

**THE CITY OF FREDERICK
MAYOR AND BOARD OF ALDERMEN**

ORDINANCE NO: G-23-09

AN ORDINANCE concerning

Residential rental licensing and affordable housing conservation

FOR the purpose of clarifying a certain definition; clarifying a certain exception; revising the provision relating to the address of the local representative; reducing the notice period for inspections; eliminating a provision relating to unit types for random inspections; revising and clarifying the processes relating to appeals and the issuance of notices to vacate; eliminating a certain penalty; changing the percentage of revenues to be allocated to certain types of funds; changing the deadline for the presentation of an annual report and clarifying the requirements thereof; and otherwise generally relating to residential rental licensing and affordable housing conservation within the City of Frederick.

BY repealing and reenacting, with amendments,
Chapter 12.5
Article IV
The Code of the City of Frederick, 1966 (as amended)

SECTION I. BE IT ENACTED AND ORDAINED BY THE BOARD OF ALDERMEN OF THE CITY OF FREDERICK, That Chapter 12.5, Article IV of The Code of the City of Frederick, 1966 (as amended) is hereby repealed and reenacted, with amendments, as follows:

**ARTICLE IV. RESIDENTIAL RENTAL LICENSING
AND AFFORDABLE HOUSING CONSERVATION.**

Sec. 12.5-71. Purpose.

The Board of Aldermen finds that the establishment of a proactive residential rental licensing program as detailed in this article is necessary to protect the health, safety, and welfare of the public. The Board of Aldermen believes that sole reliance on a complaint-based enforcement program is inadequate, as tenants may not report complaints due to fears of eviction or retaliation or because of language or education barriers. This program is intended to prevent deterioration and blight conditions that adversely impact the quality of life in the City. Specifically, it is intended to forestall potentially substandard housing conditions by requiring that rental housing be licensed and properly maintained and that harmful conditions be identified and corrected.

Sec. 12.5-72. Definitions.

(a) **Generally.** For the purposes of this article, the following terms have the meanings given.

~~[(b)]~~ ~~[Appeals Board. "Appeals Board" is the board designated under Chapter 2 of this Code to hear appeals brought under this article.]~~

~~[(c)]~~(b) **Department.** "Department" means the Department of Public Works.

~~[(d)]~~(c) **Director.** "Director" means the Director of Public Works or the Director's designee.

~~[(e)]~~(d) **Dwelling unit.**

(1) “Dwelling unit” means a room or group of rooms forming a single residential unit, with facilities for living, sleeping, and cooking purposes exclusively for the occupants of the unit.

(2) “Dwelling unit” does not include a room in:

(A) A hotel, motel, nursing home, domiciliary care facility, or adult living facility; or

(B) A college dormitory. For purposes of this provision, a dormitory is a building or space in a building in which group sleeping accommodations are provided for more than 16 persons who are not members of the same family in one room or a series of closely associated rooms under joint occupancy and single management, with or without meals, but without individual cooking facilities.

~~{(f)}~~**(e)** **Rental housing unit.** “Rental housing unit” means a dwelling unit that is or may be available for rent or is occupied or rented by a tenant or subtenant in exchange for any form of consideration.

(f) **Technical Code Appeals Board.** The “Technical Code Appeals Board” is the board designated under Chapter 2 of this Code to hear appeals brought under this article.

Sec. 12.5-73. Administration.

(a) **Regulations.** The rental licensing program established by this article will be administered by the Director. The Director may adopt administrative regulations to implement the program.

(b) **Issuance of notices.** Except as otherwise provided in this article, any notice required by this article to be made by the Director will be mailed first class mail to the rental housing unit’s owner and occupants and the local representative and emailed to the owner and local representative.

Sec. 12.5-74. Maintenance standards.

(a) **In general.** Rental housing units subject to this article must be maintained in compliance with all applicable laws and regulations, including but not limited to the minimum maintenance standards described in subsection (b) of this section.

