



Chapter 13

Landlord-Tenant Relations

Gaithersburg, MD

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Chapter 13 – Landlord-Tenant Relations

ARTICLE I – GENERAL PROVISIONS

Section 13-1 – Definitions.

For the purposes of this chapter, the following words and phrases shall have the meanings respectively ascribed by this section:

Affected tenant. Any tenant whose health, safety and welfare is, or reasonably may be, impaired by a defective tenancy.

Apartment hotel. Any building or portion thereof designated for or containing both guest rooms and dwelling units.

Board of directors of a cooperative housing structure. The governing body which shall conduct the business and affairs of the legal entity which holds title to the cooperative housing structure.

Bona fide complaint, response or effort. A complaint or response or effort made in good faith as determined by the director or his designee.

City manager. The city manager of the City of Gaithersburg or any employee, department, officer or agency of the city designated by the city manager to carry out the duties and responsibilities ascribed to the city manager under this chapter.

Commission. The City of Gaithersburg commission on landlord-tenant affairs.

Council of unit owners of a condominium housing structure. Shall be as defined in **Md. Code, Real Prop. Art., § 11-101** or as hereafter amended.

Defective tenancy. Any condition in a rental facility which constitutes a violation of the terms of the lease or any provisions of this chapter or constitutes a violation of any law, regulation or code.

Department. **The City** Department of **Community, Neighborhood, and Housing Services**.

Director. The director of the department of **Community, Neighborhood, and Housing Services** or his designee.

Dwelling unit.

- (1) For the purposes of compliance with this chapter, a single-family detached or attached residential building.
- (2) That portion of a multifamily building, structure or facility of two (2) or more units which is designated, intended or arranged for use or occupancy as a residence by one or more persons. "Dwelling unit" shall also include personal property located in the City of Gaithersburg offered for lease as a place of abode rather than as temporary lodging. It shall also include real property upon which the personal property is situated (or is to be situated) and which is necessary for the convenient use of the personal property. It shall also include property owned by the landlord which is available for use by the tenant in connection with his or her occupancy of personal property for which he or she must pay rent.
- (3) In the case of a condominium multifamily housing structure, building or facility, any unit which is designated, intended or arranged for use or occupancy as a residence by one or more persons and for which the landlord receives consideration. Any unit occupied by a person who has an ownership interest in the unit or by a person who is a relative of the landlord shall be exempt from the provisions of this chapter. For the purpose of this subsection, the term "relative" shall include the landlord's siblings, parents, grandparents, children and

grandchildren, and the spouses of such persons and the landlord's spouse and spouse's siblings, parents, grandparents, children and grandchildren and their spouses. For the purposes of this subsection, an "ownership interest" shall mean the ownership by any landlord or landlord's spouse or the minor child of either the landlord or the landlord's spouse, joint or severally, of a total of more than three (3) percentum of the invested capital or capital stock of any group, firm, corporation or association owning or managing condominium rental property.

- (4) In the case of a cooperative multifamily housing structure, building or facility, any unit which is designated, intended or arranged for use or occupancy as a residence by one or more persons who do not have an ownership interest in the legal entity which holds title to the cooperative housing structure and for which the party who has an ownership interest in the legal entity receives consideration. Any cooperative unit occupied by a person who is a relative of the landlord shall be exempt from the provisions of this chapter. For the purpose of this subsection, the term "relative" shall include the landlord's siblings, parents, grandparents, children and grandchildren, and the spouses of such persons and the landlord's spouse and spouse's siblings, parents, grandparents, children and grandchildren, and their spouses. For the purposes of this subsection, an "ownership interest" shall mean the ownership by any landlord or landlord's spouse or the minor child of either the landlord or the landlord's spouse, jointly or severally, of a total of more than three (3) percentum of the invested capital stock of any group, firm, corporation or association owning or managing cooperative rental property. Limited equity cooperatives shall be exempt from the provisions of this chapter.

Emergency Situations. The imminent threat or occurrence of loss of life, injury, or other health, welfare, or safety impacts; and property damage or destruction from natural or human-made causes.

Inspection or inspections. An examination of a rental facility or any part thereof as the director shall deem appropriate to carry out the purposes of this chapter.

Landlord. The owners, the owner's agent, lessor or sublessor of the dwelling unit authorized to exercise any aspect of the management of the premises except those persons engaged solely in custodial and maintenance functions. In the case of a condominium housing structure, the owner or owner's agent of any dwelling unit which is designated, intended or arranged for use or occupancy as a residence by one or more persons and for which the owner receives consideration. In the case of a cooperative housing structure, any person having an ownership interest in the legal entity which holds title to the cooperative housing structure and enjoys exclusive use of a dwelling unit and for which the party who has an ownership in the legal entity receives consideration.

Lease. Any written agreement which establishes or modifies the terms, conditions, rules, regulations or any other provisions concerning the use and occupancy of a dwelling unit.

Notice. Notification in such manner and form as shall be established by regulations promulgated by the commission; except that these regulations shall not conflict with the notice provisions contained in **Md. Code, Real Prop. Art., § 8-100, et seq.**

Owner. Any person, firm, partnership, association, company or corporation having a legal or equitable interest in the rental facility, including, but not limited to, a mortgagee and an assignee of rents. It shall also mean any person who, alone or jointly or severally with others, shall have the charge, care or control of any structure as executor, administrator, trustee or guardian of the estate of the owner. Any person, firm, company, association or corporation whose name appears on the property tax bills shall be deemed to be an owner of the rental property.

Person. An individual, corporation, partnership, association, organization or any other legal entity.

Plain language. Writing that is clear, concise, well-organized, and written in a manner that prioritizes the tenant's understanding of the contents in order to eliminate potential confusion with respect to any technical, legal, or other terminology that require specialized knowledge, training, or expertise to understand.

Prospective Tenant. Any person that submits a rental application or otherwise acts in a manner where a landlord knows, or reasonable should know, that the person may become the landlord's tenant.

Rental facility.

- (1) Any structure, or combination of related structures and appurtenances, operated as a single entity, including a trailer coach park, in which the operator thereof provides for a consideration two (2) or more dwelling units; but shall not be construed to mean any transient facilities such as guest rooms in apartment hotels, boarding houses, tourist homes, inns, motels, hotels, school dormitories, hospitals or medical facilities; and any facilities operated for religious or eleemosynary purposes.
- (2) In the case of a condominium or cooperative multifamily housing structure, any dwelling unit which is designated, intended, or arranged for use or occupancy as a residence by one or more persons and for which the landlord receives consideration.
- (3) For the purpose of compliance with this chapter, a "rental facility" shall also include any single-family detached or attached residential building.

Security deposit. Any payment of money, including the payment of the last month's rent in advance of the time it is due, given to a landlord against nonpayment of rent or damage to the leased premises.

Tenant. Any person who occupies a dwelling unit for living or dwelling purposes with the landlord's consent.

(Ord. No. O-8-85, 7-1-85; Ord. No. O-10-89, 6-5-89)

Section 13-2 – Legislative Findings.

The mayor and city council hereby finds that there is often unequal bargaining power between landlords and tenants; that the common law principles pursuant to which leases are interpreted as grants of right of possession rather than mutual and dependent covenants evolved in an agricultural setting and are ill-suited to the modern residential setting of this city; that, in order to facilitate fair and equitable arrangements, foster the development of housing which will meet the minimum standards of the present day and promote the health, safety and welfare of the people, it is necessary and appropriate that the city provide a commission and assign responsibilities to the city manager and director to determine certain minimum rights and remedies, obligations and prohibitions, for landlords and tenants of certain kinds of residential property.

(Ord. No. O-8-85, 7-1-85)

Section 13-3 – Purposes and Policies.

- (a) This chapter shall be liberally construed and applied to promote its underlying purposes and policies.
- (b) The underlying purposes and policies of this chapter are:
 - (1) To simplify and clarify the law governing the rental of dwelling units.
 - (2) To encourage landlords and tenants to maintain and improve the quality of housing in this city.
 - (3) To assure fair and equitable relations between landlords and tenants.
 - (4) To revise and modernize the law of landlord and tenant to serve more realistically the needs of an urban society developing within the City of Gaithersburg, Maryland.

(Ord. No. O-8-85, 7-1-85)

Section 13-4 – Applicability of Chapter.

