DEPARTMENT OF CONSUMER AND REGULATORY AFFAIRS

THIRD 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.* (2010 Repl. & 2011 Supp.)); Article III of Reorganization Plan No. 1 of 1983, effective March 31, 1983, D.C Official Code §§ 47-2828 and 47-2851.20 (2005 Repl.); and Mayor's Order 83-92, dated April 7, 1983, hereby gives notice of the intent to adopt the following amendments to chapter 2 (Housing Business Licenses) of title 14 (Housing) of the District of Columbia Municipal Regulations in not less than thirty (30) days from the date of publication of this notice in the *D.C. Register*.

The proposed rulemaking amends the housing business licensing rules to update requirements for licensure, to designate the license categories that may be issued pursuant to chapter 2, to clarify housing inspection requirements during the period of licensure, to revise the registered agent provisions for licensees not residing in the District, and to clarify the license user fees. In addition, the name of the chapter is amended.

Proposed regulations were first published in the *D.C. Register* in a Notice of Proposed Rulemaking on October 2, 2009, at 56 DCR 7840. This Third Notice of Proposed Rulemaking supersedes the Second Notice of Proposed Rulemaking published in the *D.C. Register* on January 1, 2010, at 57 DCR 134.

Chapter 2, HOUSING BUSINESS LICENSES, of title 14, HOUSING, of the District of Columbia Municipal Regulations is repealed and replaced with:

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 License and User Fees
299 Definitions

200 GENERAL LICENSING REQUIREMENTS

200.1 The provisions of this chapter shall be applicable to residential housing businesses ("housing businesses") licensed under D.C. Official Code § 47-2828 (2005 Repl).

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 receiving 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 of Consumer and Regulatory Affairs (Director) a written notice of the change not less than five (5) days after the change.

201 LICENSE CATEGORIES

201.1 The Department shall have the following categories for licenses 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; and

(c) Apartment houses, which shall include the rental of buildings with three (3) or more dwelling units.

201.2 Each license category, with the exception of a one-family rental, shall require a Certificate of Occupancy issued by the Department 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 ninety (90) days.

201.4 Each license category, unless exempt pursuant to D.C. Official Code § 42-3502.05(a)(3) (2010 Repl.), 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 relating to:

(1) The presence of rodents, waste storage and disposal, and maintenance of waste containers;

(2) Maintenance of the common areas of the housing business under the licensee's control so that it is free of trash and debris; and

(3) Ensuring that grass or weeds are maintained at a height of less than ten (10) inches;

(b) Maintain the premises in a manner that complies with the applicable provisions of the D.C. Official Code, the District Property Maintenance Code (subtitle G of 12 DCMR), and the District fire prevention and control laws and regulations; and

(c) 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 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 agent, or if the name or address or any information about the agent changes after the licensee files the statement with the Director, the non-resident owner shall, within seven (7) business days of its occurrence, file a written statement notifying the Director of the change.

203.5 Pursuant to D.C. Official Code § 42-903(b)(2) (2010 Repl.), the Director shall serve as the registered agent for the non-resident owner if:

(a) A registered agent is not appointed under § 203.1; or

(b) The individual or organization appointed under § 203.1 ceases to serve as the resident agent and no successor is appointed.

203.6 Pursuant to D.C. Official Code § 42-903(d) (2010 Repl.), a non-resident owner of one (1) or more rental units in the District in violation of this section shall be subject to a penalty of three hundred dollars ($300).

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 (2005 Repl.), 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 (2005 Repl.), 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 licensure shall be cause for suspension or revocation of the license.

207 LICENSE AND USER FEES

207.1 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 (2010 Repl.), an annual Rental Accommodations Division fee of twenty-one dollars and fifty cents ($21.50) per rental 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));

(b) Pursuant to D.C. Official Code § 42-3131.01(c) (2011 Supp.), a fee of ninety dollars ($90) 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) (2010 Repl. & 2011 Supp.), 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) and an additional fee of thirty dollars ($30) 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 the Department incurs 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.

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, 1100 Fourth Street, SW, Room 5164, Washington, D.C. 20024, or via e-mail at helder.gil@dc.gov, not later than thirty (30) days after publication of this notice in the *D.C. Register*. Persons with questions concerning this Notice of Proposed Rulemaking should call (202) 442-4400. 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 "About DCRA" tab, clicking on "News Room", and then clicking on "Rulemaking".