

DEPARTMENT OF CONSUMER AND REGULATORY AFFAIRS

NOTICE OF PROPOSED RULEMAKING

The Director of the Department of Consumer and Regulatory Affairs, pursuant to the authority set forth in An Act To provide for the abatement of nuisances in the District of Columbia by the Commissioners of said District, and for other purposes, approved April 14, 1906 (34 Stat. 114; D.C. Official Code § 42-3131.01 *et seq.*), Article III of Reorganization Plan No. 1 of 1983, effective March 31, 1983, D.C Official Code §§ 47-2828 and 47-2851.20, and Mayor’s Order 83-92, dated April 7, 1983, hereby gives notice of the intent to adopt, in not less than thirty (30) days from the date of publication of this notice in the *D.C. Register*, amendments to Title 14, Chapter 2 (Housing Business Licenses) of the District of Columbia Municipal Regulations.

The rulemaking amends the housing business licensing rules to update requirements for licensure and to clarify housing inspection requirements during the period of licensure. In addition, the name of the chapter is amended.

Proposed regulations were published in a Notice of Proposed Rulemaking on October 2, 2009, in the *D.C. Register* at 56 DCR 7840. One comment was received and the proposed regulations have been revised to: (1) include a new section with the license categories that may be issued pursuant to this chapter; (2) clarify licensees’ premises maintenance requirements; (3) revise the registered agent provisions for licensees not residing in the District; and (4) clarify the license user fees. These proposed regulations supersede those published on October 2, 2009.

Final rulemaking action to adopt the amendments shall be taken in not less than thirty (30) days from the date of publication of this notice in the *D.C. Register*.

**Title 14 DCMR, Chapter 2 is amended to read as follows:**

**CHAPTER 2 HOUSING BASIC BUSINESS LICENSES**

- Secs.
- 200 General Licensing Requirements
- 201 License Categories
- 202 Inspection of Premises
- 203 Registered Agent for Non-Resident Licensees
- 204 Licensing of Property Managers
- 205 Renewal of Housing Basic Business Licenses
- 206 Denial, Suspension, and Revocation of Licenses
- 207-219 [Reserved]
- 220 License and User Fees
- 299 Definitions

**200 GENERAL LICENSING REQUIREMENTS**

- 200.1 The provisions of this chapter shall be applicable to housing businesses licensed under D.C. Official Code § 47-2828.
- 200.2 For purposes of this chapter, a housing business is any dwelling unit or rooming unit in a residential building that is offered for rent or lease. A housing business shall include the rental of a dwelling unit or rooming unit in a residential building that the licensee also occupies. A housing business shall not include any transient housing providers, such as a hotel, bed and breakfast, inn and motel, boarding house, or rooming house.
- 200.3 No person shall operate a housing business in any premises in the District of Columbia without first having been issued a basic business license for the premises by the Department of Consumer and Regulatory Affairs (Department).
- 200.4 A licensee shall conspicuously post the license on the premises indicated on the license, and such license shall be available for inspection by any authorized District government official or any tenant residing at the premises.
- 200.5 Each applicant shall, as a condition to the issuance of a license, indicate on the license application the name and contact information of a property manager or resident manager responsible for conducting maintenance and repairs on the property.
- 200.6 The appointment or employment of a person to conduct property maintenance and repairs shall be maintained during the period of time for which a license is issued; whenever any change is made in the appointment or employment of such person, the licensee shall deliver to the Director of the Department (Director) a written notice of the change not less than five (5) days after the change.
- 200.7 A licensee shall conspicuously post the license on the premises indicated on the license, and such license shall be available for inspection by any authorized District government official or any tenant residing at the premises.

## **201 LICENSE CATEGORIES**

- 201.1 The Department shall have the following categories for licensees subject to this chapter:
- (a) One-family rental, which shall include the rental of single-family homes, townhouses, duplexes, individual condominium units, or individual rooms (including individual rooms in a residential building that the licensee also occupies);
  - (b) Two-family rental, which shall include the rental of an English basement apartment, converted basement apartment, or carriage house in a single-family home where the main residence is occupied by the property owner or another tenant;
  - (c) Apartment building (3-4 units), which shall include the rental of buildings with three (3) or four (4) dwelling units;

- (d) Apartment building (5-25 units), which shall include the rental of buildings with at least five (5) units and no more than twenty-five (25) dwelling units; and
- (e) Apartment building (26 or more units), which shall include the rental of buildings with at least twenty-six (26) dwelling units.

- 201.2 Each license category, with the exception of a one-family rental, shall require a Certificate of Occupancy at the time of application for licensure.
- 201.3 Pursuant to District zoning regulations, one-family rental licenses shall not be issued to residential housing properties that are rented for less than (90) days or less.
- 201.4 Each license category, unless exempt pursuant to D.C. Official Code § 42-3502.05(a)(3), shall require registration of the rental units with the Department of Housing and Community Development's Rental Accommodations Division at the time of application for licensure.