- (a) Subject to any public general state laws to the contrary, including but not limited to, the Maryland Real Property Code Ann., Title 8, Landlord and Tenant, this chapter shall regulate and determine legal rights, remedies and obligations of the parties and beneficiaries of any rental agreement concerning any multifamily structure containing two (2) or more rental dwelling units within this city wherever executed. Any rental agreement, whether written or oral, shall be unenforceable hereunder insofar as the agreement or any provision thereof conflicts with any provision of this chapter as specified in section 13-14. Such unenforceability shall not affect other provisions of the agreement which can be given effect without such unenforceable provision.
- (b) The requirements of this chapter shall also apply to any rental facility consisting of single-family detached and attached residential buildings.
- (c) This chapter shall not apply to or govern presettlement occupancy agreements or post-settlement occupancy agreements on residential owner-occupied dwelling units.
 - (1) As used herein, "Pre-settlement occupancy agreement" shall mean a written agreement between the owner of premises and purchaser of such premises wherein the owner permits the purchaser to possess the premises, with or without consideration, prior to settlement on the contract of sale between the owner and purchaser; provided, however, that settlement on such contract of sale is contracted to occur within one hundred eighty (180) days of the date of final ratification of the contract of sale.
 - (2) As used herein, "post-settlement occupancy agreement" shall mean a written agreement between a purchaser of premises and the seller of such premises entered into immediately after or simultaneous with the delivery of the deed to the purchaser by the seller wherein the purchaser, with or without consideration, permits the seller to occupy the premises for a period of time not to exceed one hundred eighty (180) days from the date of settlement.

(Ord. No. O-8-85, 7-1-85; Ord. No. O-2-17, 2-6-17)

Section 13-5 – Authority and Duties of City Manager.

The city manager or his designee shall have the following authority and duties:

- (a) To issue, deny, revoke or suspend licenses required by Chapter 18AA of the City Code and to conduct any investigation necessary thereto;
- (b) To initiate and conduct investigations and conciliations of any alleged or apparent violation of this chapter or any complaint filed hereunder; and in connection with this authority, all landlords shall be required to make available to the city manager or director for inspection at reasonable times all rental facilities and records necessary for the enforcement of any provisions of this chapter;
- (c) To encourage landlords to meet with bona fide tenant associations or organizations upon a good faith request by such association or organization;
- (d) To assist the commission in carrying out its duties and implementing the mandate of commission rules and/or regulations promulgated pursuant to the provisions of this chapter; and
- (e) In the case of condominium and cooperative rental facilities, the city manager shall encourage complaining parties to contact the council of unit owners or its designated agent or the board of directors of the condominium or cooperative, when appropriate, in an attempt to resolve the dispute prior to filing a complaint as described in Article IV.

(Ord. No. O-8-85, 7-1-85)

Section 13-6 – Enforcement Procedure.

If the enforcement of any of the provisions of this chapter necessitates the institution of criminal or civil court proceedings, such proceedings shall be instituted by the city attorney's office after referral by the city manager or the commission. The city attorney, after a matter has been referred by the city manager or the commission, shall institute appropriate legal action, as provided by this chapter, or any other applicable law, against any person found by the city manager or the commission to be in violation thereof; provided, that if the city attorney believes that additional information or action by the city manager or the commission is necessary to enable him to take appropriate action, he may refer the matter back to the city manager or commission for such consideration. Nothing herein shall limit the authority of the city attorney to initiate prosecution or bring actions in law or equity for violation of any local law, ordinance or regulation whether or not the city manager or commission has made a finding of a violation under this chapter.

(Ord. No. O-8-85, 7-1-85)

ARTICLE II – COMMISSION ON LANDLORD-TENANT AFFAIRS

Section 13-7 – Created; Membership; Appointment; Terms of Office of Members; Alternate Members; Assistance.

- (a) There is hereby established the City of Gaithersburg commission on landlord-tenant affairs. The commission shall consist of seven (7) members to be appointed by the mayor, subject to confirmation by the city council, within forty-five (45) days of the creation of any vacancy on the commission. Two (2) of the members shall be landlords selected from nominations made by organizations representing landlords; two (2) of the members shall be tenants whose livelihood does not derive in whole or in significant part from the ownership and/or the management of rental property; and three (3) members shall be selected from the public at large from persons who are neither tenants nor landlords nor whose livelihood is derived in whole or in significant part from the ownership and/or management of rental property. Prior to selecting representatives of landlords and tenants, recommendations for members shall be requested from organizations representing either landlords or tenants within the city. If no nominations are received within a time limit specified by the city, the appointments may be made without nominations.

The mayor may, subject to confirmation by the city council, appoint three (3) alternate members of the commission for the purpose of sitting in place of regular members who may be necessarily absent, disqualified or otherwise unable to vote or participate in commission matters. One of the alternate members shall be selected from nominations made by organizations representing landlords; one alternate member shall be a tenant whose livelihood does not derive in whole or in significant part from the ownership and/or the management of rental property; and one alternate member shall be selected from the public at large from persons who are neither tenants nor landlords, nor whose livelihood is derived in whole or in significant part from the ownership and/or management of rental property.

The terms of the members of the commission shall be for three (3) years except that the initial terms of members of the commission shall be staggered as prescribed by the city council at the time of appointment, so as to provide for the vacating of not more than three (3) members of the commission annually. Alternate members shall be appointed on a nonstaggered basis for a term of three (3) years. Each member of the commission shall continue to serve until his successor has been appointed. The term of any member of the commission shall immediately terminate in the event that member changes status as a landlord, a tenant, or a member of the public at large or ceases to reside in the City of Gaithersburg.

- (b) For the purpose of subsection (a) of this section, the livelihood of a member shall be deemed to be derived in significant part from the ownership and/or management of rental property when the member or the member's spouse or the minor child of either the member or the member's spouse, jointly or severally, owns a total of more than three (3) percentum of the invested capital or capital stock of any group, firm, corporation or association owning or managing rental property or receives a total combined compensation of more than five thousand dollars (\$5,000.00) per year from any individual, group, firm, corporation or association owning or managing rental property.
- (c) Commission members shall serve without pay.
- (d) Except for members representing landlords, all commission members shall reside in the City of Gaithersburg.
- (e) The city manager shall, within budget limitations, provide such staff assistance to the commission as is required to perform its functions under this chapter.

(Ord. No. O-8-85, 7-1-85; Ord. No. O-13-86, 11-3-86)

Section 13-8 – Powers and Duties Generally.

In addition to any other power, duty or responsibility provided in this chapter, the commission shall have the following powers:

- (a) Subject to approval by the city council, the commission may make, issue, adopt, promulgate, amend and rescind such rules and regulations, including provisions for notification under this chapter, as it deems necessary to implement the provisions of this chapter.
- (b) "Notice" requirements, except as specified in this chapter, shall be established by regulations promulgated by the commission, except that these regulations shall not conflict with the notice provisions contained in article 53 of the Annotated Code of Maryland.
- (c) The commission shall be empowered to enforce the provisions of this chapter through any appropriate means, including but not limited to:
 - (1) The utilization of the services available through the city manager or department;
 - (2) The imposition of an award of money damages against a landlord or tenant for the benefit of either as may be provided for in this chapter;
 - (3) The ordering of repairs by a landlord or tenant;
 - (4) The investigation and conciliation of any violations of this chapter or any complaints filed hereunder, and the investigation of any matter relating to any license to conduct or operate a rental facility; and
 - (5) The imposition of a monetary penalty against a landlord or tenant when a penalty is specified in a statute within the jurisdiction of the commission.
- (d) The commission may study and report periodically to the city council and the city manager on any federal rent stabilization regulations, on rent increases and on rent inequities that they may find to exist in the city. The council shall promptly, upon notification or indication of the cessation, subsequent to the effective date of this chapter, of any federal rent guidelines, request the commission to prepare and transmit to the council within thirty (30) days, recommendations on whether or not rent guidelines should or should not be continued, and if they should be continued, what they should be, so that the council may be in a position to make informed decisions with respect to the continuation of rental guidelines in the city.
- (e) The commission shall provide such other information as may be required by the city council or city manager.

(Ord. No. O-8-85, 7-1-85)

Section 13-9 – Officers; Meetings; Quorum; Voting.

The commission shall elect one of its members as chairperson and another of its members as vice-chairperson, each to serve at the pleasure of the commission, and such other officers as it shall determine. The commission shall meet on call by the chairperson as frequently as required to perform its duties, except as otherwise provided in this chapter. A majority of the members of the commission shall constitute a quorum for the transaction of business, and a majority vote of those present, but not less than four (4) at any meeting, shall be sufficient for any official action taken by the commission. At the request of three (3) members, a regular or emergency meeting of the commission shall be convened.

(Ord. No. O-8-85, 7-1-85)

Section 13-10 – Committees; Advisory Committees.

- (a) The chairperson of the commission may, with the approval of the commission, appoint committees from its members to assist in carrying out any of the functions and duties of the commission. Any committee appointed shall consist of not less than three (3) members. Committee action shall not be deemed to be the actions of the commission and shall in no way bind the commission or its members.
- (b) The chairperson of the commission may appoint advisory committees of citizens and at least one commission member as in his judgment will aid in effectuating the purposes of this chapter. Advisory committee action shall not be deemed to be the actions of the commission and shall in no way bind the commission or its members.

