

# Work Session

<b>Agenda Item #</b>	7
<b>Meeting Date</b>	May 13, 2013
<b>Prepared By</b>	Sara Anne Daines HCD Director
<b>Approved By</b>	Suzanne R. Ludlow Acting City Manager

<b>Discussion Item</b>	Discussion of proposed revisions to Title 6, Housing, of the Takoma Park Code
<b>Background</b>	<p>This is the last in a series of discussions scheduled to facilitate the updating of Title 6, Housing, of the Takoma Park Code and is intended to provide follow-up on outstanding issues raised during past work sessions.</p> <p>The following is a listing of sections of the Code to be considered by the Council. It includes new requirements such as the distribution of electoral and civic information and the registration of owner occupied group houses as well as updates to existing language relating to the establishment of base rents for certain rental units and retaliatory acts by landlords. These sections have been extracted from the text of the Code to facilitate the Council’s review and are attached to this memorandum.</p> <p><b>6.04 General Provisions / 6.16 Landlord Tenant Relations</b></p> <ul style="list-style-type: none"> <li>• Access to multi-family residential facilities (page 3)</li> <li>• Distribution of electoral and civic information (page 6)</li> </ul> <p><b>6.08 Rental Housing Licenses / 6.04 General Provisions</b></p> <ul style="list-style-type: none"> <li>• Owner occupied group houses: application and registration (page 7)</li> <li>• Definition of owner occupied group house (page 7)</li> </ul> <p><b>6.16 Landlord Tenant Relations / 6.40 Violations and Enforcement</b></p> <ul style="list-style-type: none"> <li>• Transfer of utility payments to tenants (page 8)</li> <li>• Violations and penalties (page 9)</li> </ul> <p><b>6.16 Landlord Tenant Relations / 6.24 Commission on Landlord Tenant Affairs</b></p> <ul style="list-style-type: none"> <li>• Retaliatory practices (page 10)</li> <li>• Remedies (page 10)</li> </ul> <p><b>6.20 Rent Stabilization / 6.04 General Provisions</b></p> <ul style="list-style-type: none"> <li>• Establishment of base rents for certain units (page 11)</li> <li>• Definition of rents (page 12)</li> </ul> <p><b>6.32 Tenant Opportunity to Purchase / 6.04 General Provisions</b></p> <ul style="list-style-type: none"> <li>• Applicability (page 13)</li> <li>• Definition of Sale (page 13)</li> </ul> <p>Assistant City Attorney Ken Sigman and HCD Director Sara Anne Daines will be in attendance to present the proposed text amendments.</p>

<b>Policy</b>	Promoting political participation by tenants, formation of tenant associations, and enforcement of rent stabilization, protecting tenants from retaliation, encouraging tenants to purchase their rental units, protecting the safety of residents of owner occupied group houses, and protecting the financial interests of condominium owners and rental facility owners that renovate and reconfigure rental units.
<b>Fiscal Impact</b>	NA
<b>Attachments</b>	Proposed Code Revisions
<b>Recommendation</b>	Provide comment on proposed revisions
<b>Special Consideration</b>	<p><u>Monday, May 20</u> Public Hearing Amendments to Takoma Park Code, Chapter 6, Housing</p> <p><u>Monday, June 10 (Tentative)</u> Public Hearing On Proposed Revisions to Title 6, Housing, of the Takoma Park Code, Regarding Residents' Right To Civic Inclusion and Obligations of Landlords</p> <p><u>Monday, July 8 (Tentative)</u> First Reading Ordinance Amending Takoma Park Code, Title 6 Housing</p> <p><u>Monday, July 22 (Tentative)</u> Second Reading Ordinance Amending Takoma Park Code, Title 6 Housing</p>

# Title 6 HOUSING

## Chapter 6.04

### GENERAL PROVISIONS AND DEFINITIONS

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#### **6.04.040 Access to multi unit residential facilities.**

A. Definitions. For the purposes of this section, the following words will have the following meanings.

“City employee” means a City employee, ~~or an independent contractor acting on behalf of the City, or a volunteer acting on behalf of the City.~~ Elected City officials are not City employees for the purposes of this section.

