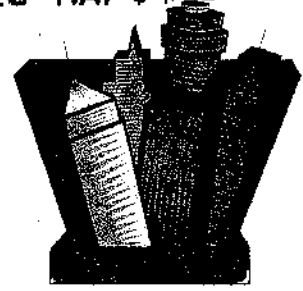


RECEIVED MAY 17 2005



To: John Pick
From: William T. Holland *WTH*
Date: May 16, 2005
Subj: Rental Unit Registration and License Amendment

Attached is an ordinance amending the rental unit registration and inspection program. The purpose of this amendment is to provide a stronger penalty for landlords who fail or neglect to register their units and obtain a license. Below is a brief summary of this ordinance.

If a landlord fails to register his/her property(s) and/or obtain a rental unit owners license, the owner will be subject to nonregistration fees, such as the department currently does. In addition, the department will notify the owner and cancel any existing license and require the owner to vacate the tenants within sixty days. The landlord will also be required to return any security deposit to the tenant pursuant to the provisions of Real Property Article of the Annotated Code of Maryland. However, if a delinquent owner desires to register the rental unit/s, a license will be required for each rental unit at a fee of \$500.00 per unit for five consecutive years and all rental units owned by the delinquent owner will be required to have a comprehensive inspection prior to the unit being registered. If any owner fails to pay the license fee of \$500.00 within thirty days, all total fees due to the city will be applied as a lien against each property owned by the delinquent owner and collected in the same manner as real estate taxes are collected.

Additionally, a section has been added which gives the department the ability to revoke and suspend a registration and/or license if a property owner fails to comply with the applicable codes that regulate minimum livability standards. This is in addition to other fines and penalties already established by the City Code.

CITY OF SALISBURY
ORDINANCE NO. 1942

AN ORDINANCE OF THE MAYOR AND COUNCIL OF THE CITY OF SALISBURY TO AMEND CHAPTER 15.26 TO CREATE SANCTIONS FOR LANDLORDS WHO FAIL OR REFUSE TO REGISTER PROPERTIES OR OBTAIN OR RENEW A LICENSE.

WHEREAS, the City of Salisbury enacted an ordinance to require the licensing of landlords and the registration of rental properties located within the limits of the City;

WHEREAS, it has come to the attention of the Mayor and Council that some landlords have refused to comply with said ordinance;

WHEREAS, the City Council desires to amend the ordinance to create penalties for landlords who fail or refuse to register properties or obtain or renew a license;

NOW, THEREFORE, be it enacted and ordained by the City Council of the City of Salisbury, in regular session, as follows:

1. That Chapter 15.26 of the Salisbury Municipal Code be amended as follows:

Chapter 15.26

Rental of Residential Premises

Sections:

15.26.010	Scope.
15.26.020	Purpose.
15.26.030	Definitions.
15.26.040	Rental dwelling unit registration.
15.26.050	Annual license for rental dwelling unit owners.
15.26.060	Failure to Register or Obtain License
15.26.070	Inspection of license
15.26.080	Transfer
15.26.090	Inspection of premises.
15.26.100	Administrative search warrant.
15.26.110	Denial; Nonrenewal; Revocation; Suspension

- 15.26.120 Appeals procedure
- 15.26.130 Vacation of affected dwelling units
- 15.26.140 Violations-penalties

15.26.010 Scope.

The provisions of this chapter govern rental dwelling units within the city of Salisbury. (Ord. 1899 (part), 2004)

15.26.020 Purpose.

The purpose of this chapter is to protect the public health safety and the general welfare of the citizens of the City of Salisbury who have as their place of abode a room or rooms furnished to them for payment of a rental charge (including money, services, or other type of consideration) to another.

15.26.020 15.26.030 Definitions.

The following definitions shall be used in the construction and interpretation of this chapter:

“Dwelling unit” means a single unit providing living facilities for one or more persons, including permanent provision for living, sleeping and sanitation.

“Director” means the Director of the Department of Building, Housing and Zoning.

“Person” means any individual, partnership, firm, corporation, association or other legal entity of whatsoever kind and nature.

“Rental” means leasing or allowing occupancy or usage of a dwelling unit, either directly or by an agent, in consideration of value, including personal services, paid or tendered to or for the use or benefit of the lessor. (Ord. 1899 (part), 2004)

15.26.030 15.26.040 Rental Dwelling Unit Registration

A. The owner of all rental dwelling units shall register each unit by filing a registration form with the Department of Building, Housing and Zoning. The registration fee for each unit shall be set by resolution of the council from time to time. Registration forms shall be provided by the Department of Building, Housing and Zoning.