(Ord. No. O-8-85, 71-85)

Section 13-11 – Commission Panels Authorized; Decisions; Appeal.

- (a) When found warranted by the size of the caseload or length of required hearings, the chairperson of the commission, following a majority vote of those commissioners present, is hereby authorized to designate three (3) members of the commission, one of whom shall be a tenant member, one of whom shall be a landlord member and one of whom shall be a public at-large member, to sit as a panel to conduct a hearing on any complaint or appeal pending before the commission. The chairperson shall designate one panel member to serve as panel chairperson. Depending upon the extent to which panels are used, the chairperson of the commission will endeavor to rotate panel membership from time to time among members of the commission.
- (b) In the event any matter is heard by a commission panel designated pursuant to this section, all panel members so designated must be present to conduct the hearing and all official action by the panel shall be taken by the vote of not less than two (2) members of the panel.
- (c) Except as otherwise provided in this section, the provisions of this chapter pertaining to the conduct of hearings before the commission shall apply to hearings conducted by commission panels.
- (d) Decisions of a commission panel shall be final and appealable to the circuit court in accordance with the procedures applicable to decisions of the full commission.
- (e) If a commission panel is unable to decide any complaint or appeal pending before it due to a tie vote resulting from the failure of any panel member to vote, such complaint or appeal shall be referred to the entire commission for a decision by it based upon the record established before the commission panel, without further hearing.

(Ord. No. O-8-85, 7-1-85)

Section 13-12 – Reports to City Council.

Upon a request by the mayor and city council, the commission shall, within thirty (30) days, report on the number of complaints filed during such period, the nature thereof and the disposition made thereof; and shall make this information public as soon as practicable. This report shall include the titles of all court cases arising under this chapter.

(Ord. No. O-8-85, 7-1-85)

ARTICLE III – LANDLORD-TENANT OBLIGATIONS

Section 13-13 – Contents of Lease.

All leases or agreements for the occupancy of a dwelling unit in a rental facility located in the City of Gaithersburg, Maryland, with the exception of subsections (a) and (r) in the case of trailer coaches (mobile homes), must:

- (a) Be offered for an initial term of two (2) years to be accepted at the prospective tenant's option, unless a reasonable cause exists for offering an initial term of other than two (2) years. In the case of condominium, cooperative and single-family rental facilities, this subsection shall not be applicable.
- (1) For purposes of this subsection, reasonable cause shall mean those situations which would create undue hardship or expense for a landlord to enter into a two-year lease. Such situations may include the sale of a dwelling unit with settlement to occur within a two-year period, a bona fide contract to sell within a two-year period, or a planned conversion to condominium or cooperative within a two-year period. When the landlord claims such a cause, a statement citing the reasonable cause and advising the prospective tenant of his or her right to challenge the statement by filing a complaint with the director shall be included as an addendum to the lease, signed and dated by the landlord and a copy given to the prospective tenant.
- (2) The landlord shall include the following statement on all lease agreements insuring that it is properly initialed by the prospective tenant and, if an addendum to an oral or written lease or an initial oral lease, that it is signed and dated by the parties.

"Gaithersburg city law requires landlords, unless there is reasonable cause otherwise, to offer all prospective tenants lease agreements for initial terms of two (2) years. Such an offer may be accepted at the option of the prospective tenant. Prior to entering this lease, the tenant hereby acknowledges that (initial and date one option below):

_____ I was offered and accepted a two-year lease term by the landlord and understand I may receive a rent increase after twelve (12) months from commencement of the lease term subject to section 13-20(e) of the Gaithersburg City Code.

_____ I was offered but rejected a two-year lease term by the landlord.

_____ I received a copy of a written statement in which the landlord asserts and explains a reasonable cause for failing to offer me a two-year initial lease term and was advised of my rights to challenge such statement by filing a complaint with the Office of Landlord-Tenant Affairs."

- (3) Nothing herein shall preclude the parties from negotiating a lease of duration either longer or shorter than two (2) years after the prospective tenant has been offered and has refused a lease of two (2) years' duration as previously described.
- (b) Not contain a waiver of notice to quit. In the event a landlord serves notice not to renew a lease and the tenant requests the reason for such failure to renew, the landlord shall be held harmless from charges of libel related thereto.
- (c) Contain no waiver of the landlord's liability for damage occasioned by the landlord's negligence or violation of any applicable laws and provide for reimbursement to the tenant for any damage sustained by the tenant due to the negligence of the landlord.
- (d) Except as provided in section 13-17(a) relating to single-family dwellings, contain a provision acknowledging the landlord's responsibility for maintenance of the rental facility and incorporating by reference city ordinances regarding buildings, fire prevention, housing standards and zoning, as amended, as an express warranty of habitability and covenant to repair.

- (e) Except as provided in subsection (d) above, contain a provision incorporating no collateral agreement or provision by reference unless a copy thereof is affixed to all copies of the lease.
- (f) Contain no authorization for confession of judgment for rent due.
- (g) Contain no provision for penalty for late payment in excess of five (5) percent of the amount of rent due for the rental period for which payment is delinquent.
- (h) Contain no waiver of any of the protections afforded under this chapter.
- (i) Contain no provision authorizing the lessor to take possession of the leased premises or the tenant's personal property therein without the benefit of formal legal process.
- (j) Contain a provision requiring itemization of all charges for repair of damages to the premises, whether claimed by the landlord or by the tenant, and providing that such charges shall be substantiated upon written request.
- (k) Contain a provision for the deposit of all security deposits in accordance with the provisions of the Real Property Article of the Annotated Code of Maryland, or as hereafter amended.
- (l) Contain notification to the tenant of the location of a copy of the license where it can be inspected by the tenant.
- (m) Contain a provision providing for a minimum of ten (10) days before which time late fees may not be charged.
- (n) Contain a covenant that the landlord will deliver the leased premises and all common areas in a clean, safe and sanitary condition, free of rodents and vermin, and in complete compliance with all applicable laws. In the case of a condominium or cooperative housing structure, the landlord shall be responsible for delivery of only the dwelling unit in a clean, safe and sanitary condition, free of rodents and vermin, and in complete compliance with all applicable laws.
- (o) Contain no waiver of the right to a jury trial or consent to pay court or legal costs.
- (p) Contain a provision requiring written receipts for all cash or money orders paid by the tenant to the landlord for rent, security or otherwise.
- (q) Contain a provision requiring that the landlord exercise his or her right to access to any dwelling unit, after due notice to the tenant, and without objection from the tenant, in order to make necessary repairs, decorations, alterations or improvements, supply services only by mutual agreement during normal business hours, **and by providing the tenant no less than twenty four (24) hours notice;** to exhibit the dwelling unit to prospective purchasers, mortgagees or tenants only during normal business hours, including weekends, except as otherwise may be agreed upon by the parties; and providing that nothing in this subsection shall prevent the landlord from entering any leased premises in an emergency situation or, after due notice, when the landlord has good cause to believe the tenant may have damaged the premises or may be in violation of this chapter. A copy of the work order or notice is to be left with the tenant or inside the tenant's unit.
- (r) Contain a provision permitting the tenant to sublease with the landlord's written permission, which permission shall not be unreasonably withheld except in condominium and cooperative housing structures where applicable legal documents and rules and regulations prohibit subleasing.
- (s) Contain no provision for a lien on behalf of the landlord on the tenant's chattels, except as provided by the Real Property Article of the Annotated Code of Maryland, or as hereafter amended.

- (t) Contain a provision permitting the lease to be terminated upon thirty (30) days written notice to the landlord due to:
- (1) an involuntary change of employment from the Washington metropolitan area;
 - (2) the death of major wage earner;
 - (3) involuntary unemployment;
 - (4) the tenant or the tenant's child being a victim of abuse in accordance with Md. Code, Real Prop. Art. § 8-5a-01, et seq.;
 - (5) a landlord harassing the tenant or infringing on the tenant's privacy rights in a manner prohibited under Md. Code, Crim. Law Art., §§ 3-800, et seq.; or 3-900, et seq.;
 - (6) the tenant or tenant's spouse:
 - (A) being sixty-two (62) years of age or older;
 - (B) being unable to live independently; and
 - (C) needing to move into a nursing home or other senior citizen housing;
 - (7) the tenant being incarcerated or declared mentally incompetent;
 - (8) the landlord's failure to correct a violation of applicable law that adversely affects the immediate health and safety of the tenant in the tenant's unit or a common area available for use by the tenant, within thirty (30) days after being ordered to do so by the Department if:
 - (A) the tenant has allowed the landlord access to make the required repairs; and
 - (B) after reinspection with the prescribed period of time, the Department determines that the violation has not been corrected;
 - (9) the tenant has been called to serve on active duty for the military; or
 - (10) other reasonable cause beyond the tenant's control.

