposed upon the tenant alone pursuant to the provisions of the Property Maintenance Code or this title.

401.5 No person shall rent or offer for rent any part of a building or structure for residential occupancy, or operate any housing business in any building, or part of a building, in which there is another business, trade, or commercial activity from which noxious gases, fumes, mists, vapors, dusts, offensive odors, or excessive noises arise or are generated.

401.6 The owner or operator of a housing business shall provide to each tenant, when the tenant first enters into possession of a rental unit, an adequate lock and key for each door used or capable of being used as an entrance to or egress from the unit, and shall keep each lock in good repair. Each lock shall be capable of being locked from inside and outside the unit.

401.7 When furnished by the operator of a housing business, mattresses shall not be made of moss, sea grass, excelsior, husks, or shoddy.

**499 DEFINITIONS**

499.1 The provisions and definitions set forth in § 199 shall be applicable to this chapter.

## CHAPTER 5: TENANT RESPONSIBILITIES

### SECTION

#### 501 RESPONSIBILITIES OF TENANTS

#### 599 DEFINITIONS

#### 501 RESPONSIBILITIES OF TENANTS

501.1 A tenant shall be responsible for complying with the provisions of this title and the Property Maintenance Code that are applicable to him or her including, but not limited to, the following provisions of the Property Maintenance Code:

- (a) Rubbish and Garbage (12-G DCMR § 308);
- (b) Pest Elimination (12-G DCMR § 309); and
- (c) Defacement of Property (12-G DCMR § 302.9).

In addition, the tenant shall be responsible for a violation of the Property Maintenance Code and this title to the extent that he or she has the power to prevent the occurrence of the violation. A tenant has the power to prevent the occurrence of a violation if the violation is caused by the tenant's intentional acts or negligence, or the intentional acts or negligence of the tenant's invitees or guests, including any and all persons occupying or visiting the tenant's habitation with the express or implied permission of the tenant.

The fact that a tenant is or may be liable for a violation of the Property Maintenance Code or any other law or is found liable for civil or criminal penalties does not relieve the owner of the obligation to keep the premises, and every part thereof, in good repair, and to comply with all applicable provisions of this title and the Property Maintenance Code.

501.2 In addition to the tenant's responsibilities under § 501.1, the tenant shall specifically be responsible for the following:

- (a) Keeping the part of the premises that the tenant occupies and uses, including common areas, as clean and sanitary as the conditions of the premises permit;
- (b) Disposing from the tenant's rental unit all rubbish, garbage, and other organic or flammable waste in a clean, safe, and sanitary manner;
- (c) Keeping all plumbing fixtures as clean and sanitary as the condition of those fixtures permits;

- (d) Properly using and operating all electrical, gas, plumbing, and heating fixtures and appliances.
- (e) Providing as needed for the tenant's own use sufficient, lawful and separate receptacles for the storage of ashes, garbage, ~~recyclable materials~~, and refuse in the tenant's rental unit.
- (f) Placing all garbage, refuse, ~~recyclable materials~~, and ashes from each rental unit in receptacles and transferring to the designated place of common storage on the premises, unless the collection and transfer is provided by the owner or operator.

501.3 A tenant shall not do, or permit any person on the premises with the tenant's permission to do, any of the following:

- (a) Willfully or wantonly destroy, deface, damage, impair, or remove any part of the premises, structure or dwelling unit; or
- (b) Willfully or wantonly destroy, deface, damage, impair, or remove any part of the facilities, equipment, or appurtenances to the dwelling unit.

501.4 Nothing herein shall supersede or abrogate housing provider or tenant responsibilities under other laws or regulations, including, but not limited to, The District of Columbia Solid Waste Management and Multi-Material Recycling Act of 1988 and its implementing regulations, D.C. Code §§8-1007, 8-1017; 21 DCMR §§ 2001, 2003, 2010, 2021, 2036, 2061.