(b) **Established.** The provisions of the Property Maintenance Code of the City (as adopted in Sec. 12-5.1 of this chapter) and other requirements listed in this subsection are hereby established as the maintenance standards for purposes of this article. The captions given are for reference purposes only and do not modify any provision in any way.

(1) **Exterior requirements.**

(A) IPMC 302.1 Sanitation (exterior clean, safe, and sanitary);

(B) IPMC 302.3 Private sidewalk and driveways;

- (C) IPMC 302.7 Accessory structures (garages, fences, and walls);
- (D) IPMC 304.2 Protective treatment (exterior surfaces painted);
- (E) IPMC 304.3 Address identification;
- (F) IPMC 304.6 Exterior walls (free from deterioration);
- (G) IPMC 304.7 Roofs and drainage;
- (H) IPMC 304.10 Stairs, decks, porches, and balconies;
- (I) IPMC 304.11 Chimneys and towers;
- (J) IPMC 304.12 Handrails and guards;
- (K) IPMC 304.13 Windows, skylights, and door frames;
- (L) IPMC 304.13.1 Glazing (glass free from cracks and holes);
- (M) IPMC 304.13.2 Openable windows;
- (N) IPMC 304.14 Insect screens;
- (O) IPMC 304.15 Doors;
- (P) IPMC 304.18.1 Doors (deadbolt lock required);
- (Q) IPMC 304.18.2 Windows; and
- (R) IPMC 308.1 Accumulation of rubbish or garbage.

(2) Interior requirements.

- (A) IPMC 305.3 Interior surfaces;
- (B) IPMC 305.4 Stairs and walking surfaces;
- (C) IPMC 305.5 Handrails and guards;
- (D) IPMC 305.6 Interior doors;
- (E) IPMC 307 (handrails and guardrails);
- (F) IPMC 309.1 Infestations;
- (G) IPMC 402.2 Common halls and stairways (lighted at all times);
- (H) IPMC 403.1 Habitable spaces (one window);
- (I) IPMC 403.2 Bathrooms and toilet rooms (mechanical or natural ventilation required);
- (J) IPMC 404.3 Minimum ceiling heights (7');
- (K) IPMC 404.4 Prohibited occupancy (use of nonhabitable spaces for

sleeping);

- (L) IPMC 404.4.1 Room area;
- (M) IPMC 404.4.2 Access from bedrooms;
- (N) IPMC 404.5 Other requirements;
- (O) IPMC 503.1 Privacy (toilet rooms and bathrooms);
- (P) IPMC 504.1 General plumbing fixtures;
- (Q) IPMC 505.4 Water heating facilities;
- (R) IPMC 602.2 Residential occupancies (heat maintained at 68°F 10/1-5/1);
- (S) IPMC 605.1 Installation (electrical equipment properly installed and maintained);
- (T) IPMC 605.2 Receptacles;
- (U) IPMC 702.1 General (means of egress); and
- (V) IPMC 702.3 Locked Doors (no keys from side of egress).

- (3) **Alarms.** Smoke alarms and carbon monoxide alarms must be installed and maintained in accordance with state and local laws. Whenever conflicting provisions or requirements occur between the referenced regulations or laws, the most restrictive will govern.

Sec. 12.5-75. Fees. As part of the annual fee schedule ordinance or an amendment to the ordinance, the Board of Aldermen may establish licensing fees, inspection fees, and other administrative or regulatory fees deemed necessary for the effective implementation of this article.

Sec. 12-5.76- Scope.