Except for the reason listed under paragraph (t)(8), the lease may provide that in the event of termination under this provision, the tenant shall be liable for a reasonable termination charge not to exceed the lower amount of one month's rent, or actual damages sustained by the landlord.

(u) Notify the tenant that:

- (1) General information and assistance is available from the Department regarding:
 - (A) Questions about the addenda to the lease; and
 - (B) Evictions; and
- (2) The tenant is entitled to a hard copy of the Landlord-Tenant Handbook as required under City Code, § 13-14(i) and that the Landlord-Tenant Handbook is available on the City of Gaithersburg website.

- (v) Contain a covenant of quiet enjoyment in favor of the tenant, including, but not limited to, conduct or conditions attributable to the landlord, his employees or agents, as well as conduct or conditions attributable to third persons, including other tenants, that is performed on the property in which the landlord has an interest, which conduct or conditions can be legally controlled by the landlord.
- (w) **Contain a plain language summary of tenant rights and responsibilities that includes, at minimum:**
 - (1) **The term of the lease;**
 - (2) **The amount of the rent;**
 - (3) **The date upon which the rent is due;**
 - (4) **The tenant’s responsibility, if any, for utility costs;**
 - (5) **A list of additional tenant rights and responsibilities under the lease; and**
 - (6) **Information about services available to tenants from the appropriate City departments, commissions, and boards.**
- (x) **Contain a statement that a property or liability insurance policy purchased by the landlord does not provide coverage for the personal belongings of a tenant and the statement must specify whether the tenant is required to obtain renter’s insurance under the terms of the lease agreement. The statement must be acknowledged by each tenant with a signature or initials.**
- (y) **Provide information about whether or not the building is fully protected by an automatic sprinkler system.**

(Ord. No. O-8-85, 7-1-85; Ord. No. O-9-89, 6-5-89; Ord. No. O-10-89, 6-5-89)

Section 13-14 – Leasing Requirements Generally.

- (a) A copy of any type of lease used by any landlord for a multiple-family dwelling unit shall be filed with the director. A copy of a lease used by any landlord for a single-family dwelling unit including any condominium or cooperative unit shall be filed with the director when requested by the director.
- (b) After the effective date of this chapter, all landlords shall give all prospective tenants a copy of their proposed leases. Prospective tenants shall have the right to examine the proposed lease on the premises of their choosing.
- (c) **Pursuant to section 13-18(b)(1)(C), landlords of a building containing four (4) or more residential dwelling units shall provide a prospective tenant with notice containing the information listed in section 13-18(b)(2).**
- (d) **Pursuant to section 13-17(a)(9)(B), landlords shall provide a prospective tenant with information regarding ratio utility billing.**
- (e) Pursuant to section 13-13(a) all landlords shall offer leases for an initial period of two (2) years. Prospective tenants shall have the option to accept the lease for this two-year term or to negotiate with, and accept from, the landlord a different term mutually agreeable to the landlord and the tenant.
- (f) For the purposes of transition, all leases existing as of the effective date of this chapter shall remain in effect until their expiration; except, that where provisions of such a lease conflict with or are not in conformity with subsections (a), (b), (c), (e), (f), (g), (h), (i), (j), (l), (n), (o), (q), (r), and (t) of section 13-13, those conflicting or nonconforming provisions shall be of no force or effect.

- (g) No lease entered into after the effective date of this chapter shall be effective to the extent that it contradicts the provisions of this chapter and no provision of any such lease shall be applied in contradiction to this chapter. No lease for the rental of a dwelling unit in a condominium, cooperative or single-family housing structure entered into after one hundred twenty (120) days from the effective date of this chapter shall be effective to the extent that it contradicts the provisions of this chapter and no provision of any such lease shall be applied in contradiction to this chapter.
- (h) All landlords are hereby required to provide notice to all tenants, when giving a notice of past due rent, when issuing a written quit and vacate notice, and immediately upon the institution of any judicial proceeding to regain the leased premises, that general information and assistance regarding evictions are available from the director.
- (i) **Unless the tenant is in breach of the lease, if a landlord does not intend to offer an existing tenant a renewed lease term, the landlord must give the tenant at least sixty (60) days' notice of the landlord's intent to terminate tenancy at the lease expiration.**
- (j) **A rental application must comply with the requirements outlined in Montgomery County Code, § 27-15A(a) – (i).**
- (k) **At the beginning of a lease term, a landlord must provide each tenant with a copy of the Landlord-Tenant Handbook unless the tenant signs a statement declining a hard copy and accepting referral to the Landlord-Tenant Handbook maintained on the City of Gaithersburg website.**

(Ord. No. O-8-85, 7-1-85)

Section 13-15 – Eviction, Assistance.

- (a) *Assistance from sheriff or other official authorized to serve process.* The director shall request the sheriff or other official authorized to serve process and to assist in the removal of an evicted tenant's chattels from repossessed property to assist the city in advising evicted tenants of their rights under this chapter and protection of their property.
- (b) *Responsibility of City.* In carrying out its authorized functions under this section, the city assumes no responsibility or liability for injury, damage or loss to persons or property, nor shall the city be liable for the payment to the independent contractors for transportation and storage charges. The city's role under this section is solely to serve as an intermediary between evicted tenants and independent contractors to facilitate contractual arrangements between these parties for transportation and storage accommodations.
- (c) **Landlord notice requirement. Immediately after scheduling an eviction with the Montgomery County Sheriff's Office, in accordance with Md. Code, Real Prop. Art., § 8-400, et seq., a landlord must notify the tenant and the department of having scheduled the eviction and provide the date and time the eviction will take place.**

(Ord. No. O-8-85, 7-1-85)

Section 13-16 – Obligation of Tenants.

Each tenant, at all times, shall comply with all obligations imposed upon tenants by applicable provisions of all federal, state, or city statutes, codes, regulations or ordinances, and in particular:

- (a) Keep that part of the premises which he occupies and uses as clean, sanitary and safe as the conditions of the premises permit.
- (b) Dispose from his dwelling unit all rubbish, garbage and other organic or flammable waste in a clean and sanitary manner.
- (c) Keep all plumbing fixtures as clean and sanitary as their condition permits.
- (d) Properly use and operate all electrical and plumbing fixtures.
- (e) Not permit any person on the premises with his permission to willfully or wantonly destroy, deface, damage, impair or remove any part of the structure or dwelling unit or the facilities, equipment or appurtenances thereto, nor himself do any such thing.
- (f) Comply with all covenants, rules, requirements and the like which are brought to the attention of the tenant, which are consented to in writing by the tenant, and which are reasonably necessary for the preservation, of the property and persons of the landlord, other tenants or any other person.
- (g) Comply with all lawful lease provisions and obligations.

(Ord. No. O-8-85, 7-1-85; Ord. No. O-10-89, 6-7-89)

Section 13-17 – Obligation of Landlords.

- (a) Except in the case of a single-family unit where provision is made in the lease for tenant responsibility, the landlord, at all times, shall reasonably provide for the maintenance of the health, safety and welfare of all tenants and of all individual property on the premises of a rental facility which obligations shall include, but not be limited to, the following:
 - (1) Complying with all applicable provisions of any federal, state or city statute, code, regulation or ordinance governing the maintenance, construction, use or appearance of the dwelling unit and rental facility.
 - (2) Keeping all areas of the building, grounds, facilities and appurtenances in a clean, sanitary and safe condition.
 - (3) Making all repairs and arrangements necessary to put and keep the dwelling unit and the appurtenances thereto in as good condition as they were, or ought by law or agreement to have been, at the commencement of tenancy.
 - (4) Maintaining all electrical, plumbing and other facilities and conveniences supplied by the landlord in good working order.
 - (5) Providing and maintaining appropriate receptacles and conveniences for the removal of ashes, rubbish and garbage, and arrange for the frequent removal of such waste.
 - (6) Supplying water and hot water as reasonably required by the tenant and supplying adequate heat (as provided by the City Code). In the case of condominium or cooperative dwelling units, water, hot water and adequate heat must be provided by the landlord to the extent that the landlord has responsibility to provide such services.
 - (7) Comply with all lawful lease provisions and obligations.

(8) Ensuring that the landlord or someone whose conduct is attributable to the landlord or third parties, including, but not limited to, other tenants, which conduct could be legally controlled by the landlord, shall not interfere with the permissible use or quiet enjoyment of the leased property by the tenant.

(9) **Ratio Utility Billing**

(A) **Definitions.** In this Section, the following terms have the meanings indicated:

- (i) **Master meter.** A meter used to measure, for billing purposes, all usage of a particular utility for a landlord’s residential rental property, including usage for common elements of the residential rental property and dwelling units.
- (ii) **Ratio utility billing system.** Allocation of one or more of a landlord’s utility charges, collected via a master meter, among the tenants by any method that does not measure actual per-tenant usage for the utility.
- (iii) **Utility.** Means electricity usage, gas usage, wastewater and sewage disposal service usage, or water consumption usage.