**599 DEFINITIONS**

599.1 The provisions and definitions set forth in § 199 shall be applicable to this chapter.

Formatted: Font: Times New Roman, 12 pt

Formatted: Font: Times New Roman, 12 pt

Formatted: Indent: Hanging: 1"

Formatted: Font: Times New Roman, 12 pt

## **CHAPTER 6: APARTMENTS AND APARTMENT HOUSES**

### **SECTION**

#### **600 GENERAL PROVISIONS**

#### **601 REGISTRATION OF TENANTS**

#### **602 POSTING OF INFORMATION ON BUILDING MANAGEMENT**

#### **603 DESIGNATION OF APARTMENTS**

#### **604 ELEVATOR MAINTENANCE**

#### **699 DEFINITIONS**

#### **600 GENERAL PROVISIONS**

600.1 The provisions of this chapter shall be applicable to every building or part of a building occupied, used, or held out for use as an apartment house.

600.2 The provisions of the Property Maintenance Code and Chapters 1 through 6 of this title shall be applicable to premises used or held out for use as an apartment house.

600.3 No apartment house shall be operated without a valid housing business license in accordance with Chapter 2 of this title.

#### **601 REGISTRATION OF TENANTS**

601.1 The owner of an apartment house shall establish and maintain, within five (5) business days after the opening of the business, a book, books, record, or records in which shall be written in English the name of each tenant of every apartment in the apartment house together with the address of the apartment house and the number of the apartment in which the tenant is residing.

601.2 The registration book, books, record, or records shall be kept current and in good repair at all times within the District of Columbia, and shall be open for inspection by the departments of the District government responsible for enforcement of District laws and regulations.

#### **602 POSTING OF INFORMATION ON BUILDING MANAGEMENT**

602.1 The owner of an apartment house shall provide information regarding the building management in a notice framed under clear glass or plastic, and shall post the notice or cause the notice to be posted in a conspicuous place in the apartment building to which the notice applies.

602.2 The notice shall contain the name, address and the telephone number of a responsible representative of the building management who may be reached in the event of complaints or emergency situations.

602.3 The notice shall also contain information regarding the manner in which that representative or an alternate representative may be reached after normal working hours and on Sundays and holidays.

### **603 DESIGNATION OF APARTMENTS**

603.1 Each apartment entrance door shall be distinctively numbered or lettered and all other rooms in the apartment buildings shall be distinctively identified.

603.2 The provisions of this section shall not apply to rooms in individual apartments.

603.3 The owner of each apartment house shall maintain and provide the tenants of each apartment the use of a secure mail receptacle which has been approved by the United States Postal Service.

603.4 Each receptacle, other than those in an apartment house that has twenty-four (24) hour-a-day desk clerk service, shall be required to have a lock that will enable it to be secured and the owner shall provide each tenant with a key to the lock.

603.5 Installation, security specifications, and maintenance of mail receptacles shall be consistent with the requirements of postal service laws and regulations.

603.6 The owner shall be responsible for the proper installation of mail receptacles, and shall maintain the same in safe and good working condition.

603.7 In the event of disrepair, the owner shall have a reasonable time (not to exceed seven (7) working days) to repair mail receptacles.

### **604 ELEVATOR MAINTENANCE**

604.1 In apartment buildings equipped with passenger elevators, the owner shall maintain at least one (1) elevator in operation at all times when the building is occupied.

604.2 Alteration, repair and maintenance of existing elevators shall comply with the Construction Codes as applicable.

### **605 NOISE**

605.1 Noise levels for construction or demolition activity shall comply ~~Where construction work is conducted in an occupied rental unit within an apartment building, the owner shall comply~~ with the District of Columbia Noise Control Act of 1977,

~~effective December 30, 1977~~ (D.C. Law 2-53; 24 DCR 5293 (December 30, 1977) as amended) and Title 20 of the DCMR, ~~(DCMR Title 20,~~ Chapters 27-29).

605.2 In any case where ~~noise from~~ construction, repair, or maintenance work ~~will continue over a period of more than forty-eight (48) hours from the time the work is first initiated until the conclusion of the job (including periods of time when no work is being done) and the noise from the work will exceed sixty (60) decibels,~~ the owner landlord shall provide the affected tenants with not less than five (5) days written notice of any the construction, repair, or maintenance work where (a) ; the work will continue over a period of more than forty-eight (48) hours from the time the work is first initiated until the conclusion of the job (including periods of time when no work is being done); and (b) the noise from the work will exceed sixty (60) decibels. The notice shall ~~including~~ the dates and times that the work will occur and a description of the work to be done. ~~;~~ provided, that Emergency work which is necessary to restore property to a safe condition following a public calamity or act of God, or work required to protect the health and safety of persons, is not subject to noise limits and shall be undertaken promptly and shall not require advance written notice.