B. All registration fees shall be paid at the time the registration form is filed with the Department of Building, Housing and Zoning, unless the owner owns more than one hundred (100) rental dwelling units. The owners of more than one hundred (100) rental dwelling units shall pay the initial registration fee in four equal quarterly installments within twelve (12) months of registration.

C. Initial registration of all existing rental dwelling units in R-5, R-8 and R-10 zones in the city shall be complete by April 30, 2004. Initial registration of all other existing rental dwelling units in the city shall be completed by June 30, 2004.

D. Registration of other rental dwelling units shall occur one month after:

1. The rental dwelling is annexed into the city;
2. The rental dwelling unit receives a use and occupancy permit;
3. Title to the rental dwelling unit is converted to a new owner.
4. The dwelling unit is converted to rental use.

An owner shall notify the city when a rental dwelling unit is converted to a nonrental use.

~~E. Failure to timely register a rental dwelling unit shall result in the issuance of a nonregistration fee as adopted by resolution of the council from time to time. If the full amount of fees due to the city is not paid by the owner within thirty (30) days after billing, then the Director of Building, Housing and Zoning shall cause to be recorded in the finance Department the amount of~~

~~fees due and owing, and such amount will be carried on the records of the city of Salisbury and shall be collectible in the same manner as real estate taxes are collected. (Ord. 1899 (part), 2004)~~

15.26.040 15.26.050 Annual license for rental dwelling unit owners.

A. Each legal entity, e.g. individual, partnership, corporation, which owns a majority interest in a rental dwelling unit or units shall obtain a license from the Department of Building, Housing and Zoning on or before May 30, 2004. After that date, a legal entity which receives title to a rental dwelling unit or units shall obtain a license from the Department of Building, Housing and Zoning within thirty (30) days of the date the legal entity receives title to the rental dwelling unit or units.

B. License forms shall be provided by the Department of Building, Housing and Zoning. If inaccurate ownership information is provided to the Department of Building, Housing and Zoning, then the legal entity will be assessed a fee of fifty dollars (\$50.00).

C. Licenses shall be renewed on an annual basis on or before March 1st of each year. The license fee shall be set by resolution of the council from time to time. ~~If the full amount of any fees due to the city is not paid by the owner within thirty (30) days after billing, then the Director of Building, Housing and Zoning shall cause to be recorded in the finance Department the amount of fees due and owing, and such amount will be carried on the records of the city of Salisbury and shall be collectible in the same manner as real estate taxes are collected.~~

D. If the legal entity owning a rental dwelling unit is not domiciled in Wicomico County, Maryland, or within a toll-free calling area of Salisbury, Maryland, the legal entity must have a designated agent for service of notice and process by the city, who is either a permanent resident of Wicomico County, Maryland, or within the toll-free telephone calling area of Salisbury, Maryland.

The agent shall not be a tenant of the owner. The agent must be an individual who is designated in the owner license application form with the city. If such agent shall resign, fail to be qualified to serve as the agent, or cease to serve in that capacity, then the legal entity shall designate another individual as the agent on the owner license application form within thirty (30) days thereafter. (Ord. 1899 (part), 2004)

15.26.050 15.26.060 Failure to Register or Obtain License

A. Failure to timely register a rental dwelling unit or obtain or renew a license pursuant to this chapter shall result in the issuance of a nonregistration fee as adopted by resolution of the council from time to time. The Department of Building, Housing and Zoning shall issue a notice to the owner advising him of the requirements of this chapter and the fees due as of the date of the notice.

B. If the owner does not register a dwelling unit or obtain or renew a license within thirty (30) days after said notice, the owner shall be designated a delinquent owner. The Department of Building, Housing and Zoning shall notify the owner of such designation, cancel any existing license, and require that the owner vacate any tenant occupying a rental dwelling unit within sixty (60) days. Any security deposit shall be returned to the tenant pursuant to the provisions of Real Property Article, Title 8, Annotated Code of Maryland.

C. If a delinquent owner desires to register a rental dwelling unit, the rental dwelling unit shall be subject to an inside and outside inspection by the department of building, housing and zoning. All violation must be corrected before the rental dwelling unit is registered.

