

Introduced by Councilmember Seamens

**CITY OF TAKOMA PARK**

**RESOLUTION 2009-57**

**RESOLUTION AUTHORIZING MEMORANDUM OF AGREEMENT WITH MONTGOMERY COUNTY DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS FOR THE INSPECTION OF RENTAL RESIDENTIAL FACILITIES**

**WHEREAS,** the Takoma Park Council believes, as stated in its Strategic Plan FY 2010-FY 2015, that “an individual resident’s quality of life is affected by her or her access to . . . decent housing”; and

**WHEREAS,** the City of Takoma Park proposes to continue to provide decent rental housing opportunities to its residents by entering into a Memorandum of Agreement with Montgomery County Department of Housing and Community Affairs (DHCA) for the provision of rental housing inspections by DHCA; and

**WHEREAS,** the City of Takoma Park believes that said Agreement, a form of which is attached hereto, will allow for the continuation of its successful partnership with DHCA which has, since initiated in 2003, proven to be an effective and efficient means of providing quality and affordable rental housing inspections.

**NOW THEREFORE BE IT RESOLVED THAT THE COUNCIL OF THE CITY OF TAKOMA PARK, MARYLAND**

**SECTION 1.** The City Manager is hereby authorized to execute a Memorandum of Agreement with Montgomery County Department of Housing and Community Affairs for the inspection of all rental residential facilities located within the City of Takoma Park, Maryland.

**SECTION 2.** The City Manager is further authorized to renew, as appropriate, such Memorandum of Agreement for up to three additional three-year periods.

Adopted this 28<sup>th</sup> day of September, 2009

Attest:

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Jessie Carpenter, CMC  
City Clerk

## AGREEMENT

### RENTAL HOUSING LICENSE AND PROPERTY MAINTENANCE INSPECTIONS

#### City of Takoma Park, Maryland Montgomery County Department of Housing and Community Affairs

**THIS AGREEMENT** made this \_\_\_\_ day of \_\_\_\_\_, 2009, by and between the City of Takoma Park, Maryland (“**City**”) and Montgomery County, Maryland (“**County**”), through the Montgomery County Department of Housing and Community Affairs (“**DHCA**”), sets forth the agreement between the City and the DHCA regarding the inspection of residential rental facilities in the City.

#### **Article 1. PURPOSE.**

This Agreement provides for the inspection of residential rental facilities within the jurisdiction of the City to ensure compliance with the requirements of applicable City of Takoma Park ordinances and regulations as enumerated in Article 3.

Residential rental facilities (“**Rental Facilities**”) are defined for purposes of this Agreement as any dwelling, apartment house, rooming house, dwelling unit, structure, building, premises or room which is intended or arranged for use or occupancy as a residence by one or more persons and for which the owner or operator charges or receives rent or other consideration. A residential rental housing facility does not include owner-occupied group homes, school dormitories, bed and breakfasts, inns, hotels, motels or other tourist facilities.

#### **Article 2. TERM OF AGREEMENT.**

This Agreement becomes effective October 1, 2009, and will remain in effect for a period of three years. The Agreement will be automatically renewed for three additional three year periods unless terminated by either party by written notice at the end of a three year term or in accordance with Article 6 herein.

#### **Article 3. SCOPE OF SERVICES.**

##### **A. Licensing Inspections.**

1. DHCA will conduct licensing inspections of all Rental Facilities located in the City under the authority of *Takoma Park Code*, Title 6, Housing, which requires, among other things, that properties be maintained in accordance with *Takoma Park Code*, Chapter 6.12, Property Maintenance Code. Section 6.12.020 adopts the provisions of Chapter 26, Housing and Building Maintenance Standards, of the *Montgomery County Code* as the City’s Property Maintenance Code (the “**Property Maintenance Code**”). Further, Section 6.12.010.C specifically authorizes the City to enforce the Property Maintenance Code through the use of agents.