- (a) **Exceptions.** The requirements of this article do not apply to rental housing units:

- (1) Owned or operated by the Housing Authority of the City of Frederick;
- (2) Owned, operated, or receiving funding or subsidies from a federal, state, or local government entity and subject to inspection by the governmental entity at least once every five years;

- (3) **Comprising facilities or institutional uses that are subject to a requirement to be licensed by a state or local government agency;**

- ~~[(3)]~~ (4) Located on a lot comprising no more than two units, one of which is occupied by the owner; or

- ~~[(4)]~~ (5) That are newly constructed and have held a valid certificate of occupancy for no more than eight (8) years; or

- ~~[(5)]~~ (6) Comprising facilities occupied exclusively by members of a religious ~~[order; or]~~ **order.**

- ~~[(6)]~~ ~~[Comprising facilities or institutional uses that are subject to a requirement to be~~

~~licensed by a state or local government agency including but not limited to motels, nursing homes, dormitories, domiciliary care facilities, and adult living facilities as those terms are defined in the City's Land Management Code.]~~

- (b) **Other laws.** Nothing in this article should be construed to relieve a property owner from compliance with all applicable federal, state, and local regulations, including but not limited to the City's Land Management Code, Property Maintenance Code, Building Code, and other technical codes.

Sec. 12.5-77. Local representative. Each owner of a rental housing unit shall designate a local representative with authority to act on behalf of the owner for all purposes under this article, including the acceptance of notices from the City. The owner may act as the owner's own local representative. The local representative must maintain a residence or business address ~~[in the City.]~~ **within 60 miles of the intersection of Market Street and Patrick Street in the City of Frederick.**

Sec. 12.5-78. License required.

- (a) **In general.** As of ~~[December 31, 2023,]~~ **January 1, 2024,** the owner of a rental housing unit may not rent or offer to rent a rental housing unit without a ~~[currently effective]~~ **valid** license to do so from the Department.
- (b) **Compensation.** The owner of a rental housing unit may not charge, accept, retain, or seek to collect any rental payment or other compensation for providing to another the occupancy of a rental unit unless the owner was licensed under this article at both the time of the offering and the time of providing the occupancy.

Sec. 12.5-79. Licensing process.

- (a) **Information provided.** The application for a new or renewal license must be made in the form and contain the information and documentation that the Director requires. The application form will include:
- (1) The address of the ~~[property:]~~ **property to be used as a rental unit;**
 - (2) **The addresses of any other rental units owned by the owner;**
 - ~~[(2)]~~ (3) The name, address, ~~[and phone number]~~ **telephone number, and email address** of all owners of the property;
 - ~~[(3)]~~ (4) The name, address, ~~[and]~~ telephone ~~[number]~~ **number, and email address** of the local representative;
 - ~~[(4)]~~ (5) A certification that the property meets the maintenance requirements of this article; and
 - ~~[(5)]~~ (6) Any other information deemed necessary by the Director.
- (b) **Issuance or denial.** If the Director finds that the application meets the requirements of this article, the Director will issue the owner a license authorizing the owner to rent or offer to rent the unit. If the Director determines that an application does not meet the requirements of this article, the Director will deny the license, set forth the reasons for the denial in writing, and provide it to the owner. The owner may appeal the denial of a license in accordance with 12.5-82 of this article.
- (c) **Update of information.** A property owner has a continuing obligation to ensure that the

information provided at the time of license application remains valid. ~~Except as otherwise provided in this subsection, if the property is no longer being rented or any other information is no longer valid, the~~ The owner shall notify the Department of ~~the~~ any change, in writing, within 30 days after the change.

- (d) **Transfer.** Licenses are specific to one owner and one property and are transferable. If a property is sold, the new owner shall apply for a license transfer within 30 days after the transfer.
- (e) **Renewal.** Once licensed pursuant to subsection (a) of this section, an owner shall apply for a renewal license for a rental housing unit once every 2 years.

Sec. 12.5-80. Inspections.

- (a) **Requirements.** Rental housing units will be inspected in accordance with this section for the purpose of determining compliance with the minimum maintenance standards.
- (b) **Notice. Except as otherwise provided in this section, the Director shall issue a written notice of the date and time of any inspection to be conducted under this section at least 72 hours before the date of the inspection.**

~~[(b)]~~ (c) **Random inspections.** Inspections will be made on a random basis, in accordance with procedures established by the Director. The procedures must require at least 15% of residential rental units licensed under this article to be inspected each year. ~~[The procedures must also provide that to the greatest extent practicable, of the 15% of units inspected each year, 25% will be single family detached houses, 25% will be townhouses, and 50% will be multi-family units.]~~ For purposes of this subsection, the number of units to be inspected will be based on the units licensed on January 1 of each year.