“Controlled access multi unit residential facility” means a multi unit residential facility, the common entrances to which are locked, monitored by the owner or manager of the property, or posted, to prohibit entry into the common areas of the facility by persons other than residents and their guests.

“Multi unit residential facility” means an apartment or condominium building or complex of apartment or condominium buildings.

“Qualified candidate” means a candidate for a City, county, state, or federal elected office that is seeking election to an office that represents the residents of the facility to which the candidate seeks access, and:

1. is seeking election to such office at the next general or special election for that office; and
2. for a candidate for City office, has been nominated in accordance with section 604 of the Takoma Park City Charter; or
3. for a candidate for Montgomery County, Maryland state, or federal office, has filed a Certificate of Candidacy accepted by the applicable Board of Elections ~~or has been nominated at a national party convention.~~

B. It is unlawful for a person, either directly or indirectly, to deny access to a multi unit residential facility to the following individuals:

1. A qualified candidate;
2. Campaign volunteers accompanying a qualified candidate into a building when the candidate is present in the building; and
3. City employees.

C. For qualified candidates and accompanying campaign volunteers, access to a facility under this section is required only for the purposes of campaigning for the candidate or registering voters and only during the 90-day period preceding the next primary, special, or general election for the office sought by the candidate.

D. For City employees, access to a facility under this section is only required for the purposes of collecting information to facilitate the enforcement of City laws, notifying residents of their rights and duties with respect to housing and landlord-matters under City, county, and state law, or promoting the formation of tenant associations in accordance with section 6.16.030 of the Takoma Park Code.

E. Candidates to provide notice to residents. Before entering a controlled-access multi unit residential facility pursuant to this section, candidates must provide 24 hours' notice to the residents, unless the owner ~~or~~, manager, or tenant association of the building elects to post the required notice on behalf of the candidate. Such notice shall be provided by posting, on each exterior entrance to everyany multi unit building, a written notice on a form provided by the City that includes the following information:

1. the name of the candidate;
2. the elective office for which the candidate is running; and
3. the date and hours that the candidate will be present at the facility.

F. Distribution of materials. Qualified candidates and their accompanying campaign volunteers must be permitted to leave campaign materials, and City employees must be permitted to leave notices, surveys, correspondence, and other materials at the doors to residents' units. Materials must be left in an orderly fashion.

G. Attempting to make personal contact with residents. Individuals accessing a facility pursuant to this section may seek to make personal contact with residents by speaking with residents in a common area of the facility or, unless excluded by a resident under paragraph (3) of this subsection, by knocking on the door or ringing the doorbell of the residents' units.

1. When a resident contacted in a common area indicates that he or she does not wish to speak with the individual, the individual immediately must cease attempting to speak with the resident.

~~2. When an individual seeks to make personal contact with a resident at the door to the resident's unit, the individual may knock briefly or ring the doorbell and then:~~

~~a. if the resident indicates that that he or she does not wish to speak with the individual, immediately leave the resident's doorway;~~

~~b. if the resident does not answer the door or acknowledge the presence of the individual, leave the resident's doorway after thirty seconds and refrain from attempting to make contact with the resident for at least 24 hours;~~

~~c. if the resident answers the door, refrain from entering the resident's unit without invitation and immediately honor a request by the resident to leave.~~

~~3. When multiple City employees or a qualified candidate and one or more volunteers are present in a multi unit residential building, the supervising City employee or the candidate shall be responsible for organizing the canvassing of the building so that only one representative of the group attempts to make personal contact at each unit.~~

42. Exclusion of candidates by residents. Residents of multi unit residential facilities shall have the right to post a sign provided by the Department on the door to their units that shall prohibit candidates and their campaign volunteers from attempting to make personal contact with them at their units.

a. No person other than a resident of the unit or, if the unit is unoccupied, the owner or manager of the facility, may remove or damage such signs.

b. Landlords shall be responsible for removing such signs between tenancies.