605.3 The notice provisions of Section 605.2 shall not supersede or abrogate the maximum noise levels otherwise established by Title 20 of the DCMR.

## 699 DEFINITIONS

699.1 The provisions and definitions set forth in § 199 shall be applicable to this chapter.

## CHAPTER 7: TRANSIENT HOUSING BUSINESSES

### SECTION

- 700 GENERAL PROVISIONS**
- 701 RESIDENT MANAGER**
- 702 REGISTRATION AND ROOM ASSIGNMENT**
- 703 ROOM KEYS**
- 704 VERMIN**
- 705 BEDDING AND TOWELS**
- 706 FOOD SAFETY PROVISIONS**
- 707 POSTING OF RATES AND OCCUPANCY LOADS**
- 799 DEFINITIONS**

### **700 GENERAL PROVISIONS**

- 700.1 The provisions of this chapter shall be applicable to every building or part of a building occupied, used, or offered for lodging.
- 700.2 The provisions of the Property Maintenance Code and Chapters 1, 7 and 8 of this title shall apply to premises used or held out for use as lodging.
- 700.3 Owners and operators of hotels, motels, inns and other lodging must obtain a transient housing business license in accordance with Chapter 8 of this title and D.C. Official Code § 47-2828 (2012 Repl.). Lodging shall not be provided in a building or part of any building, including a dwelling that the owner also occupies, without a valid transient housing business license in accordance with Chapter 8.
- 700.4 The owner or operator of a transient housing business shall comply with the provisions of this title and of the Property Maintenance Code as applicable including, but not limited to, the following provisions of the Property Maintenance Code:
  - (a) Exterior Property Areas (12-G DCMR § 302);
  - (b) Exterior Structure (12-G DCMR §304);
  - (c) Interior Structure (12-G DCMR § 305);
  - (d) Pest Elimination (12-G DCMR § 309);
  - (e) Light, Ventilation and Occupancy Limitations (12-G DCMR Chapter 4);
  - (f) Plumbing Facilities and Fixture Requirements (12-G DCMR Chapter 5);
  - (g) Mechanical and Electrical Requirements (12-G DCMR Chapter 6); and

(h) Fire Safety Requirements (12-G DCMR Chapter 7).

700.5 The provisions of the Property Maintenance Code shall supersede any conflicting property maintenance provisions now or previously set forth in Title 14 applicable to transient housing businesses, and, any such property maintenance provisions shall be enforced pursuant to the administrative and enforcement provisions set forth in Chapter 1 of the Property Maintenance Code.

700.6 For purposes of Chapters 7 and 8, the person owning and operating a transient housing business shall be the owner of the premises where such business is conducted; provided, however, if the premises used to conduct a transient housing business are leased or otherwise controlled by a person who is not the property owner, and such person is legally responsible for maintenance and repairs of said premises, then such person shall be deemed to be the owner and operator of the housing business.

**701 RESIDENT MANAGER**

701.1 If the owner of the premises does not reside in person on the premises and does not superintend in person the operation or conduct of the lodging, the owner shall designate a manager or other person who is responsible for the premises.

701.2 The designated manager or other person shall reside on the premises, shall superintend in person the operation or conduct of the lodging, and shall have complete charge of the premises. Notwithstanding the foregoing, the manager of a hotel or motel shall not be required to reside on the premises.

**702 REGISTRATION AND ROOM ASSIGNMENT**

702.1 Each person who owns or operates a transient housing business shall at all times keep a register in which there shall be maintained the following information:

- (a) The name of each person occupying a room; and
- (b) The date of arrival and date of departure of each person occupying a room.

702.2 Each room shall be numbered, and the number shall be indicated in the register.

702.3 No fictitious names shall knowingly be entered in the register.

702.4 No room shall be assigned to persons of different genders without their express consent, except in the case of children accompanied by parent or guardian.