a) Inspections of Rental Facilities licensed on an annual basis as of the effective date of this Agreement will be conducted once every 12 months prior to the expiration of the license.

b) Rental Facilities licensed on a biennial basis as of the effective date of this Agreement will be conducted once every 24 months prior to the expiration of the license.

c) Rental Facilities licensed on a six-month basis (*i.e.*, temporary rental housing license) as of the effective date of this Agreement will be conducted on as needed basis upon the request of the City.

d) Unlicensed rental facilities for which a rental license is pending and those rental facilities identified by the City as operating illegally (*i.e.*, without a current valid rental housing license) will be inspected within ten business days of receipt of the City's request for an inspection.

2. DHCA will inspect all rental units within each Rental Facility and the exterior premises and grounds of Rental Facilities to ensure compliance with the Property Maintenance Code.

3. DHCA will coordinate the scheduling of all initial licensing inspections and re-inspections with the owner of the Rental Facility. In those instances where the owner fails to provide access to a Rental Facility or to an individual rental unit or units, DHCA will assume responsibility for ensuring that the Rental Facility or the rental unit is inspected in accordance with the Property Maintenance Code.

4. DHCA will make available to the City immediately upon request and within ten business days of the closure of the inspection file, copies of all license inspection reports, violation notices, municipal infraction citations, notes, correspondence, and any other file materials and information. An inspection file is closed for a Rental Facility after the Rental Facility has passed the Property Maintenance Code license inspection.

5. DHCA will provide the City with monthly reports on the status of all scheduled license inspections. Reports will be provided electronically and submitted on or before the 10<sup>th</sup> day of each month following the reporting period.

6. The City will provide DHCA with information on all rental facilities licensed by the City. The information will include the address of the Rental Facility, the name and address of the current owner, and contact information for the designated agent or property manager. Information shall be provided electronically on or before the 10<sup>th</sup> day of each month following the reporting period.

**B. Complaint Inspections.**

1. DHCA will conduct on, a complaint basis, inspections of Rental Facilities, including the exterior premises and grounds of a Rental Facility, and individual rental units as authorized by *Takoma Park Code* Section 6.08.070, Inspections.

2. DHCA will accept complaints regarding the physical condition of Rental Facilities from the City, local officials, residents and others. Complaints may be submitted electronically using DHCA's online complaint initiation system, by mail, e-mail, fax and/or phone.

3. The City will refer all complaints regarding the physical condition of a Rental Facility to DHCA for inspection and enforcement action. Complaints regarding lack of heat, air conditioning, or other utilities in an individual rental unit or units or Rental Facility and other health or life safety concerns will be investigated by DHCA within one business day of receipt of the complaint. All other complaints will be investigated within three business days of receipt of the complaint.

4. The City will assume, on a case by case basis, limited responsibility for the inspection of the exterior premises and grounds of select Rental Facilities for compliance with the Property Maintenance Code and other applicable provisions of the *Takoma Park Code*. Said inspections will be restricted to complaints made to the City or observed by City employees, officials or agents regarding the accumulation of trash and debris, overgrown vegetation, trees, graffiti, junked or unlicensed and abandoned vehicles, and the accumulation of snow and ice. The City will notify DHCA by e-mail, phone or facsimile, within one business day of receipt of any complaints, of the complaints that the City intends to inspect and pursue.

5. DHCA will make available to the City, immediately upon request and within ten business days of the closure of the inspection file, copies of all complaint inspection reports, violation notices, municipal infraction citations, notes, correspondence, and any other file materials and information.

6. DHCA will provide the City with monthly reports on the status of all complain inspections. Reports will be provided electronically and submitted on or before the 10<sup>th</sup> day of each month following the reporting period.