H. Candidate access to facilities with multiple buildings. For multi unit residential facilities with multiple buildings, a qualified candidate and accompanying volunteers must be permitted to access as many buildings as is practicable on a single visit, but access is limited to only one building at a time. If multiple qualified candidates are traveling together, each qualified candidate and that candidate's accompanying volunteers are limited to one building at a time, but all of the candidates and accompanying volunteers traveling together must not be restricted to accessing the same building at the same time.

I. Hours of Access. Persons accessing a multi unit residential building pursuant to this section may do so only between the hours of 9:00 a.m. and 9:00 p.m.

J. Exceptions. This section does not prohibit:

1. ~~Denial of A resident from~~ denying the admittance of any person into ~~a particular apartment, room, or personal residential~~ their unit;

2. Requiring reasonable and proper identification as a necessary prerequisite to admission to a multi unit residential building;

3. Denial of permission to visit a resident's unit for valid health reasons;

~~4.~~ 4. A property owner or manager from limiting visits to a reasonable number of persons and reasonable hours;

5. Requiring a prior appointment to grant a qualified candidate and his or her campaign volunteers access to a controlled access multi unit residential facility, provided that appointments be scheduled with reasonable promptness and at times when most residents are reasonably likely to be home; or

6. Denial of admittance to an individual qualified candidate and that candidates' volunteers or expulsion of an individual qualified candidate and that candidates' volunteers from a multi unit residential facility for good cause based on the conduct of the candidate or his or her volunteers, including, but not limited to, unreasonable disturbance of residents, engaging in activities that do not further the permissible purposes set forth in subsection (C) of this section, failure to distribute materials in an orderly fashion, criminal conduct, failure to provide proof of identification upon request

by an agent of the property owner or manager or a resident, failure to make or adhere to an appointment, and entering or remaining in a building between the hours of 9:00 p.m. and 9:00 a.m.

K. The Department shall have the authority to promulgate regulations implementing the provisions of this section.

L. A qualified candidate or a resident, owner, or manager of a [multifamilymulti unit](#) residential facility aggrieved by a violation of this section may file a civil action in a court of competent jurisdiction seeking temporary and permanent injunctive relief and any other available legal or equitable remedy.

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## **Chapter 6.16**

### **LANDLORD-TENANT RELATIONS**

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#### **6.16.050 Obligations of landlords.**

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M. Within seven calendar days of the commencement of a new tenancy, distribute to the new tenants a City supplied electoral and civic information packet. The Department shall make the packet available on the City's web site for download and printing by landlords. In addition, landlords may obtain copies of the packet from the City of Takoma Park Municipal Building.

The packet shall include the following:

1. One City voter-registration form and one state voter-registration form and information on online voter registration and how to obtain additional voter registration forms;
2. Other material designated by the City regarding public services available to residents, existing laws, rules, and regulations, and the City electoral process.

## **Title 6 HOUSING**

### **Chapter 6.08**

#### **RENTAL HOUSING LICENSES AND OWNER OCCUPIED GROUP HOUSE REGISTRATIONS**

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##### **Owner Occupied Group House: application and registration.**

- A. Owner Occupied Group Houses must be registered with the City on or before June 30, 2014 or within 30 calendar days of operating the facility as a group house.
- B. Application for a new Certificate of Registration or the renewal of an existing registration shall be made by the owner occupant on a form provided by the City containing such information as necessary to administer and enforce the provisions of this chapter.
- C. Upon receipt of an application for registration and a \$50 registration fee, the City shall inspect the property to verify that no serious life safety code violations exist prior to the issuance of a Certificate of Registration. Examples of serious life safety violations include, but are not limited to, lack of egress from sleeping rooms, inoperative smoke detectors, and the lack of essential utilities such as heat, water and operable sanitary facilities. The owner occupant will be given a reasonable opportunity to make required corrections. All identified life safety code violations must be corrected by the established reinspection date set by the code official.
- D. A Certificate of Registration will be issued to the owner occupant upon verification that identified life safety code violations have been corrected.
- E. The Certificate of Registration shall remain valid for a period of three years expiring on December 31 of the third year of the date of issuance.