702.5 The register shall be available for inspection by officials of the District of Columbia.

**703 ROOM KEYS**

- 703.1 The entrance door to each rooming, housekeeping, or sleeping unit shall be provided with a lock.
- 703.2 A key for each unit shall be furnished to each respective lodger.
- 703.3 A duplicate key or keys shall be retained by the proprietor or manager.
- 703.4 The owner or manager shall have access to all units at all reasonable hours.

**704 VERMIN**

- 704.1 All food in sleeping rooms shall be kept in vermin-proof containers.
- 704.2 All preparations used for the extermination of vermin, such as sodium fluoride, shall be conspicuously colored and kept in containers clearly labeled "POISON".
- 704.3 Containers of poison shall not be placed with receptacles containing spices or condiments or other food substances.

**705 BEDDING AND TOWELS**

- 705.1 It shall be the duty of the lodging owner or operator to thoroughly clean any room which has been allocated to the use of any person before allocating the use of that room to another person.
- 705.2 All bedding shall be kept in a clean and sanitary condition.
- 705.3 Each new lodger shall be provided with clean and fresh bed linens, and towels, unused by any other person or guest since the last laundering, and with sufficient soap for ordinary use.
- 705.4 Each lodger shall be provided with an adequate supply of clean towels, sheets and pillowcases that are changed daily, except at facilities where housekeeping is the responsibility of the lodger. Where the lodger agrees in writing, the lodging owner or operator is allowed to change linens and towels on another regular schedule, not to exceed one week between changes.
- 705.5 The requirements of § 705.3 and § 705.4 shall not apply if the lodger agrees in writing to furnish his or her own linens and towels.

**706 FOOD SAFETY PROVISIONS**

- 706.1 Owners and operators of transient housing businesses may be required to comply with food safety requirements including, but not limited to, the Food Safety Code, 25-A DCMR.
- 706.2 It shall be unlawful for any person in the District of Columbia to operate a transient housing business where meals or lunches are served to ten (10) or more persons without having received certification from a nationally recognized and accredited organization as a food protection manager or without employing or contracting the services of a certified food protection manager.
- 706.3 The Department of Health shall have full power and authority at any time to make any examinations and tests which may be necessary to determine whether any food handler has a disease in a communicable form or is a carrier of a communicable disease.
- 706.4 It shall be the duty of all food handlers to submit to examination at the request of the Department of Health, and any food handler who refuses to submit to an examination shall not be employed or continue to be employed as a food handler in any transient housing business.
- 706.5 No person knowing himself or herself to be afflicted with disease in a communicable form shall work as a food handler in any transient housing business.
- 706.6 Except with the approval of the Department of Health, no operating proprietor or manager of any transient housing business shall employ or continue to employ any person as a food handler if the operating proprietor or manager has reason to suspect the person is afflicted with disease in a communicable form.
- 707 POSTING OF RATES AND OCCUPANCY LOAD**
- 707.1 The owner or operator of each hotel, motel, inn or other lodging shall post in a conspicuous place within each rooming, housekeeping or sleeping unit a card stating the maximum number of occupants permitted in that room under this title.
- 707.2 The owner or operator of each hotel, motel, inn or other lodging shall post in a conspicuous place within each rooming, housekeeping or sleeping unit a card stating the maximum rates charged for that unit under varying conditions of occupancy.
- 707.3 Occupancy of hotels, motels and other lodging shall be in accordance with the Property Maintenance Code.
- 799 DEFINITIONS**
- 799.1 The provisions and definitions set forth in § 199 shall be applicable to this chapter.