- (d) **Inspection for cause.** The Director may require an inspection at any time, based on a determination that the residential rental unit may pose a risk of harm to its tenants. In making that determination, the Director shall consider:

- (1) The current condition of the premises, including the number, nature, and severity of violations found;
- (2) The history of code violations documented for the unit; and
- (3) The condition of other properties owned by the same owner.

- (e) **Right of entry.** Subject to this subsection, with the consent of an occupant or owner or pursuant to a lawfully issued warrant, the Director may enter any building, structure, or premises in the City to perform any duty imposed by this article. If the Director has reasonable cause to believe that the rental housing unit is so hazardous, unsafe, or dangerous as to require immediate inspection to safeguard the public health or safety, an inspector employed by the Department may use any reasonable means required to immediately enter and inspect the unit.

~~[(e)]~~ **Notice of inspection.** ~~Except as otherwise provided in this article, any notice required by this article to be made by the Director will be mailed by first class mail to the owner, the occupants, and the local representative. The Director shall serve written notice of the date and time of any inspection to be conducted under this section by mailing the notice by first class mail at least 30 calendar days before the date of the inspection.]~~

- (f) **Notice of compliance.** Following any inspection conducted in accordance with this section, if the inspector finds no violation of any maintenance standards the Department

shall issue a notice of compliance stating that the property complies with the requirements of this article. ~~[The Department shall mail the notice to the owner and the designated representative.]~~

- (g) **Notice of violation.** If the inspector determines that a rental housing unit is in violation of one or more maintenance standards, the Department shall provide the owner with **a notice of violation, including** an inspection report, indicating the actions to be taken to bring the unit into compliance.

~~[(1)]~~

- (h) **Second inspection.** After the deadline specified in the ~~[inspection report]~~ **notice of violation** for performing the required repairs or actions, the rental unit will be inspected again.

~~[(2)]~~

- (i) **Third inspection.** If the unit is not **in** compliance after the second inspection, a third inspection may be made.

- (j) **Revocation.** If the unit is not in compliance after the third inspection, the Director may revoke the license in accordance with Sec. 12.5-81 of this article.

~~[(3)]~~

- (k) **Condemnation.** If the Director determines that the rental unit is unfit for human occupancy, as that term is defined in the Property Maintenance Code, the structure will be condemned and placarded in accordance with the Property Maintenance Code.

Sec. 12.5-81. Revocation of license.

- (a) **Grounds.** In addition to any other penalty allowed under this article or other applicable law, the Director may revoke a license if the owner:

(1) Fails to bring a dwelling unit into compliance after the third inspection as described in Sec. 12.5-80 of this article;

(2) ~~[Made]~~ **Knowingly made** a materially false statement in an application for rental licensing;

(3) Refuses to allow entry for inspection; or

(4) Fails to comply with any provision of this article.

- (b) **Notice of revocation.** If a license is revoked, the Director shall issue a written notice ~~[to the property owner and the local representative,]~~ **of revocation**, including the grounds for the revocation and the process to appeal the revocation.

- (c) **Reissuance.** After a license is revoked, an owner wishing to obtain a new license must wait at least ~~[one year]~~ **6 months** and then may reapply in accordance with this article.

- (d) **Appeal. The owner may appeal the revocation of a license in accordance with Sec. 12.5-82 of this article.**

Sec. 12.5-82. Appeals.