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### **Chapter 6.04 GENERAL PROVISIONS AND DEFINITIONS**

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#### **6.04.030 Definitions.**

Owner Occupied Group House: A single family dwelling occupied by the owner as his or her principal residence or a family member of the owner and by one or more other non-related individuals. Occupants share cooking and sanitation facilities and common living areas. Occupants of Owner Occupied Group Houses are not considered Tenants for purposes of this Chapter.

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**Title 6**  
**HOUSING**  
**Chapter 6.16**

**LANDLORD TENANT RELATIONS**

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**6.16.130 Transfer of utility payments to tenant.**

A. Definitions. “Utility transfer” means the reallocation of financial responsibility for the payment of utility costs from a landlord to the current tenants and, for units subject to rent stabilization, future tenants of a rental facility for which the landlord previously was responsible for the payment of utilities.

B. Utility transfers are prohibited except as permitted by this section.

C. Utility transfers are permitted only for rental facilities in which all of the rental units are separately metered or sub metered to measure the actual utility consumption in each unit.

D. Landlords must reduce the rent for a rental unit to offset the cost of utilities allocated to the current tenants and, for units subject to rent stabilization, future tenants, as a result of a utility transfer for:

1. all rental units subject to rent stabilization, regardless of whether they are occupied at the time of the utility transfer; and

2. all rental units that are occupied at the time of the utility transfer.

E. Rent reductions to offset the cost of utilities.

1. If prior to the utility transfer, the rental units in the rental facility were individually metered, the monthly rent reduction in rent for each unit shall be calculated by multiplying the actual average monthly utility consumption of the unit for the previous 24 months by the actual utility rate at the time of conversion.

2. If, prior to the transfer, the rental units in the rental facility were not individually metered, the reduction in monthly rent per unit shall equal the average utility consumption of the rental facility for the previous 24 months, less common area utility expenses, divided by the number of rental units.

3. If a landlord determines that the allocation of rent reductions between units in accordance with paragraph 2 would be unreasonable, the rent reductions may be allocated based upon the size of each unit, the number of bedrooms in each unit, and other relevant characteristics of the unit, provided, however, that the total rent reduction must equal the total rent reduction required under paragraph 2.

4. The landlord must submit the proposed rent reduction allocation, a written explanation of the proposed allocation, and supporting documentation to the Department, and the Department must approve the proposed rent reduction and allocation prior to the utility transfer.

F. Notice requirements.

1. Written notice of the landlord's intent to transfer responsibility for utility payments to an existing tenant shall be provided to the tenant at least three months prior to the effective date of the transfer. Written notice may be delivered to the tenant by any reasonable means, including mailing by U.S. Postal Service, email, or personal delivery. The landlord shall certify in writing to the City, the date and to whom the notice was mailed or delivered, and the names and apartment numbers of each tenant who was given the notice.

2. The notice of the utility transfer must notify the tenant of the corresponding rent reduction for their unit.

3. Leases negotiated during the three-month notice period in subsection (A) of this section shall include a written disclosure of the landlord's intent to transfer responsibility for utility payments to the tenant during the term of the lease, the earliest possible effective date of the transfer, and the rent reduction to which the tenant will be entitled to offset the cost of utilities. Failure to make this disclosure shall be grounds for termination of the lease by the tenant without further liability for rent or utilities after providing written notice to the landlord and vacating the property.

4. At least 14 calendar days prior to the effective date of the transfer, the landlord shall notify the tenant of the effective date of the transfer and provide the tenant with necessary information to establish an individual utility account.