(B) **Requirements.** If a landlord uses a ratio utility billing system to bill tenants for one or more utilities, the landlord shall provide the following information to all prospective tenants in writing:

- (i) **A statement that the tenant will be billed by the landlord for allocated utility services and that identifies all utilities at issue;**
- (ii) **A copy of the last two (2) utility bills issued to the landlord;**
- (iii) **A description of the method that will be used to allocate the cost of the utility to the tenant, by utility;**
- (iv) **A statement that any disputes relating to the computation of the tenant’s bill are between the tenant and the landlord;**
- (v) **The average monthly bill for all dwelling units in the residential rental property in the previous calendar year, by utility;**
- (vi) **A statement that the tenant has the right to inspect records retained by the landlord that document a bill for utilities on written request;**
- (vii) **Information regarding any additional service charges or administrative fees to be paid by the tenant for the operation of the ratio utility billing system; and**
- (viii) **A citation to Md. Code, Real Prop. Art., § 8-212.4**

Where the duty imposed by subsection (a)(1) is incompatible with, or greater than, the duty imposed by any other clause of the section, the landlord’s duty shall be determined by reference to subsection (a)(1).

- (b) Subsections (a)(2), (a)(5), (a)(8), **and (a)(9)** of **this** Section shall not apply in the case of a dwelling unit located in a condominium **organized under Md. Code, Real Prop. Art. § 11-100, et seq.** or cooperative housing structure **organized under Md. Code, Corp. & Assns. Art. § 5-6b-01, et seq.**
- (c) **A landlord must respond to any written City communications, including, but not limited to notices, emails, letters, etc., regarding a defective tenancy of their rental unit(s) within:**
 - (1) **Forty-eight (48) hours for communications regarding emergency situations; or**
 - (2) **Seventy-two (72) hours for communications regarding defective tenancy that does not concern emergency situations.**

(Ord. No. O-8-85, 7-1-85; Ord. No. O-9-89, 6-5-89; Ord. No. O-10-89, 6-5-89)

Section 13-18 – Landlord Notice Requirements.

(a) Notices for Current Tenants

- (1) **Method of Notice.** Any landlord renting a dwelling or dwelling units in the City of Gaithersburg shall **ensure that every notice required by subsection (a)(2) is posted and/or distributed in the following manner:**
 - (A) posting a durable notice in an accessible, conspicuous and convenient place in each building to which the notice applies; or, **if no such place exists,** the personal distribution of the notice to all lessees; **and**
 - (B) **posting on the building’s website, if such a website exists.**
- (2) **Contents.** A landlord shall provide and maintain a notice, **in accordance with subsection (a)(1), that contains the following information:**
 - (A) current **mailing address(es), name(s), title(s), email(s), and telephone number(s) of the landlord, or their responsible representative(s), who may be reached at all times in the event of an emergency situation;**
 - (B) **current mailing address(es), name(s), title(s), email(s), and telephone number(s) of the building management entity, or their** responsible representative(s), who may be reached at all times in the event of **an** emergency situations; **and**
 - (C) **a copy of all legal documents, rules, and regulations governing the use and occupancy of all dwelling units**
- (3) **Updated Notice – Required.** A landlord shall be required to post and maintain an updated notice, in accordance with subsection (a), no later than thirty (30) days after the change occurs.
- (4) **The mailing addresses required by subsection (a)(2)(A) – (B) shall not be the same as the address of the rental units.**

(b) Notices for Prospective Tenants

- (1) **Method of Notice.** Any landlord of a building that contains four (4) or more residential dwelling units shall ensure that notice required by subsection (b)(2) of this section is provided in the following manner:
 - (A) **Posting of a durable notice in an accessible, conspicuous, and convenient place in the leasing office of the building, if such a leasing office exists;**
 - (B) **Posting on the building’s website, if such a website exists; and**
 - (C) **Providing a physical or electronic copy of the notice to any prospective tenant.**
- (2) **Contents.** A landlord shall provide and maintain a notice, subject to and in accordance with subsection (b)(1), that contains the following information:
 - (A) **a current schedule of all required and optional fees a prospective tenant may be assessed including, but not limited to, application fees, parking fees, pet fees, bicycle fees, storage fees, lost key fees, late fees, lock out fees, utility fees, cable and/or internet fees, and any other fees, whatsoever.**
- (3) **Updated Notice – Required.** A landlord shall be required to post and maintain an updated notice, in accordance with subsection (b)(1)(A) – (B), at least on a yearly basis. **Nothing in this paragraph (3) shall be construed to permit a landlord to knowingly provide prospective tenants with notice under subsection (b)(1)(C) that contains out-of-date information.**

(c) Notice of Building-Wide Outages, Maintenance, and Repairs.

(1) A landlord of a multi-family residential building must provide notice to all tenants, if the building has any scheduled or unscheduled building-wide outage, maintenance, repair, or disruption of essential services related to the following:

(A) Electricity;

(B) Water;

(C) Heat;

(D) Power generator; or

(E) Elevator.

(2) Contents.

(A) A notice required under subsection (c)(1) must be sent at least seven (7) days before a scheduled service interruption; or

(B) In the absence of an emergency situation, at least twenty-four (24) hours before an unscheduled service interruption; and

(C) Contain the following information:

(i) The date of proposed scheduled work or service interruption;

(ii) The estimated time of repair; and

(iii) Information regarding the communication method that will be used to provide updates about service interruption until the issue is resolved.

(3) Method of Notice. A landlord shall ensure that notice required by subsection (c)(1) of this section is provided in the following manner:

(A) Posting of a durable notice in an accessible, conspicuous, and convenient common area in the building; and

(B) If feasible, providing electronic notice to all tenants either by email, text message, or the building's website, if such a website exists.

(d) Record Retention. Landlords shall keep and maintain records of all notices required under this section for at least three (3) years from the date the notice was posted and said records shall be made available for inspection by the City upon request.

(Ord. No. O-8-85, 7-1-85)

Section 13-19 – Prohibited Retaliatory Practices.

- (a) No landlord or owner may make any changes in his or her leasing or business practices with respect to any dwelling unit subject to this chapter for the purpose of avoiding compliance with any provision of this chapter.
- (b) No landlord may take retaliatory action against any tenant who exercises any rights conferred upon him or her by this chapter or against any tenant who assists another tenant in exercising those rights. For purposes of this section, "retaliatory action" includes eviction, threat of eviction, violation of privacy, harassment, reduction in quality or quantity of services not otherwise authorized under this chapter, unreasonable rent increases or any form of threat or coercion.

(Ord. No. O-8-85, 7-1-85)

Section 13-20 – Rights of Tenants Generally.

- (a) Tenants shall have the right to self-organization; to form, join, meet or assist one another within or without tenant organizations; to meet and confer through representatives of their own choosing with landlords; to engage in other concerted activities for the purpose of mutual aid and protection; and further, tenants shall have the right to refrain from any and all such activities.
- (b) Tenants and tenant organizations shall have the right of free assembly in the meeting rooms and other areas suitable for meetings within a rental facility during reasonable hours and upon reasonable notice to the landlord for the purpose of conducting tenant organization meetings. The landlord **shall not** charge a **tenant organization or a group of tenants seeking to form a tenant organization a fee for the first meeting of each month held for the purpose of discussing landlord-tenant issues, but** the landlord may charge a reasonable fee for **other** uses of the meeting rooms or common areas, **provided that** such charge **does not exceed** the regular schedule of fees for such facility to other groups. The landlord may also impose reasonable terms and conditions upon the use of such meeting rooms or common areas as long as such terms and conditions do not undermine the purposes of this Section.
- (c) Tenants and resident tenant organizations shall have the right to distribute freely and post in centrally located areas of a rental facility literature concerning landlord-tenant issues provided the literature is properly identified as to its origin.
- (d) Tenant organizations shall have standing to file complaints under any provision of this chapter in a representative capacity on behalf of those tenants who have authorized representation. Nothing herein shall be construed to permit any tenants' organization to represent exclusively any tenant or class of tenants unless authorized to do so specifically.
- (e) **Rent Adjustments; Notice Requirements.**
 - (1) **Landlords are encouraged to hold rent increases at the lowest level possible.**
 - (2) **A landlord must not impose more than one rent increase on a tenant in any 12-month period.**
 - (3) **A landlord must not increase the rent until ninety (90) days after the landlord gives the tenant written notice of the increase pursuant to Md. Code, Real Prop. Art., § 8-209. Each written rent increase notice must contain the following information:**
 - (A) **The amount of monthly rent immediately preceding the effective date of the proposed increase (old rent), the amount of monthly rent proposed immediately after the rent increase takes effect (new rent), and the percentage increase of monthly rent;**

- (B) The effective date of the proposed rent increase;**
- (C) The applicable voluntary rent increase guideline issued under Montgomery County Code, § 29-53(a)-(b) and City Code, § 13-20(e)(1);**
- (D) A notice that the tenant may ask the Department to review any rent increase that the tenant considers excessive.**
- (E) Other information that the landlord deems useful in explaining the rent increase.**
- (4) For rental facilities containing twelve (12) or more dwelling units, notice of the proposed increase shall also be given to the City Manager, or their designee, in accordance with the requirements outlined in § 13-20(e)(3).**

(Ord. No. O-8-85, 7-1-85)

Section 13-21 – Reduction in Service or Equipment.