## **202 INSPECTION OF PREMISES**

- 202.1 As a condition of licensure, a licensee shall allow the Department, and any other District government agency responsible for enforcement of the housing and building regulations, to inspect its housing business premises.
- 202.2 A licensee shall:
- (a) Comply with all statutes and regulations governing the presence of rodents, waste storage and disposal, and maintenance of waste containers;
  - (b) Ensure that the licensed premises are maintained free of trash and debris;
  - (c) Ensure that grass or weeds are maintained at a height of less than eight (8) inches;
  - (d) Maintain the premises in a manner that complies with the applicable provisions of the D.C. Official Code and the District fire prevention and control laws and regulations; and
  - (e) Comply with all other District and federal statutes and regulations that govern housing businesses
- 202.3 The Director shall determine whether a licensee is in compliance with all applicable provisions of the business license laws and regulations, and shall require that the building or part of the building to be licensed complies with the applicable building and housing laws and regulations.
- 202.4 In accordance with § 202.1, the Director may develop a housing inspection program establishing a regular system of inspections for licensees, with more frequent inspections for any licensee found to be in violation of the applicable building and housing statutes or regulations.

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

- 203.1 An applicant or licensee that is the non-resident owner of at least one (1) rental unit in the District of Columbia shall appoint and continuously maintain a registered agent for the service of process.
- 203.2 The non-resident owner shall make the appointment by filing a written statement with the Director on a prescribed form.
- 203.3 The registered agent shall be an individual who is a resident of the District of Columbia or an organization incorporated in the District of Columbia.
- 203.4 If the licensee changes the registered agent, or if the name or address or any information about the agent changes after the licensee files the statement with the Director, the nonresident owner shall, within seven (7) business days of its occurrence, file a written statement notifying the Director of the change.
- 203.5 The Director shall serve as the registered agent for the non-resident owner if the following applies:
- (a) A registered agent is not appointed under § 203.1; or
  - (b) The individual or organization named ceases to serve as the resident agent and no successor is appointed.

## **204 LICENSING OF PROPERTY MANAGERS**

- 204.1 For purposes of this chapter, the term “property manager” means an agent for the owner of real estate in all matters pertaining to property management, as defined in D.C. Official Code § 47-2853.141, which are under his or her direction, and who is paid a commission, fee, or other valuable consideration for his or her services. A property manager may employ resident managers.
- 204.2 If the property manager of a housing business is someone other than the licensee, that property manager shall comply with the requirements of D.C. Official Code §§ 47-2853.141 through 47-2853.143, and any regulations issued pursuant thereto.

## **205 RENEWAL OF HOUSING BASIC BUSINESS LICENSES**

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

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

- 206.1 Refusal to permit any authorized District of Columbia official to inspect the premises occupied or to be occupied by a housing business shall be cause for withholding the issuance of a license for the premises until such time as inspection is permitted.
- 206.2 Refusal to permit any authorized District of Columbia official to inspect the premises occupied by a licensed housing business shall be cause for revocation of the license.
- 206.3 The Director may refuse to issue or renew, or may suspend or revoke, a license issued under this chapter on any of the following grounds:
- (a) Conviction of the business license holder for any criminal offense involving fraudulent conduct arising out of or based on the business being licensed;
  - (b) Willful or fraudulent circumvention by the business operator of any provision of District statute or regulation relating to the conduct of the business;
  - (c) Employment of any fraudulent or misleading device, method, or practice relating to the conduct of the business; or
  - (d) The making of any false statement in the license application.
- 206.4 All qualifications set forth in this chapter as prerequisite to the issuance of a license shall be maintained for the entire license period. Failure to maintain any qualification for license shall be cause for suspension or revocation of the license.

**207 – 219 [RESERVED]**

**220 LICENSE AND USER FEES**

- 220.1 The following fees shall apply to a housing business in addition to the fees required for obtaining the business license:
- (a) Pursuant to D.C. Official Code § 42-3504.01, an annual Rental Accommodations Division fee of \$21.50 per unit (which shall be collected at the initial issuance of the license and biennially at the renewal of the license in an amount of forty-three dollars (\$43.00));
  - (b) Pursuant to D.C. Official Code § 42-3131.01(c), a fee of ninety dollars (\$90.00) shall be collected for any reinspection of a licensee's premises for routine housing code violations. The fee shall be collected after the reinspection has occurred;
  - (c) Pursuant to D.C. Official Code § 42-3131.01(d), abatement by the Department of any housing or building code violations on a licensee's premises shall result in an initial administrative fee of one hundred seventy-five dollars (\$175.00) and an additional fee of thirty dollars (\$30.00) for each person-hour of labor performed on the abatement

beyond the first person-hour of labor. These fees shall be in addition to the costs incurred by the Department for the abatement of the violations; and

- (d) A fee to cover proactive inspection costs of the Department of thirty-five dollars (\$35) per unit on rental accommodations of three (3) units or more shall be charged at the issuance and renewal of the license. The charge shall not exceed two thousand dollars (\$2,000) biennially. The fee shall be deposited in the fund established by D.C. Official Code § 42-3131.01(b)(1)(A).

## 299 DEFINITIONS

- 299.1 The provisions of section 199 of chapter 1 of this title and the definitions set forth in that section shall be applicable to this chapter.

All persons desiring to comment on these proposed regulations should submit comments in writing to Helder Gil, Legislative Affairs Specialist, Department of Consumer and Regulatory Affairs, 941 North Capitol Street, NE, Suite 9500, Washington, D.C. 20002, or via e-mail at [helder.gil@dc.gov](mailto:helder.gil@dc.gov), not later than thirty (30) days after publication of this notice in the *D.C. Register*. Copies of the proposed rules can be obtained from the address listed above. A copy fee of one dollar (\$1.00) will be charged for each copy of the proposed rulemaking requested. Free copies are available on the DCRA website at <http://dcra.dc.gov> by going to the “DCRA News” link and then clicking on the “Rulemaking” tab.