G. The date of transfer of financial responsibility for utilities shall be at the beginning of a rent payment period, unless otherwise agreed upon by the landlord and the tenant.

H. This section shall not be construed to provide a remedy for temporary interruption of service or equipment otherwise maintained by the landlord.

I. The rent reduction resulting from a utility transfer shall be permanent and shall apply to subsequent tenants and shall reduce the banked rent for rent stabilized units.

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## **Chapter 6.40**

### **VIOLATIONS AND ENFORCEMENT**

#### **6.40.010 Violations and penalties.**

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C. The following shall be Class A municipal infraction violations:

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5. Any violation of Chapter 6.16.130 Transfer of utility payments to tenant

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**Title 6  
HOUSING**

**Chapter 6.16**

**LANDLORD TENANT RELATIONS**

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**6.16.180 Retaliatory practices.**

A. The provisions of Section 8-208.1, Retaliatory actions due to reporting violations or complaints prohibited, of the Real Property Article of the Annotated Code of Maryland, as amended, are hereby incorporated by reference.

B. The provisions of Section 29-32, Prohibited retaliatory practices, of the Montgomery County Code, are hereby incorporated by reference.

C. When the provisions of Section 8-208.1 of the Real Property Article of the Annotated Code of Maryland and Section 29-32 of the Montgomery County Code conflict, the provision that provides more protection to a tenant shall supersede the provision that provides less protection to a tenant.

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**Chapter 6.24**

**COMMISSION ON LANDLORD-TENANT AFFAIRS**

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**6.24.090 Remedies.**

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**B. Specific Remedies.**

5. Retaliatory actions and practices. If the Commission finds in favor of the tenant because the landlord engaged in a retaliatory action or practice, the Commission may order the landlord to pay the tenant damages not to exceed the equivalent of 3 months' rent and reasonable attorney fees. If in any proceeding the Commission finds that a tenant's assertion of a retaliatory action or practice was in bad faith or without substantial justification, the Commission may order the tenant to pay the landlord damages not to exceed the equivalent of 3 months' rent and reasonable attorney fees.

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**Title 6**  
**HOUSING**  
**Chapter 6.20**

**RENT STABILIZATION**

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

A. Definitions.

“Discontinued rental unit” means a rental unit in a rental facility or previously licensed rental facility that is not occupied by tenants and for which the Department has approved an application for discontinuation.

“Existing rental unit” means a rental unit or a discontinued rental unit.

B. Rents for Discontinued Rental Units.

(1) Except as provided in paragraph (2), the base rent for discontinued rental units, and the reference point from which the rent shall be increased in accordance with this chapter, shall be the banked rent reported in the annual rent report at the time the rental unit was discontinued plus the annual rent stabilization allowance for each year that the rental unit was discontinued.

(2) If a rental unit remains discontinued for an uninterrupted period of five years, the owner may charge market rent for the unit when it is first rented to a tenant. The rent the owner charges the tenant shall establish the base rent for the unit and the reference point from which the rent shall be increased in accordance with this chapter. If the actual rent paid by the tenant differs from the rent stated in the lease, then the actual rent paid by the tenant shall be the base rent.

C. Rents Following Renovation, Reconfiguration or Consolidation of Existing Rental Units.

(1) This subsection applies to renovation, reconfiguration, and consolidation projects performed in vacant existing rental units.

(2) If the renovation or reconfiguration of an existing rental unit does not result in a 10% or greater change in the floor area of the unit, then the banked rent reported for the unit in the annual rent report at the time the rental unit became vacant plus the annual rent stabilization allowance for each year that the rental unit remained vacant shall be the maximum rent that the owner may charge for the unit when it is first rented to a tenant.

(3) If the floor area of a renovated or reconfigured unit is more than 10% smaller or larger than the unit it replaces, then the banked rent reported for the unit in the annual rent report at the time the rental unit became vacant plus the annual rent stabilization allowance for each year that the rental unit remained vacant reduced or increased by a percentage equal to the reduction or increase in the floor area of the unit prior to its renovation or reconfiguration shall be the maximum rent that the owner may charge for the unit when it is first rented to a tenant.