- (a)** Any tenant subject to a reduction or elimination of service or equipment for which the landlord has responsibility to maintain and which had been provided at the commencement of tenancy may file a complaint under Article IV of this chapter, alleging breach of the lease. The commission, upon completion of the administrative process specified in Article IV of this chapter, and upon affirmative finding of such a breach, may impose an award of damages and/or reduction in rent in an amount commensurate with the actual cost savings accruable to the landlord as a result of the reduction of service or equipment.
- (b)** Any transfer or conversion of responsibility from the landlord to the tenant of any utility payments, including submetering and individual metering systems, shall be based on the following considerations:
 - (1)** A landlord may not transfer responsibility for utility payments to an existing tenant unless the affected tenant receives written notice thereof at least two (2) months prior to the effective date of the conversion. The date of receipt may not be counted as part of the notice requirements.

Written notice may be delivered to the tenant by any reasonable means. However, unless the notice is mailed via the United States Postal Service to the tenant's dwelling unit, delivery is not considered to have been made unless a signed receipt is obtained from the tenant or his representative. If the tenant is notified by mail, the landlord shall certify, by affidavit dated at the time of mailing, that he has mailed the notice; and he shall retain a copy of said affidavit in his records.

For the purposes of these notice requirements, the day after the postmark date is considered the date of delivery in cases where the notice was delivered to the proper person by the United States Postal Service.

It shall be presumptive evidence in favor of the landlord that proper notice was given if these procedures are followed. There shall be a rebuttable presumption that proper notice was not delivered if these procedures are not followed.

- (2)** The notice of the utility conversion must be accompanied by an offer to reduce the affected tenant's rent in an amount commensurate with the actual utility consumption experienced by the landlord during the previous twenty-four (24) months at the utility rate in effect at the time of the conversion. The offer of reduction in rent shall be based on the average utility consumption at the property less common area utility expenses. The offer may also be based on reasonable factors such as unit size, unit location and, at the discretion of the landlord, other unusual circumstances. The offer shall be made in the form of a monthly reduction in retail rates effective on the date of the conversion.

- (3) Any lease entered into after the effective date of this chapter shall contain a disclosure of the landlord's intent, if any, to transfer or convert responsibility for utility payments to the tenant during the term of the lease. Failure to make this disclosure shall be grounds for termination of the lease by the tenant. For the purpose of this section, the term "intent" shall be construed to mean having entered into a contract for the installation of submeters or individual meters or applied for electrical permits for such installation.
 - (4) The date of transfer of financial responsibility for utilities must occur at the commencement of a rent payment cycle.
 - (5) Upon the completion of the procedures outlined in subsection (b)(1), the landlord shall have the right of access during normal business hours to the tenant's unit after a two-day written notice and without reasonable objection from the tenant to make alterations pertaining to the installation of metering, wiring and other equipment necessary to the utility conversion. Access for all other purposes shall be governed by section 13-13(q) of this chapter.
 - (6) Any submetering action shall be accomplished in accordance with regulations promulgated by the Maryland Public Service Commission.
- (c) Subsections (a) and (b) shall not be construed to allow a landlord to reduce or eliminate except by the procedures set forth therein any essential service or equipment required by law. Subsections (a) and (b) shall not be construed to provide a remedy for temporary interruptions of service or equipment otherwise maintained by the landlord. In the case of temporary interruptions of service or equipment, the tenant shall be entitled to an award of his or her actual damages, if any, which resulted from a breach of the lease or the negligence of the landlord.

(Ord. No. O-8-85, 7-1-85)

Section 13-21A – Radon Testing.

- (a) **Definitions. In this section, the following terms have the meanings indicated:**
- (1) **Action Level. The level of radon in a building which if, equal to or above the United States Environmental Protection Agency's (EPA) recommended action level, triggers mitigation.**
 - (2) **Mitigation. Measures designed to permanently reduce indoor radon concentrations.**
 - (3) **Radon. A radioactive gas found in the air that comes from the natural breakdown of uranium in soil, rock, and water.**
 - (4) **Radon Test. The act of measuring the amount of radon in an indoor space:**
 - (A) **With a device made for the purpose of measuring radon;**
 - (B) **Approved for use by the Director of the Montgomery County Department of Environmental Protection; and**
 - (C) **Performed in accordance with the protocols specified for the device used.**
 - (5) **Radon Hazard. Exposure to indoor radon concentrations at or in excess of the United States Environmental Protection Agency's recommended radon action level.**
- (b) **Applicability. This Section applies to all ground-contact or basement unit(s) in a rental facility containing at least four (4) dwelling units.**

- (c) **Radon Testing – Required.** A landlord must conduct a radon test or hire a certified radon professional to test before leasing a dwelling unit to a prospective tenant. Test results must be within two (2) years before the date of the lease.
- (d) **Lease Requirements.** At the time of lease signing, the landlord must provide to the tenant and certify in the lease, or addendum to the lease, the following:
 - (1) A copy of radon test results that indicates any concentration of radon is below the Environmental Protection Agency’s recommended action level of 4 picocuries per liter (pCi/L);
 - (2) The radon test was performed less than two (2) years before the date of the lease; and
 - (3) A copy of the Environmental Protection Agency’s pamphlet on radon guide for tenants or an equivalent pamphlet approved for use by the Department of Environmental Protection. The copy of the pamphlet may be an electronic link to the applicable website, or if requested by the tenant, a hard copy.
- (e) **Testing and Notification by Existing Tenants.** An existing tenant, including tenants residing on above-ground floors of the rental facility, may conduct a radon test or hire a certified radon professional to test their dwelling unit. If the test results indicate that radon hazard is present at a level of four (4) pCi/L or higher, the tenant must notify the landlord in writing within fourteen (14) after the test results and provide the landlord with a copy of the test results.
- (f) **Mitigation of Radon.** A landlord who receives notice under subsection (e), must:
 - (1) Within fourteen (14) days after notice, initiate a follow-up radon test, in accordance with EPA-recommended standards for testing, to confirm any presence of radon hazard; and
 - (2) Within ninety (90) days after confirmed results:
 - (A) Mitigate the premises to reduce radon below the action level of 4 pCi/L; and
 - (B) Provide the tenant with a final copy of test results performed by a radon professional that indicates radon has been reduced below the action level.
- (g) **Cost of Testing.** The landlord is responsible for the cost of any follow-up, confirmation, or retesting of radon in a dwelling unit.
- (h) **Dispute of Testing Results.** If there is a case of conflicting test results, where the test result provided by a tenant is at or above the action level and a test result by a landlord is below the action level, the following applies to determine the prevailing test results:
 - (1) Testing performed in compliance with the EPA-recommended standard, by a radon professional (for hire) must supersede tests not performed by a radon professional;
 - (2) If both tests are performed by radon professionals, long-term results must supersede short-term test results; or
 - (3) If both tests are equally valid, as specified in subsections (1) and (2), and the dispute remains, then a mutually agreed upon third-party radon professional must retest in accordance with EPA-recommended standards.
- (i) **Disclosure of Radon.** A landlord must disclose in writing to each tenant in a rental facility subject to this section, within fourteen (14) days after a confirmed radon test, any elevated radon concentrations (above EPA’s recommended radon action level) that are known to be present within the dwelling.
- (j) **Termination of Lease.** A tenant has the right to terminate a lease, if the landlord fails to mitigate under subsection (f), without loss of security deposit or any other financial penalty. A tenant must provide, in writing, to the landlord a notice of the intent to terminate and vacate the premises. The notice may be effective either immediately upon receipt by the landlord, or as agreed upon by both parties, to allow the tenant to find alternative housing.

ARTICLE IV – COMPLAINTS

Section 13-22 – Tenants' Complaints.

If any affected tenant has reason to believe that a defective tenancy exists, has given the landlord written notice of his or her complaint alleging a defective tenancy, and the landlord fails to make a bona fide effort to rectify the defective condition within one week after the notice has been given, the affected tenant may file with the city manager or director a complaint in writing, which shall state the name and address of the landlord, the premises in question and the particulars of the alleged defective tenancy.

(Ord. No. O-8-85, 7-1-85)

Section 13-23 – Landlords' Complaints.