## CHAPTER 8: TRANSIENT HOUSING BUSINESS LICENSES

### SECTION

- 800 GENERAL LICENSING REQUIREMENTS**
- 801 APPLICABILITY**
- 802 INSPECTION OF PREMISES**
- 803 REGISTERED AGENT FOR NON-RESIDENT LICENSEES**
- 804 LICENSING OF PROPERTY MANAGERS**
- 805 RENEWAL OF TRANSIENT HOUSING BUSINESS LICENSES**
- 806 DENIAL, SUSPENSION AND REVOCATION OF LICENSES**
- 807 LICENSE AND USER FEES**
- 899 DEFINITIONS**

### **800 GENERAL LICENSING REQUIREMENTS**

- 800.1 No person shall operate a transient housing business, as that term is defined in § 199.2, in any premises in the District of Columbia without first receiving a business license or license endorsement as a transient housing business for the premises from the Department, unless exempted by this Chapter 8.
- 800.2 A transient housing business licensee shall conspicuously post the license or a copy of the license on the premises indicated on the license, and such license shall be available for inspection by any authorized District government official or any person lawfully residing at the premises.
- 800.3 Each applicant for a transient housing business license shall, as a condition to the issuance of a license, indicate on the license application the name and contact information of the person responsible for the daily management of the premises, which includes the facilitation of maintenance and repairs. Except for property owners who manage their own premises, such person shall be a property manager licensed in the District of Columbia in accordance with § 804.
- 800.4 The appointment or employment of a property manager, as required by § 800.3, shall be maintained during the period of time for which a license is issued. If any change is made in the appointment or employment of a property manager, or in the contact information for such person, the licensee shall deliver to the Director of the Department of Consumer and Regulatory Affairs a written notice not later than five (5) days after the change.

### **801 APPLICABILITY**

- 801.1 Transient housing business licenses shall be required for all lodging, including, but not limited to, the following:
  - (a) Hotels;

- (b) Motels;
- (c) Bed and breakfast establishments;
- (d) Hostels;
- (e) Rooming houses and boarding houses where sleeping accommodations are furnished or offered to transient guests; and
- (f) Corporate or short-term stay apartments;
- (g) Other lodging, unless exempted by this title.

801.2 A valid Certificate of Occupancy issued by the Department shall be required at the time of application for licensure, except that a certificate of occupancy shall not be required for a one-family dwelling.

801.3 Where use of residential premises for lodging is authorized as a home occupation use under the District of Columbia Zoning Regulations, 11 DCMR, the owner shall obtain a home occupation permit. The Department is also authorized to require a transient housing business license.

801.4 Operation of hotels, motels, inns, rooming houses, boarding houses, bed and breakfast establishments and other lodging may be subject to other requirements, including, but not limited to, those set forth in Chapter 7 of this title; the Food Safety Code, Title 25-A of the DCMR; and the District of Columbia Zoning Regulations, Title 11 of the DCMR.

## **802 INSPECTION OF PREMISES**

802.1 As a condition of licensure, the owner of a transient housing business shall allow the Department, and any other District government agency responsible for enforcement of this title and the Construction Codes, to inspect the premises where the transient housing business is conducted.

802.2 Owners of transient housing businesses shall:

- (a) Maintain the premises in a manner that complies with the applicable provisions of the D.C. Official Code, the Property Maintenance Code, the Fire Code, Chapters 1-8 of this title and other applicable District of Columbia laws and regulations relating to fire, life safety and public welfare; and
- (b) Comply with all other District of Columbia and federal statutes and regulations that govern transient housing businesses, as applicable.

802.3 The Director shall determine whether the owner of a transient housing business is in compliance with all applicable provisions of the business license laws and regulations and shall require that the building or part of the building to be licensed complies with all laws and regulations.

802.4 In accordance with § 802.1, the Director may develop an inspection program establishing a regular system of inspections for transient housing business licensees, with more frequent inspections for any licensee found to be in violation of the applicable statutes or regulations.

**803 REGISTERED AGENT FOR NON-RESIDENT LICENSEES**

803.1 Any non-resident person who owns or operates a transient housing business in the District of Columbia shall appoint and continuously maintain a registered agent for service of process.

803.2 The non-resident owner or operator shall make the appointment by filing a written statement with the Director on a prescribed form.

803.3 The registered agent shall be an individual who is a resident of the District of Columbia or an organization incorporated in the District of Columbia.

803.4 The non-resident owner or operator shall, within seven (7) business days of occurrence, file a written statement notifying the Director of any change of registered agent, or any change in name, address, or other information required by § 803.2.