(4) When two or more rental units are consolidated to create a single rental unit, the base rent for the new unit, and the maximum rent that the owner may charge when the unit is first rented to a tenant, shall be the base rent of the largest unit increased by the percentage increase in the floor area from the largest unit to the resulting unit.

(5) Application for rent adjustments. Before an owner may increase the rent for a unit in accordance with paragraphs (3) or (4), the owner must first obtain approval from the Department. The owner must submit a completed application form and documentation demonstrating the appropriate adjustment to the base rents (which may include, but shall not be limited to, construction plans, photographs and video recordings of the original and reconfigured units), and may be required to undergo an inspection of the property.

D. Rents Following Purchase of an Owner Occupied Condominium Unit. The new owner of a previously owner occupied condominium unit, purchased in a bona fide arms length transaction, may charge market rent for the unit. The rent the owner charges his or her initial tenant shall establish the base rent for the unit and the reference point from which the rent shall be increased in accordance with this chapter. E. Reset of Base Rent for Owner-Occupied Condominium Units. When the owner of a previously rented condominium unit occupies the unit for at least 12 consecutive months as his or her principal residence, the owner may charge market rent for the unit when the owner next rents the unit to a tenant. The rent the owner charges the tenant shall establish the base rent for the unit until the owner again occupies the unit for at least 12 consecutive months.

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## **Chapter 6.04**

### **GENERAL PROVISIONS AND DEFINITIONS**

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#### **6.04.030 Definitions.**

Rent means the consideration, including any bonus, benefit, or gratuity, demanded or received per day, week, month, year, or other period of time as the case may be, for the use or occupancy of housing accommodations or the transfer of a lease for such accommodations. Rent includes any charge to a tenant under a rent-to-own agreement if the tenant's acceptance of the agreement is mandatory or if the tenant is not entitled to a refund of the charge if the tenant does not purchase the unit.

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**Title 6  
HOUSING  
Chapter 6.26**

**TENANT OPPORTUNITY TO PURCHASE**

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**6.32.020 - Applicability.**

A. All sales of rental facilities in the City are covered by this chapter except that this chapter does not apply to a sale:

1. To a family member;
2. Limited by the terms of a bona fide mortgage or deed of trust;
3. To a mortgagee in lieu of foreclosure;
4. Under a court order;
5. From one co-tenant to another by operation of law;
- | ~~6. Under a will, living trust, or intestate distribution;~~
- | ~~76.~~ To the State or a local government;
- | ~~78.~~ Of a minority title interest; or
- | ~~89.~~ Of an accessory apartment.

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**Chapter 6.04  
GENERAL PROVISIONS AND DEFINITIONS**

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**6.04.030 Definitions.**

“Sale” means the transfer of a legal or equitable ownership interest in a rental facility. Sale does not include a transfer of the a rental facility by will, trust, intestate succession, gift, or deed in lieu of foreclosure, or a trade of the rental facility for other real or personal property. Sale does not include a transfer of title to a rental facility to a trust, limited liability Company, or other entity of which the transferor is a primary beneficiary. Sale also does not include a transfer of a rental facility to a subsidiary, affiliate or related entity provided the owner, general partner or managing member of the transferor retains a controlling interest in the transferee entity. Consideration for a sale may include money, transfer of other valuable assets, and the giving or assuming a promissory note or other financial obligation. For rental facilities owned by a

corporation, the term “sale” includes the transfer, within a 12-month period, of a majority of the outstanding shares of stock in the corporation. For rental facilities owned by any other business entity, the term “sale” means the transfer, within a 12-month period, of a majority interest in the business entity. The term “sale” also means the leasing of the entire rental facility for a period of more than 7 years to one lessee, which includes a person or business entity such as a corporation, limited liability company, limited partnership, or joint venture that has a legal or equitable interest in the rental facility.