If any landlord has reason to believe that a defective tenancy has been created or permitted to exist by a tenant, has given the tenant written notice of his or her complaint alleging a defective tenancy, and the tenant fails to make a bona fide effort to rectify the defective condition within one week after the notice has been given, the landlord may file with the city manager or director a complaint in writing, which shall state the name and address of the tenant and the particulars of the alleged defective tenancy.

(Ord. No. O-8-85, 7-1-85)

Section 13-24 – Filing Procedure Generally.

If any prospective tenant has reason to believe that a landlord has violated the provisions of sections 13-13 or 13-14, he or she may file with the city manager or director a complaint in writing, which shall state the name and address of the landlord, the premises in question and the particulars of the alleged violation. Any complaints so filed which allege matters which may be in violation of the provisions of any housing related ordinance of the city or any other provision of this Code concerning the primary enforcement jurisdiction of any other city department, agency or office shall be initiated promptly and the department shall be kept informed of the status of the action taken by such other department, agency or office. Should the complaint contain allegations which fall jointly within the jurisdiction of any two (2) city departments, agencies and/or offices and such allegations are nonseverable, the department shall be responsible for handling the complaint with the assistance of an inspection by the other involved department, agency or office.

(Ord. No. O-8-85, 7-1-85)

Section 13-25 – Investigation of Complaints.

After the filing of any complaint, the city manager or director shall make such investigation as he or she seems appropriate to ascertain whether there are reasonable grounds to believe that the allegation is true and determine whether a violation of this chapter has occurred or a defective tenancy exists. If at any time after a complaint is filed, the city manager or director believes the health, safety, welfare or well-being of a tenant is placed in immediate and present danger, he or she shall be authorized to take immediate action to provide appropriate relief including notification of the chairman or vice-chairman of the commission who shall determine whether or not an emergency meeting of the commission is necessary.

(Ord. No. O-8-85, 7-1-85)

Section 13-26 – Procedure When Violation of Chapter or Defective Tenancy Not Found.

- (a) If the city manager or director, in investigating a complaint, determines that there are no reasonable grounds to believe that a violation of this chapter has occurred or a defective tenancy exists, they shall so inform the **parties and issue a written decision dismissing the complaint that includes the reason for dismissal.**
- (b) A party who believes the complaint was dismissed in error pursuant to this section may appeal the decision to the commission by providing the city manager or director a written request for a hearing. Upon receiving such a request, the city manager or director shall immediately notify the commission and the commission may thereafter schedule a hearing to determine whether a defective tenancy exists.

(Ord. No. O-8-85, 7-1-85)

Section 13-27 – Procedure When Violation of Chapter or Defective Tenancy Found.

If the city manager or director, in investigating a complaint, determines that there are reasonable grounds to believe that a violation of this chapter has occurred or a defective tenancy exists, he or she shall attempt to conciliate the matter by methods of initial conference and persuasion with all interested parties and such representatives as the parties may choose to assist them. In attempting such conciliation, he may utilize the good offices of the commission. Conciliation conferences shall be informal and confidential and nothing said or done during such initial conferences shall prejudice the rights of the parties.

(Ord. No. O-8-85, 7-1-85)

Section 13-28 – Conciliated Complaints Generally.

- (a) If a complaint is conciliated, the terms of conciliation agreed to by the parties may be reduced to writing and incorporated into a consent agreement to be signed by the parties. The agreement shall be for conciliation purposes only and does not constitute an admission by any party that a violation of this chapter has occurred or a defective tenancy exists. Consent agreements shall be signed on behalf of the commission by its chairman, or his designee.
- (b) It shall be a violation of this chapter to fail to adhere to any provision contained in a consent agreement. Any failure by the commission to enforce a violation of any provision of a consent agreement shall not constitute a waiver of any rights of the nonviolating party or the commission contained in such agreement.

(Ord. No. O-8-85, 7-1-85)

Section 13-29 – Failure to Conciliate Complaints.

If the city manager or director is unable to conciliate a complaint after the parties have, in good faith, attempted such conciliation, or determines that conciliation of the complaint is implausible, he or she shall notify the commission immediately and the commission may thereafter schedule a hearing to determine whether a violation of the chapter has occurred, or a defective tenancy exists.

(Ord. No. O-8-85, 7-1-85)

Section 13-30 – Commission Hearing Generally.

When a hearing before the commission or a commission panel deals with a controversy arising under the provisions of this article, the commission shall serve upon the person against whom a complaint has been filed (designated as the "respondent") a summons and a statement of charges and shall serve upon all interested parties a notice of the time and place of hearing. The respondent or an authorized representative may file such statements with the commission prior to the hearing date as deemed necessary in support of respondent's position. The hearing shall be open to the public; except, that either the complaining party or the respondent may request, in writing, a private hearing which may be granted at the discretion of the commission. The commission shall have the power to summon all witnesses it deems necessary. The hearing shall be held not less than seven (7) days and not more than thirty (30) days after service of the statement of charges and summons. The summons so issued must be signed by the chairperson of the commission or a designee and shall require the attendance of named persons and the production of relevant documents and records. Failure to comply with a summons shall constitute a violation of this chapter. The complaining party or parties and the respondent may, at their option, appear before the commission in person or by duly authorized representative(s) and may have the assistance of an attorney. The parties may present testimony and evidence which shall be given under oath, or by affirmation. The commission shall keep a full record of the hearing, which record, if the hearing is public, shall be open to inspection by any person, and, upon request by any principal party to the proceeding, the commission shall furnish such party a copy of the hearing record, if any, at such charges as are necessary to meet costs. The commission may extend the time for any hearing and the issuance of any findings, opinions and orders.

(Ord. No. O-8-85, 7-1-85)

Section 13-31 – Relief Pending Commission Hearing.

If, at any time after a complaint has been filed, the commission believes that appropriate civil action to preserve the status quo or to prevent irreparable harm appears advisable, the commission may refer the matter to the city attorney to bring any action necessary to preserve such status quo or to prevent such irreparable harm, including but not limited to, temporary restraining orders and preliminary injunctions.

(Ord. No. O-8-85, 7-1-85)

Section 13-32 – Commission Action When Violation of Chapter or Defective Tenancy Not Found.

If, at the conclusion of the hearing, the commission or commission panel determines, upon the preponderance of the evidence of record, that the respondent has not violated this chapter or caused a defective tenancy or has not allowed a defective tenancy to continue for an unreasonable period of time, the commission or commission panel shall state and publish its findings, including whether or not the complaint was bona fide and issue an order dismissing the complaint or an order providing any other action deemed appropriate.

(Ord. No. O-8-85, 7-1-85)

Section 13-33 – Commission Action When Violation of Chapter or Defective Tenancy Found.

- (a) If, at the conclusion of the hearing, the commission or commission panel determines, upon the preponderance of the evidence of record, that a violation of this chapter has occurred or a defective tenancy exists, the commission or commission panel shall state its findings and issue an order. Such order shall require the respondent to cease and desist from such unlawful conduct and to take such appropriate action as will effectuate the purposes of this chapter. The order shall also contain a notice that if the commission determines that the respondent has not, after fifteen (15) calendar days following service of the commission's order, or commission panel's order, made a bona fide effort to comply with the order, the commission will refer the matter to the city attorney for enforcement.

- (b) Where the commission or commission panel finds that a landlord has caused a defective tenancy, all affected tenants may be entitled to one or more or all or part of the following remedies as ordered by the commission or commission panel:
- (1) Immediate termination of their leases, and return of their security deposits and all rental monies already paid to the landlord from the period the landlord was notified of the condition, and relief from any and all future obligations under the terms of the lease. Where the termination of a lease is ordered, the dwelling shall be vacated within a reasonable period of time not to exceed thirty (30) days. Further, the city manager may revoke a license for that portion of a rental facility in which a defective tenancy is found to exist and which poses a threat to the health and safety of the tenants.
 - (2) An award of damages to be paid by the landlord sustained as a result of the defective tenancy, such damages being determined as the actual damage or loss; provided, such award shall not exceed two thousand dollars (\$2,000.00) per affected dwelling unit.
 - (3) An amount to be paid by the landlord equivalent to a reasonable expenditure adequate to obtain temporary substitute rental housing in the area.
 - (4) In the event of an affirmative finding of retaliatory action as defined in section 13-19, an award of reasonable attorney's fees incurred by the affected tenant in defense of the retaliatory action, said award not to exceed one thousand dollars (\$1,000.00).
 - (5) An award of up to threefold the withheld amount, plus reasonable attorney's fees, to be paid by the landlord for the failure to return a security deposit or a part thereof as required by section 8-203(f) of the Real Property Article of the Annotated Code of Maryland, or as hereafter amended.
- (c) Where the commission or commission panel finds that a tenant has caused a defective tenancy, the landlord may be entitled to one or more or all or part of the following remedies as ordered by the commission:
- (1) The landlord may immediately terminate the lease and gain possession in accordance with the provisions of the Real Property Article of the Annotated Code of Maryland, or as hereafter amended. Other remedies available to the landlord shall be as provided by state law.
 - (2) An award of damages to be paid by the tenant to the landlord sustained as a result of a defective tenancy such damages being determined as the actual damage or loss but not exceeding two thousand dollars (\$2,000.00) with a credit for any damages which may have been deducted from the security deposit. Any award of damages or money under this section not paid within thirty (30) days from such award may be enforced by the landlord or tenant to whom the award was granted in any court of competent jurisdiction, and any such court is authorized to grant judgment for such moneys plus interest from the date of the award.