- (a) ~~[Filing.]~~ **Timing – denial.** Within 20 days after the issuance of a notice of ~~[denial or~~

~~revocation, a property owner may appeal the denial or revocation of a license under this article to the Appeals Board.]~~ **denial, the property owner may appeal the denial to the Technical Code Appeals Board in accordance with this section.**

(b) Timing – revocation; notice to vacate. Within 20 days after the issuance of a notice of revocation, the owner shall proceed under either paragraph (1) or paragraph (2) of this subsection. Failure to engage in either course of conduct will be deemed a decision not to appeal. The owner shall:

(1) Issue the occupants of the rental unit a notice to vacate in accordance with Sec. 12.5-83 of this article; or

(2) Appeal the revocation to the Technical Code Appeals Board in accordance with this section. If the owner appeals, the subsequent issuance of a notice to vacate will be in accordance with subsection (g) of this section.

(c) Form. Appeals must be filed on a form provided by the Department in accordance with procedures established by the Department and must state the grounds for the appeal. The appeal must be accompanied by a copy of the notice being appealed and a filing fee as specified in the fee schedule ordinance then in effect.

[(b)] (d) Stay. The **timely** filing of **[an] a notice of** appeal will stay the effectiveness of a revocation. The stay will be lifted upon the issuance of a written decision under subsection (d) of this section.

[(c)] (e) Hearing. Within 30 days after the filing of a notice of appeal, the **Technical Code** Appeals Board will convene to hear the appeal. At the hearing, the owner may appear and be heard or may be represented by an agent or attorney. The owner and the Director may testify, present documents and other evidence, including witness testimony, and cross-examine witnesses. The Commission shall consider all relevant evidence submitted at the hearing. The owner has the burden of persuasion to show that the license was denied or revoked in error.

[(d)] (f) Decision. Within 15 days after the hearing, the **Technical Code** Appeals Board shall issue a written decision affirming or reversing the Director's decision to deny or revoke the license.

[Sec. 12.5-83. Notice to vacate.]

[(a)] (g) [In general. Except as otherwise provided in this section, within five days after receipt of a notice of revocation,] **Notice to vacate. If the Technical Code Appeals Board affirms the Director's decision to revoke a license,** the property owner shall issue **[to the tenants]** a written notice to **[vacate.] vacate in accordance with Sec. 12. 5-83 of this article.**

Sec. 12.5-83. Notice to vacate.

[(1)] (a) In general. **[The notice must require that the tenants]** **An occupant must** vacate the property within 60 days after **[the issuance of the]** a notice to **[vacate.] is issued.**

[(2)] (b) Contents of notice. **A notice to vacate must be written on a form provided by the Department.**

(c) Security deposits. **If tenants are required to vacate a property, the owner shall return a security deposit in accordance with the Real Property Article of the Annotated Code of Maryland.**

[(3)] (d) Information provided by City. The City will provide **[the tenant] tenants with** information

on available ~~[resources in cases of notice to vacate.]~~ resources.

- ~~[(b)]~~ ~~[Stay. If the owner appeals a revocation in accordance with Sec. 12.5-81 of this article, the owner will not be required to issue a written notice to vacate in accordance with subsection (a) of this section unless the Appeals Board affirms the Director's decision to revoke the license. In that case, the owner shall issue the notice to vacate within five days after the Appeals Board issues its written decision.]~~

Sec. 12.5-84. Violations and enforcement.

- (a) **Unlawful rental.** Renting or offering a unit for rent without a valid license is a municipal infraction punishable by a fine not to exceed \$1,000. Each day a violation continues will be considered a separate offense.
- ~~[(b)]~~ ~~[Failure to abate violations. Failure to bring a unit into compliance as required under Sec. 12.5-40 of this article is a municipal infraction punishable by a fine not to exceed \$1,000. Each day a violation occurs will be considered a separate offense.]~~
- ~~[(c)]~~ (b) **Other remedies.** In addition to the penalty set forth in subsection (a) of this section, the City may seek any other remedies available to it at law or in equity to abate, restrain, or correct a violation of this article.

Sec. 12.5-85. Tenant protections. In addition to the protections provided to a tenant by MD Code, Real Property, Sec. 8-208.1, an owner may not, as a result of any action taken under this article, bring or threaten to bring an action for possession against a tenant; arbitrarily increase the rent or decrease the services to which a tenant has been entitled; or terminate a periodic tenancy.