803.5 Pursuant to D.C. Official Code § 42-903(b)(2) (2012 Repl.) and Mayor's Order 2002-33, effective February 11, 2002, the Director shall serve as the registered agent for the non-resident owner if:

- (a) A registered agent is not appointed under § 803.1; or
- (b) The individual or organization appointed under § 803.1 ceases to serve as the resident agent and no successor is appointed.

**804 LICENSED PROPERTY MANAGER REQUIREMENT**

804.1 Each transient housing business licensee shall designate the person responsible for the daily management of the premises, which includes the facilitation of maintenance and repairs on the premises, in accordance with Subsections 800.4 and 800.5.

804.2 Except for licensees who manage their own premises, the person designated under Subsection 804.1 shall be licensed as a property manager in accordance with D.C.

Official Code §§ 47-2853.01 *et seq.* (2012 Repl.), and Chapter 26 of Title 17 of the District of Columbia Municipal Regulations.

804.3 For purposes of this chapter, the term “property manager” means an agent for the owner of real estate in all matters pertaining to property management, as defined in D.C. Official Code § 47-2853.141 (2012 Repl.), which are under his or her direction, and who is paid a commission, fee, or other valuable consideration for his or her services.

804.4 The property manager shall comply with the requirements of D.C. Official Code §§ 47-2853.141 through 47-2853.143 (2012 Repl.), and any regulations issued pursuant thereto.

## **805 RENEWAL OF TRANSIENT HOUSING BUSINESS LICENSES**

805.1 The Director may, upon application by a licensee, issue a renewal of a transient housing business license subject to a determination that all provisions of the applicable laws and regulations are being observed by the licensee.

805.2 The premises of each license renewal applicant shall be subject to the inspection provisions of this chapter.

## **806 DENIAL, SUSPENSION, AND REVOCATION OF LICENSES**

806.1 Refusal to permit any authorized District of Columbia official to inspect the premises occupied or to be occupied by a transient housing business shall be cause for withholding the issuance of a license for the premises until such time as inspection is permitted; provided, that the refusal of any occupant other than the owner, operator or property manager to permit such an inspection shall not result in the revocation or suspension of the transient housing business license, nor shall such refusal result in the assessment of penalties against the owner or operator of a transient housing business.

806.2 The Director may refuse to issue or renew, or may suspend or revoke, a license issued under this chapter on any of the following grounds:

- (a) Refusal to permit any authorized District of Columbia official to inspect the premises occupied by a licensed transient housing business;
- (b) Conviction of the business license holder for any criminal offense involving fraudulent conduct arising out of or based on the business being licensed;
- (c) Willful or fraudulent circumvention by the business operator of any provision of District statute or regulation relating to the conduct of the business;

- (d) Operation of the business in violation of the District's Zoning Regulations;
- (e) Failure to maintain qualification for licensure;
- (f) Employment of any fraudulent or misleading device, method, or practice relating to the conduct of the business; or
- (g) The making of any false statement in the license application.
- (h) Multiple, uncorrected violations of Chapters 1-8 of this title and the Property Maintenance Code.

806.3 All qualifications set forth in this chapter as prerequisite to the issuance of a license shall be maintained for the entire license period.

806.4 [RESERVED]

806.5 Revocations or suspensions of transient housing business licenses are proposed actions and shall become final upon occurrence of one of the following conditions:

- (a) Fifteen (15) business days after service of the notice of revocation or suspension in accordance with § 806, when the license holder fails to request a hearing from the Office of Administrative Hearings within the filing period prescribed in § 806.11; or
- (b) Upon issuance of an order by the Office of Administrative Hearings affirming the license revocation following a hearing requested by the license holder pursuant to § 806.11.

806.6 The license holder shall be provided written notice of the code official's order to revoke or suspend the license. This notice shall include the following:

- (a) A copy of the written order;
- (b) A statement of the grounds for revocation or suspension of the license; and
- (c) A statement advising the license holder of the right to appeal the revocation or suspension in accordance with § 806.