A delinquent owner shall be required to register each of its rental dwelling units for a fee of Five Hundred Dollars (\$500.00). The registration and registration fee shall be required for five (5) consecutive years, unless the rental dwelling unit changes ownership to a legal entity which is not

owned or controlled by the delinquent owner, and the new owner complies with all the provisions of this Chapter. If the new owner complies with the provisions of this Chapter, the delinquent owner designation then terminates. If the new owner fails to timely register the rental dwelling unit, then the delinquent owner designation shall continue.

D. If a delinquent owner desires to obtain or renew a license pursuant to §15.26.050 herein, the owner shall pay a license fee of \$500 for five (5) consecutive years.

E. If the full amount of any fees due to the City is not paid by the owner within 30 days after billing, the Director shall cause to be recorded in the finance Department the amount of fees due and owing, and such amount will be carried on the records of the city of Salisbury and shall be collectible in the same manner as real estate taxes are collected.

15.26.050- 15.26.070 Inspection of license

Licenses issued under this chapter shall be made available for inspection upon request by the Department of Building, Housing and Zoning. (Ord. 1899 (part), 2004).

15.26.080 Transfer

To transfer a rental dwelling unit registration from one property owner to another, the owner shall give written notice, including the name and address of the transferee to the Department of Building, Housing and Zoning at least 48 hours prior to any transfer of the registered property. The transferee must make application to the Department of Building, Housing and Zoning and pay the required fee for a transfer of a registration within 30 days of the transfer of the property. Failure to make application within the specified time limit will result in the automatic forfeiture of the registration, and the new owner shall be subject to all of the sanctions provided in this chapter.

~~15.26.060~~ 15.26.090 **Inspection of premises**

A. After the city receives a complaint about the code compliance of any rental dwelling unit, the city may inspect the rental dwelling unit. Inspections may also be initiated from inspector observations. The inspection shall occur after notice has been furnished to the owner and occupants of the rental dwelling unit. The notice shall be sent by mail or by affixing the notice to the rental dwelling unit in a conspicuous location. If the city's inspector shall be denied access to the rental dwelling unit or any part thereof that is appropriate for inspection, the inspector may obtain an administrative search warrant to gain access.

B. In the R-5, R-8 and R-10 zoning districts, the city will perform random mandatory inspection of rental dwelling units. The Department of Building, Housing and Zoning shall implement a procedure for random mandatory inspections.

C. The first inspection of a rental dwelling unit shall be without payment of a fee. The second inspection and any subsequent inspection shall require the payment of a fee by the owner of the rental dwelling unit pursuant to a fee schedule adopted by resolution of the council from time to time. No reinspection fee will be assessed for the initial reinspection if all repairs are complete.

D. If the full amount of fees due to the city is not paid by the owner within thirty (30) days after billing, then the Director of Building, Housing and Zoning shall cause to be recorded in the finance Department the amount of fees due and owing, and such amount will be carried on the records of the city of Salisbury and shall be collectible in the same manner as real estate taxes are collected. (Ord. 1899 (part), 2004)

~~15.26.070~~ 15.26.100 **Administrative search warrant.**

A. An inspector authorized by the city to inspect any rental dwelling unit may apply to a judge of the District Court of Maryland or the Wicomico County Circuit Court for an administrative search warrant to enter and inspect such rental dwelling unit. The application shall be in writing, signed and sworn to by the inspector, and it shall state or identify: (i) the rental dwelling unit to be inspected by street address and general description, (ii) the nature, scope and purpose of the inspection, and (iii) one or more dates and approximate times when the inspector proposes to conduct the inspection. In addition, the application shall specify the statutory authority for such inspection and the effort of the inspector (or others) to schedule or conduct the inspection and/or to locate the owner(s), tenant(s), or other person(s) in charge of the rental dwelling unit and any grounds for issuance of the search warrant.

B. A judge of a court referred to in this Section may issue the search warrant upon finding that: (i) the inspector is authorized to make the inspection, (ii) a reasonable effort has been made to obtain access to the rental dwelling unit to make the inspection, (iii) the owner(s), tenant(s) or other person(s) in charge of the rental dwelling unit have denied or otherwise failed or refused to furnish access to the rental dwelling unit at a reasonable time or for a reasonable period to conduct the inspection, or the inspector (or others) have been unable to locate any such person(s) after making a reasonable effort to do so, and (iv) if conducted in a reasonable manner, the inspection will not intrude unnecessarily on the privacy of such persons.

