

Chapter 6.04
GENERAL PROVISIONS AND DEFINITIONS

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6.04.010 Conflict of laws.

In case of conflict between any provisions of this title and any other title of this Code, or an enactment by the County in which the premises are located, the provision which establishes the higher standard for the promotion and protection of the health and safety of the people shall prevail, and the provision containing the lower standard, if contained in this Code, is repealed to the extent of the conflict.

6.04.020 Exemption from County Codes.

Pursuant to the authority conferred by Article 23A, Section 2B of the Annotated Code of Maryland and by Section 1-203 of the Montgomery County Code, the City of Takoma Park, Maryland, specifically exempts itself from the provisions of Chapter 29, Landlord-Tenant Relations, except for the provisions of Chapter 29 relating to common ownership communities registration and the appeal of rental housing license denials, revocations, or suspensions, of the Montgomery County Code.

6.04.030 Definitions.

For the purposes of this title, the following words and phrases shall have the following meanings:

Accessory Apartment: A completely independent living unit with separate cooking, eating, sanitation and sleeping facilities that is either within an owner occupied single family detached dwelling or located in a separate accessory structure on the same lot as the main dwelling. Such an accessory apartment is subordinate to the main dwelling and has been granted a special exception by the Montgomery County Board of Appeals or is registered with the Montgomery County Department of Housing and Community Affairs in accordance with Montgomery County Code Chapter 59 Zoning Section 59-A-6 and 59-G-2.

Affected Tenant: Any tenant whose health, safety and welfare is or reasonably may be impaired by a violation of this title. For purposes of filing a Commission complaint, an “affected tenant” includes a bona fide prospective tenant and a former tenant.

Apartment: Any room or group of rooms located within a dwelling forming a single habitable unit and including cooking facilities.

Building: Any structure used or intended to be used for supporting or sheltering any use or occupancy. Building may include any premises and grounds appurtenant to the structure.

City: The City of Takoma Park, Maryland.

Commission or COLTA: The City of Takoma Park Commission on Landlord-Tenant Affairs. The term “Commission” or “COLTA” shall include the Commission members, the Commission’s Executive Director, and the Commission’s Rents Analyst.

City Manager: The City Manager of the City of Takoma Park, Maryland, or his or her designee.

Code Official or Code Enforcement Officer: Includes code enforcement officers, inspectors, employees, and City contractors or agents charged with the responsibility of inspecting buildings and property in the City for purposes of determining compliance with the property maintenance code and other applicable codes, issuing rental housing licenses, determining whether any condition exists that renders a building an unsafe building, and investigating complaints filed by any person to the effect that a building or property is or may be in violation of the terms of this title.

Consumer Price Index: The Consumer Price Index, All Urban Consumers, DC-MD-VA-WV, All Items, November 1996 = 100 (“CPI-U”) or any replacement or successor index.

Defective Tenancy: Any condition in a rental facility that constitutes a violation of the terms of the lease, City Code Chapter 6.16 Landlord-Tenant Relations, or City Code Chapter 6.12 Property Maintenance Code.

Department: The City of Takoma Park, Maryland’s Department of Housing and Community Development.

Domestic Partners: Persons who are registered as domestic partners with the City.

Family Member of an Owner: A family member of an owner includes any of the following:

1. An owner’s spouse or domestic partner;
2. An owner’s former spouse or former domestic partner;
3. An owner’s parents, grandparents, children, grandchildren, siblings, aunts, uncles, nieces and nephews;
4. An owner’s spouse or domestic partner’s parents, grandparents, children, grandchildren, siblings, aunts, uncles, nieces and nephews.

Judgment Rate of Interest: The interest rate set forth in accordance with Section 11-107(a) and (b) of the Courts and Judicial Proceedings Article of the Annotated Code of Maryland, as amended.

Landlord: Any person who is the owner, the owner’s agent, or a lessor or a sub lessor of the rental unit or rental facility and, in addition, shall mean any person authorized to exercise any

aspect of the management of the rental facility, except those persons engaged solely in custodial and maintenance functions.

Lease: Any agreement, whether written or oral, that establishes or modifies the terms, conditions, rules, regulations or any other provisions concerning the use and occupancy of a rental unit or a rental facility.

Limited Equity Housing Cooperative: A cooperative housing corporation, either domestic or foreign, qualified in the State of Maryland, either stock or nonstock, in which each shareholder or member has a cooperative interest in the corporation and in which the appreciation of share values or membership interests is limited to the annual rate of inflation or other comparable index.

Nonresidential Structure: Any structure or portion of a building, structure, or premises not intended to use for residential purposes such as a commercial business, garage or shed.

Occupant: Any person who, lawfully or unlawfully, is living, sleeping, cooking, eating in or in actual possession of a building. An occupant shall include a tenant, an owner and a family member of an owner.

Owner: Any person, agent, operator, firm or corporation having a legal or equitable interest in a property; or recorded in the official records of the state or county as holding title to a property; or otherwise having charge, care or control of the property, including the guardian, executor or administrator of the estate of any such person, and the of the estate of such person if ordered to take possession of real property by a court personal representative, executor, administrator, trustee, guardian, or conservator of the estate of the owner.

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 who have an obligation to pay rent, utilities or provide other consideration to the owner for such accommodations. 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.

Party: The landlord, tenant or tenant association in a Commission complaint or the landlord filing a petition, and any tenant whose rent is proposed to be increased in a rent increase petition.

Person: An individual, corporation, limited liability company, partnership, limited partnership, limited liability partnership, trust, association, organization, or any other legal entity acting as a unit.

Petition: A request by a landlord for a fair return rent increase above the rent stabilization allowance.

Premises: A lot, plot or parcel of land, easement or public right of way, including any buildings and structures thereon.

Rent: 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.

Rental Facility or Residential Rental Structure: Any building or group of buildings operated as one entity in which the landlord provides one or more rental units to a tenant or rent or other compensation. A rental facility does not include the following:

1. Hospitals, nursing homes, convalescent homes, hospices, and other health care facilities;
2. Religious facilities such as churches, synagogues, parsonages, rectories, convents and parish homes;
3. Transient facilities such as hotels, motels, tourist homes, bed and breakfast facilities;
4. School dormitories; and
5. Owner occupied group houses.

Rental Unit: An apartment, single-family house, accessory apartment or condominium unit which is occupied or is intended to be occupied by one or more tenants.

Rents Analyst: The Rents Analyst for the Commission, whose duties include reviewing Fair Return petitions and issuing preliminary administrative decisions.

Rent Stabilization Allowance: The percentage by which the rent for a rental unit may be increased on or after 12 full months from the effective date of the last rent increase for that rental unit.

Sale: 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, transfers 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.

Security Deposit: Payment of money, including a pet deposit and payment of the last month's rent in advance of the time it is due, given to a landlord by a tenant in order to protect the landlord against nonpayment of rent, damage due to breach of lease, or damage to the leased premises, common areas, major appliances, and furnishings.

Tenant: Any person who occupies a rental unit or rental facility as a residence with the consent of the landlord and has an obligation to pay rent, utilities or provide other consideration to the landlord for such accommodations. A tenant does not include an occupant of an owner-occupied group house, or an employee of the landlord (such as a resident or property manager, nanny, babysitter, au pair or maid).

Tenant Association: An organization whose members represent tenants of at least one third of the occupied rental units in a specific rental facility and is registered with the City.

Workmanlike: Executed in a skilled professional manner with materials applied or equipment installed in accordance with manufacturer's specifications and generally accepted standards of craftsmanship.

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. 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.

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, 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 any 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. 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. A resident from denying the admittance of any person into 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. 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 multi-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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