### **C. Enforcement.**

1. DHCA will be authorized to act on behalf of the City in the enforcement of the following City laws, as amended, as such laws apply to the licensing, inspection and maintenance of rental facilities and any other ordinances and regulations adopted by the City during the term of this Agreement which apply to the licensing, inspection or maintenance of Rental Facilities:

- a) Chapter 6.04 - General Provisions and Definitions
- b) Chapter 6.08 - Rental Housing Licenses, Section 6.08.070 - Inspections
- c) Chapter 6.12 - Property Maintenance Code
- d) Chapter 6.16 - Landlord-Tenant Relations, Section 6.16.050 - Obligations of Landlords
- e) Chapter 6.36 - Unsafe Buildings; Public Nuisance Abatement

The City will promptly provide DHCA with copies of all ordinances and regulations pertaining to rental housing which are adopted or amended after the date of this Agreement.

2. DHCA's enforcement authority includes, but is not limited to, the issuance and enforcement of violation notices, orders to repair, municipal infraction citations, declaration of a Rental Facility or rental unit as an unsafe building/public nuisance, and recommendations for the revocation or suspension of rental housing licenses.

3. The Montgomery County Office of the County Attorney will prosecute all municipal infraction citations issued by DHCA pursuant to the provisions of this Agreement in the District Court of Maryland for Montgomery County. This prosecution includes, as applicable, obtaining abatement orders and enforcement of abatement orders by contempt or other proceedings as necessary. The Office of the County Attorney also will be responsible for obtaining administrative search warrants, as needed, when access to a Rental Facility or rental unit for inspection is denied.

4. DHCA agrees to make assigned personnel available, as needed, for City of Takoma Park's Commission on Landlord-Tenant Affairs ("COLTA") hearings and for any City Council meetings, Court proceedings, and administrative hearing proceedings relating to matters and cases relating to the inspection or condition of a specific Rental Facility or rental unit or rental housing in general in the City or any other function under this Agreement.

5. The City agrees to assist DCHA in the abatement of certain code violations in the event an abatement order allows DHCA to abate a violation or a "Clean and Lien" order is issued by DHCA.

a) City services would be limited to the removal and disposal of trash and debris from the grounds of the Rental Facility and the mowing and/or removal of overgrown vegetation, including trees and branches.

b) The cost of providing these services would be assessed in accordance with the following schedule. The below hourly costs assume the assignment of a two-person Public Works crew to perform the service. Fees will be periodically adjusted to reflect increases in the City's personnel costs, dumping fees and related expenditures.

- i. Removal of debris and trash from grounds: \$54 per hour
- ii. Removal of vegetation and mowing: \$65 per hour

iii. Minimum \$100 surcharge for fuel & disposal costs

c) The City of Takoma Park reserves the right to refuse a request for services in the event of inclement weather, the magnitude of the project, or other unforeseen circumstances which would prevent it from responding in a timely and professional manner.

d) Services would be provided within ten business days of the receipt of a written request from DHCA. Requests must include a copy of the Abatement Order or "Clean and Lien Order" issued by DHCA against the specific Rental Facility. DHCA will be notified in writing in the event of inclement weather, the magnitude of the request, or other unforeseen circumstances which would prevent the City from responding in a timely manner or of its inability to provide the requested service.

e) The City will schedule the requested services in coordination with DHCA. DHCA will provide an inspector on site during the performance of the services. The inspector will document pre and post property conditions and will serve as the point of contact to the property owner, manager, and/or tenant, as applicable, during the clean up or other performance of services.

f) The City will notify DHCA in writing once the requested action is completed. The notice will include an invoice for services provided with payment due within 30 days of the invoice date.

#### **ARTICLE 4. COMPENSATION.**

1. City will compensate DHCA One Hundred Seventy Thousand Four Hundred Forty Dollars (\$170,440.00) for all services provided under the terms of this Agreement for the 12 month period beginning October 1, 2009 and ending September 31, 2010. Said fee will be increased to One Hundred Eighty-Two Thousand Forty Dollars (\$182,040.00) for the following 12 month period (October 1, 2010 and September 30, 2011). In addition, all fines and penalties collected by DCHA as a result of its enforcement efforts shall be retained by DCHA to offset associated legal fees and expenses.