806.7 The code official shall effect service of a notice to revoke or suspend a transient housing business license by one of the following methods:

- (a) Personal service on the license holder or the license holder's agent;
- (b) Delivering the notice to the last known home or business address of the license holder as identified by the license application, the tax records, or

business license records, and leaving it with a person over the age of sixteen (16) residing or employed therein;

- (c) Mailing the notice, via first class mail at least ten (10) days prior to the date of the proposed action, to the last known home or business address of the license holder or the license holder's agent as identified by the license application, the tax records, or business license records; or
- (d) If the notice is returned as undeliverable by the Post Office authorities, or if no address is known or can be ascertained by reasonable diligence, by posting a copy of the notice in a conspicuous place in or about the structure affected by such notice.

806.8 For the purposes of this section, respondent's agent shall mean a general agent, employee, registered agent or attorney of the respondent.

806.9 Once the initial notice has been served:

- (a) The respondent shall notify the Department of all changes of address or of a preferred address to receive all future notices regarding the revocation. This notification by the respondent shall be in writing; and
- (b) All other notices, orders, or any other information regarding the revocation may be sent by the Department via first class mail.

806.10 The license holder may request a hearing by the Office of Administrative Hearings (OAH) as provided in Subsection 806.11.

806.11 The license holder may appeal a notice of revocation or suspension to the Office of Administrative Hearings (OAH) no later than ten (10) business days after service upon the license holder of written notice of the revocation or suspension, pursuant to Chapter 18A of Title 2 of the D.C. Official Code (D.C. Official Code §§ 2-1801.01 *et seq.* (2012 Repl. & 2014 Supp.)) and any regulations promulgated thereunder.

806.12 The Director's refusal to issue or renew a transient housing business license may be appealed to OAH pursuant to the provisions of § 102.1.

## **807 LICENSE AND USER FEES**

807.1 The following fees shall apply to a transient housing business in addition to the fees required for obtaining the business license:

- (a) Pursuant to D.C. Official Code § 42-3131.01(c) (2012 Repl.), a fee of one hundred twenty dollars (\$120) shall be collected for any reinspection of a transient housing business licensee's premises to determine whether noted violations of this title or the Construction Codes have been abated. The

fee shall be collected after the reinspection has occurred;

- (b) An initial administrative fee of one hundred seventy-five dollars (\$175) for any abatement undertaken by the Department to correct conditions violative of this title or the Construction Codes. This fee shall be in addition to the actual cost of the abatement or the fair market value of the abatement, whichever is higher, and all expenses incident thereto, as authorized by D.C. Official Code § 42-3131.01(d) (2012 Repl.) Where the corrective actions are undertaken by Department employees, each person-hour of labor performed on the abatement shall be assessed at the rate of sixty dollars (\$60);
- (c) To cover the cost of the Department's proactive inspection program, a fee of fifty dollars (\$50) per sleeping, dwelling or rooming unit in lodging consisting of three (3) units or more shall be charged at the issuance and renewal of the license. The maximum fee per lodging shall be two thousand five hundred dollars (\$2,500) every two years. The Department is authorized, at the Director's discretion, to combine the proactive inspection fee with the fees for issuance and renewal of transient housing business licenses in order to facilitate billing and collection of the fees.

**899 DEFINITIONS**

899.1 The provisions and definitions set forth in § 199 shall be applicable to this chapter.

**CHAPTER 9: [RESERVED]**

**CHAPTER 10: [RESERVED]**

**CHAPTER 11: [RESERVED]**

**CHAPTER 12: [RESERVED]**

**CHAPTER 13: [RESERVED]**

All persons desiring to comment on these proposed regulations should submit comments in writing to Matt Orlins, Department of Consumer and Regulatory Affairs, 1100 Fourth Street, SW, Room 5100, Washington, D.C. 20024, or via e-mail at [Matt.Orlins@dc.gov](mailto:Matt.Orlins@dc.gov), not later than thirty (30) days after publication of this notice in the *D.C. Register*. Persons with questions concerning this Notice of Proposed Rulemaking should call (202) 442-4400. Copies of the proposed rules can be obtained from the address listed above. A copy fee of one dollar (\$1.00) will be charged for each copy of the proposed rulemaking requested. Free copies of these proposed regulations are available on the DCRA website at <http://dcra.dc.gov> by going to the "About DCRA" tab, clicking on "News Room", and then clicking on "Rulemaking".