C. In the case of random comprehensive inspection pursuant to this chapter, the warrant may be issued regardless of whether the inspector (or others) have knowledge or notice of any

violation of applicable codes or regulations or there is probable cause to believe that such violation exists or may exist.

D. An administrative search warrant issued under this Section shall be executed and returned to the issuing judge or, in his or her absence, to the clerk of the issuing clerk within: (i) the time specified in the warrant, not to exceed thirty (30) days, or (ii) if no time is specified therein, fifteen (15) days from its date of issuance.

E. This Section shall not preclude or affect the power to make prompt inspection without a warrant in emergency situations. (Ord. 1899 (part), 2004)

15.26.110 Denial; Non renewal; Revocation; Suspension

If after any period for compliance of this Chapter has expired, the Director determines that a rental dwelling unit fails to comply with any of the licensing standards set forth herein, and the Director has initiated an action to deny, revoke, suspend, or not renew a registration or license, the Director shall mail the owner a notice of denial, non-renewal, revocation, or suspension of the license. The notice shall state:

1. That the Director has determined that the building fails to comply with the licensing standards for rental dwelling units in Section.
2. The specific reasons why the building fails to meet licensing standards, including copies of applicable inspection reports, or notices sent to licensee of conduct on licensed premises.
3. That the Director will deny, refuse to renew, revoke, or suspend the license unless the owner appeals the determination within fifteen (15) days after receipt of the notice, in the manner provided in Section 15.26.120.

4. That after denial, non-renewal, revocation or suspension, the dwelling or the affected dwelling units therein must be vacated, and shall not be reoccupied until all violations are corrected and a license or registration is granted by the Department of Building, Housing and Zoning.

5. The notice shall describe how an appeal may be filed under Section 15.26.120.

6. The Director shall cause a notice to tenants to be mailed or delivered to each registered rental dwelling unit and prominently posted on the building. The notice shall indicate that the rental dwelling unit registration for the building has been denied, revoked, or suspended, whichever is applicable; that the action will become final on a specific date unless the building owner appeals and requests a hearing; that tenants may be required to vacate the building when the action becomes final; that further information can be obtained from the City of Salisbury Department of Building, Housing and Zoning.

15.26.120 Appeals procedure

A. Any person wishing to appeal a determination of the Department of Building, Housing and Zoning of the Director recommending denial, nonrenewal, revocation, or suspension of a license shall file a written notice of appeal with the Department of Building, Housing and Zoning within 21 days after receipt of the notice of denial, nonrenewal, revocation, or suspension. The notice shall contain a statement of the grounds for the appeal. The notice of appeal shall be accompanied by a fee of one hundred dollars (\$100.00).

B. The Director shall refer the appeal to the Housing Board of Adjustments and Appeals. The Board shall meet monthly, or more frequently at the call of the chair, to hear appeals. The board shall notify the owner in writing of the time and place of the hearing.

C. When hearing appeals under this Chapter, the Board shall follow the procedures set forth in Chapter 15.24 of the Salisbury Municipal Code.

15.26.130 Vacation of affected dwelling units

When an application for rental dwelling license has been denied, or a rental dwelling license has been revoked, suspended, or not renewed, the Director shall order the rental dwelling unit vacated, giving tenants a reasonable time to arrange new housing and to move their possessions.

15.26.140 Violations-penalties

A. Any person found in violation of the provisions of this chapter shall be guilty of a municipal infraction and shall be subject to a fine not to exceed five hundred dollars (\$500) per violation. Each day a violation remains uncorrected is a separate violation subject to an additional citation and fine.

AND BE IT FURTHER ENACTED AND ORDAINED BY THE COUNCIL OF THE CITY OF SALISBURY, that this ordinance shall take effect upon final passage.

THIS ORDINANCE was introduced and read at a meeting of the Council of the City of Salisbury held on the ____ day of _____, 2005, and having been published as required by law, in the meantime, was finally passed by the Council on the ____ day of _____, 2005.

Brenda J. Colegrove, City Clerk

Michael P. Dunn,
President of the Council of
the City of Salisbury

Approved by me, this _____
day of _____, 2005.

Barrie P. Tilghman,
Mayor of the City of Salisbury