2. The fee is to be paid on a quarterly basis, with the first payment due and payable by the 1<sup>st</sup> day of October, January, April, and July of each year for the subsequent calendar quarter.

3. Following the completion of the second 12 month period of this Agreement, ending on September 30, 2011, the amount of compensation or fee to be assessed by DHCA for approved services under this Agreement will be reviewed on an annual basis. DHCA shall submit notice of any proposed fee increase to the City for review, in writing, no later than March 31<sup>st</sup> of each year. Notice of any proposed fee increase must include specific information on DHCA's staffing costs incurred in the provision of services required by this Agreement and associated administrative costs. Revenues from all citation fines and penalties collected by DHCA as a result of its enforcement efforts shall be retained by DHCA to offset associated legal fees and expenses.

**ARTICLE 5. INDEMNIFICATION.**

Each party agrees to indemnify the other for any claims that arise from the other party's acts, omissions or negligence. This indemnification is subject to the liability and damage caps stated in the Local Government Tort Claims Act, *Md. Code Ann.*, Cts. & Jud. Proc. Sec. 5-301 *et seq.*, as amended from time to time. This indemnification is not intended to be a waiver of governmental immunity by either the County or the City, and is not intended to create any rights or causes of action in third parties. The County shall not be liable for damages or injury occasioned by the acts, omissions or negligence of the City, its agents' or employees' failure to comply with its obligations under this Agreement and the City shall not be liable for damages or injury occasioned by the acts, omissions or negligence of the County, its agents' or employees' failure to comply with its obligations under this Agreement.

**ARTICLE 6. TERMINATION.**

Either the City or DHCA may cancel or terminate this Agreement at any time upon 90 days written notice to the other party. In the event of termination, all capital purchases made by DHCA in accordance with this and past Agreements will become the property of the City.

**ARTICLE 7. NOTICES.**

Any required reports, notices or other communications under this Agreement will be in writing and personally delivered, mailed by first-class mail, sent by courier or overnight delivery service, faxed, or e-mailed, as appropriate, as follows:

If to DHCA:                   Montgomery County Department of Housing and Community Affairs  
                                  Attn: Dan McHugh, Manager, Code Enforcement Section  
                                  100 Maryland Avenue, Suite 260  
                                  Rockville, MD 20850  
                                  Phone: 240-777-3735, Fax: 240-777-3701  
                                  E-mail: [dan.mchugh@montgomerycountymd.gov](mailto:dan.mchugh@montgomerycountymd.gov)

If to City:                     City of Takoma Park  
                                  Attn: Sara Anne Daines, HCD Director  
                                  7500 Maple Avenue  
                                  Takoma Park, MD 20912  
                                  Phone: 301-891-7224; Fax: 301-270-4568  
                                  E-Mail: [SaraD@takomagov.org](mailto:SaraD@takomagov.org)

Either party may change the person, address, phone, fax, or e-mail for notices to the other party by a notice in writing to the other. Any notices under this Agreement shall be deemed given when it is received by the other party or, for notices given by mail, three days after the notice is deposited, properly addressed and postage prepaid, in the United States mail.

**ARTICLE 8. EFFECTIVE DATE.**

The Effective Date of this Agreement is October 1, 2009.

**IN WITNESS WHEREOF**, the City of Takoma Park, Maryland, and Montgomery County, Maryland, have signed this Agreement as of the date first above written.

**MONTGOMERY COUNTY, MARYLAND**

\_\_\_\_\_(SEAL)  
Timothy L. Firestine, Chief Administrative Officer

Date signed:\_\_\_\_\_

Approved as to Form and Legality

\_\_\_\_\_  
Vickie L. Gaul, Associate County Attorney

**CITY OF TAKOMA PARK, MARYLAND**

\_\_\_\_\_(SEAL)  
Barbara B. Matthews, City Manager

Date signed:\_\_\_\_\_

Approved as to Form and Legality

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Linda S. Perlman, Assistant City Attorney