Sec. 12.5-86. Public education. The ~~[Department, in consultation with the Communication Department, shall]~~ City will establish ~~[or facilitate]~~ a program to explain and clarify to the public the purposes and requirements of this ~~[article.]~~ article and related programs and resources. ~~[The program may include the publication of a brochure or a page on the City's website.]~~ Public education will also include a list of available resources for property owners, housing providers, tenants, and other members of the public.

Sec. 12.5-87. Special funds.

- (a) **Revenues.** The special funds described in this section will contain revenues collected as fees or fines payable in connection with the rental licensing program established by this article.
- (b) **Operating costs.** ~~[Before]~~ Except as otherwise provided in this section, before being placed in a special fund, revenues will be used to pay operating costs directly attributable to the administration and enforcement of the rental licensing program.
- (c) **Tenant protection fund.** A fund is hereby established to assist tenants with costs of relocation necessitated by the enforcement of this article. This fund will contain ~~[20%]~~ 30% of the available revenues (after operating costs). All fees collected for inspections for cause and all fines collected for violations of this article will be deposited into the tenant protection fund.
- (d) **Rental assistance fund.** A fund is hereby established to assist tenants with rental assistance in the instance of required vacation of a rental unit. This fund will contain ~~[30%]~~ 20% of the available revenues (after operating costs).

- (e) **Affordable housing conservation fund.** A fund is hereby established to create an affordable housing conservation program. This fund will contain all revenues remaining after the placement of revenues in the tenant protection and rental assistance funds.
- (f) **Use of funds.** On or before July 1, 2023, the Director of Housing and Human Services will establish regulations as needed to effectively implement the requirements of this section, including the application for and distribution of money from the special funds.

Sec. 12.5-88. Annual Report.

- (a) **Required.** The Director shall prepare a written report, to be presented to the Board of Aldermen by ~~[June 30]~~ **March 1** of each year, evaluating the rental licensing program established by this article.
- (b) **Contents.** The annual report must include the following information:
 - (1) The number and type of rental housing units issued a new or renewal license;
 - (2) The number of random inspections conducted, and a summary of the results of those inspections;
 - (3) The number of inspections conducted for cause, and a summary of the results of those inspections;
 - (4) The number of notices of violation issued under this ~~[article;]~~ **article and the grounds for them;**
 - (5) The number of licenses revoked and ~~[notices of vacate issued;]~~ **the grounds for the revocation;**
 - (6) **The number of notices to vacate issued;**
 - ~~[(6)]~~(7) The number of citations issued and information regarding the payment or adjudication of those citations;
 - ~~[(7)]~~(8) A description of the **educational** efforts made ~~[to educate the public on the rental licensing program;]~~ **under Sec. 12.5-86 of this article;**
 - ~~[(68)]~~(9) A summary of the status of the special funds, including amounts allocated and a description of any ~~[expenditures;]~~ **expenditures; and**
 - (10) **Recommendations for legislative or policy changes.**

SECTION II. BE IT FURTHER ENACTED AND ORDAINED BY THE BOARD OF ALDERMEN OF THE CITY OF FREDERICK, That in the event any provision, section, sentence, clause, or part of this ordinance shall be held to be invalid, such invalidity shall not affect or impair any remaining provision, section, sentence, clause, or part of this ordinance, it being the intent of the City that such remainder shall be and shall remain in full force and effect.

SECTION III. BE IT FURTHER ENACTED AND ORDAINED BY THE BOARD OF ALDERMEN OF THE CITY OF FREDERICK, That this ordinance shall take effect on the date it is signed by the Mayor and all other ordinances or parts of ordinances inconsistent with the provisions of this ordinance will as of that date be repealed to the extent of such inconsistency.

PASSED:

DATE:



**Michael C. O'Connor, President,
Board of Aldermen**

June 15, 2023

APPROVED:

DATE:



Michael C. O'Connor, Mayor

June 16, 2023

Approved for Legal Sufficiency:



Rachel S. Nessen, City Attorney