(Ord. No. O-8-85, 7-1-85; Ord. No. O-10-89, 6-5-89)

Section 13-34 – Penalty for Failure to Comply with Chapter Requirements, Commission Orders or Summons.

- (a) Any person who fails to comply with any requirement contained within this chapter of the City Code or any commission order or summons issued pursuant to this article shall be deemed guilty of a municipal infraction and be subject to punishment as set forth in Chapter 1 of the City Code relating to municipal infractions. The amount of such municipal infraction shall be established by resolution of the city council. Each day that a person fails to comply with an order of the commission as specified herein shall constitute a separate offense hereunder; except, that where the person makes a bona fide effort to comply with this chapter, no penalty shall lie for that period of time when the person is making a bona fide effort to so comply.
- (b) Where a person, rather than comply with a requirement contained within this chapter of the City Code or any commission order, chooses to cease the conduction or operation of a rental facility, he or she shall give any tenants occupying the premises in question sixty (60) days written notice to vacate the premises, the period to begin on the first day of the month following service of the notice. A copy of the notice must be delivered to the city manager and director. No penalty will lie during the sixty-day period that tenants have to vacate the facility; provided, that the holder of the license to conduct or operate the rental facility relinquish it and submit it to the city manager and director.
- (c) In addition to any criminal or other penalty herein provided, compliance with an order of the commission may be effectuated by injunctive or other appropriate action or proceeding to correct any violation of this article, and any court of competent jurisdiction may issue restraining orders, temporary or permanent injunctions or other appropriate forms of relief.

(Ord. No. O-8-85, 7-1-85)

Section 13-35 – Appeals.

Any person aggrieved by a final action of the commission rendered under this article may appeal to the circuit court for Montgomery County in accordance with the Maryland Rules of Procedure for a review of such actions.

(Ord. No. O-8-85, 7-1-85)

Section 13-36 – Alternative Relief.

Nothing herein shall prevent any person from exercising any right or seeking any remedy to which he might otherwise be entitled or from filing any complaint with any other agency or court of law or equity.

(Ord. No. O-8-85, 7-1-85)

ARTICLE V – MISCELLANEOUS PROVISIONS

Section 13-37 – Rental Housing Data Collection.

- (a) The city manager may establish procedures to collect and analyze housing data for rental dwelling units in the City of Gaithersburg, Maryland, and make every effort to centralize such data collection functions to minimize the burden for landlords.
- (b) When requested by the city manager, the reporting process shall be mandatory for landlords of licensed multifamily rental facilities in the City of Gaithersburg including new rental facilities as they come on the market and all vacant units.
- (c) The data collection frequency shall be determined by the city manager.
- (d) At the request of the council, the city manager may render a status report summarizing the information accumulated from the required reports submitted by each landlord of licensed rental facilities in the City of Gaithersburg.
- (e) Any survey form for securing data should be designed to minimize the repeated reporting of unchanged information, while maintaining an accurate data base.
- (f) The housing data collection may be used to ascertain the supply and availability of rental housing as well as other operating characteristics. Each landlord shall provide the following information when requested by the city manager:
 - (1) The location of the rental facility.
 - (2) Structure type.
 - (3) Year built.
 - (4) Distribution of units by standard bedroom sizes.
 - (5) The number of units by bedroom size which were re-rented during the month.
 - (6) The number of vacant days applicable to those units.
 - (7) The rent charged for each rental unit.
 - (8) The rent charged for each re-rented unit prior to vacancy.
 - (9) The new turnover rent charged for each re-rented unit.
- (g) Each landlord shall maintain records for each project on an aggregate basis containing the following information, which shall be made available to the city manager upon request and after a determination has been made that the information is relevant and necessary to carrying out the purposes of this chapter:
 - (1) A description of utilities which are included in the rent.
 - (2) The landlord's actual monthly utility costs, including gas, electric, heating, fuel, trash removal, and water and sewer.
 - (3) The availability of certain amenities, including air conditioning, wall-to-wall carpeting, dishwasher, garbage disposal, washer/dryer in apartment unit or on the site, patio-balcony, swimming pool and tennis courts.
 - (4) The actual operating expenses, by category.
 - (5) The actual operating revenues, by category.
 - (6) A schedule of any other fees and income.
 - (7) Tenant rent income ratio for prospective tenants which protects the confidentiality of personal income information and which is available to the landlord as part of the normal renting process.

- (h) Each landlord of a condominium or cooperative dwelling unit shall report to the council of unit owners, or its delegated agent, of any condominium housing structure, or the board of directors of any cooperative housing structure, the rental status of each unit owned. Any status change shall be reported to the council of unit owners, or its delegated agent, or the board of directors within ten (10) days of such change.
- (i) The council of unit owners, or its delegated agent, of any condominium housing structure or the board of directors of any cooperative housing structure shall be required to file with the city manager information pertaining to each dwelling unit in the facility which is designated, intended or arranged for use or occupancy, as a residence by one or more persons and for which the landlord receives consideration, such information to include, but not be limited to, the identification of the unit and the name(s) and address(es) of the landlord(s) to the extent that such information is available.
- (j) The city manager may initiate rental housing data surveys for the City of Gaithersburg and share this information with other governmental agencies upon a determination of need and without invasion of individual privacy. Every reasonable effort shall be made to minimize reporting requirements on landlords.
- (k) Any landlord who violates any provision of this section shall be liable for payment to the City of Gaithersburg of a civil penalty recoverable in a civil action in the circuit court, in an amount established by law for each violation.

(Ord. No. O-8-85, 7-1-85)

Section 13-38 – Relocation Assistance—Demolition, Redevelopment or Condemnation.

In addition to any relocation assistance required by chapter 53A of the county Code, applicable in the city pursuant to chapter 2 of this Code, owners of rental properties shall be required to pay one lease holder for each rental agreement an amount based on the current fair market value rent as determined by the city manager within three (3) business days of the lease holder(s) vacating the property, as specified below:

- (1) The owner of any multi-family rental building containing four (4) or more rental units shall be required to pay one lease holder for each rental agreement relocation assistance in an amount equal to one and one-half (1½) months current fair market value rent as determined by the city manager within three (3) business days of vacating if the lease holder is required to vacate due to pending demolition or redevelopment of the property, condemnation of the property under chapters 5 or 17AA, sale of the property, conversion of the property to condominium units or a cooperative, or any other act that ends the use of the property as rental housing, except when the condemnation or other act ending the use of the property as rental housing directly results from:
 - (A) Conditions caused by a tenant's illegal conduct; or
 - (B) Acquisition of the property by eminent domain; or
 - (C) Conditions which could not reasonably be prevented arising from or caused by a natural disaster, such as a hurricane, tornado or earthquake; or
 - (D) When all lease holders required to vacate multi-family rental buildings are provided at least eighteen (18) months prior notice to vacate when the notice is issued as a result of any redevelopment of the property.
- (2) In the event any lease holder under subsection (a) is delinquent in rent when they vacate the premises, the property owner may reduce the relocation assistance payment required by this section by the amount of the delinquency.

- (3) The city manager may, in his or her discretion, grant an exception to all or part of the relocation assistance required by this section for special circumstances, such as:
- (A) Owner paying the cost for temporary housing when the lease holder is required to temporarily vacate, which the lease holder accepts;
 - (B) Owner paying the cost of moving expenses while providing suitable, comparable replacement rental unit which the lease holder accepts; or
 - (C) Other circumstances in which owner addresses the relocation to the lease holder's satisfaction.

(Ord. No. O-9-06, 8-21-06; Ord. No. O-2-17, 2-6-17)

Ord. No. O-2-17, adopted February 6, 2017, amended § 13-38 to read as set out herein. Previously § 13-38 was titled "Relocation assistance—Demolition or redevelopment."

Section 13-39 – Relocation Assistance—Rental of Single-Family Home Violating This Code.

The owner-occupant of any single family home who engages in a rental of part of that home to one or more persons who are lease holders with individual rental agreements for residential purposes shall, if such rental violates chapters 5 and/or 24, be required to pay one lease holder for each rental agreement, an amount equal to three (3) months current rent as specified in the rental agreement within three (3) business days of the lease holder(s) vacating the property as a result of such violations, subject to the exception specified in section 13-38(c).

(Ord. No. O-2-17, 2-6-17)