

Resolution No.: 19-51
Introduced: March 5, 2019
Adopted: March 5, 2019

**COUNTY COUNCIL
FOR MONTGOMERY COUNTY, MARYLAND**

Lead Sponsor: County Council

SUBJECT: Approval of Executive Regulation 5-17AM, Troubled Properties, (Department of Housing and Community Affairs)

Background

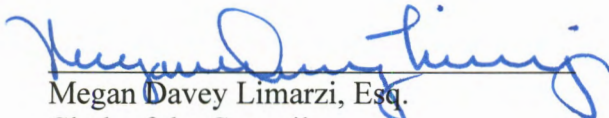
1. On October 11, 2018, the County Council received proposed Executive Regulation 5-17, Troubled Properties (Department of Housing and Community Affairs), from the County Executive.
2. The Council must review the regulation under method (2) of Section 2A-15 of the Code.
3. Under method (2), if the Council does not approve or disapprove a regulation within 60 calendar days after the Council receives the regulation, the regulation automatically takes effect. On November 13, 2018, the Council extended the time for consideration by adopting Resolution 18-1291.
4. On February 11, 2019, the Planning, Housing, and Economic Development Committee held a worksession on the proposed regulation and recommended approval with a corrective amendment recommended by the Executive. The Executive forwarded Executive Regulation 5-17AM on February 25, 2019.

Action

The County Council for Montgomery County, Maryland approves the following resolution:

Executive Regulation 5-17AM, Troubled Properties (Department of Housing and Community Affairs), is approved.

This is a correct copy of Council action.


Megan Davey Limarzi, Esq.
Clerk of the Council



MONTGOMERY COUNTY EXECUTIVE REGULATION

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Subject Troubled Properties	Number 05-17AM
Originating Department Housing and Community Affairs	Effective Date March 5, 2019

Department of Housing and Community Affairs

Montgomery County Regulation on:

TROUBLED PROPERTIES

Issued By: County Executive
Regulation Number: 05-17AM

Authority: Montgomery County Code, 2014, Section 29-22(b)(2)
Supersedes: N/A
Council Review: Method Two (2) under Code Section 2A-15
Register Volume 35 Issue 9

Comment Deadline: October 1, 2018
Effective Date: March 5, 2019
Sunset Date: None

SUMMARY:

This regulation sets forth a methodology for designating Troubled Properties under Section 29-22(b)(2) of the Montgomery County Code, based on the severity and quantity of violations of Chapter 26, with rental housing units designated as Troubled Properties being subject to annual inspections and the requirement to develop and implement a corrective action plan under Section 29-22(c).

ADDRESSES:

Information and copies of this regulation are available from the Department of Housing and Community Affairs (DHCA), 1401 Rockville Pike, Fourth Floor, Rockville, MD 20852.

STAFF CONTACT:

Christopher J. Anderson, Chief, Community Development Division, DHCA, Telephone Number 240-777-3713



MONTGOMERY COUNTY EXECUTIVE REGULATION

Offices of the County Executive • 101 Monroe Street • Rockville, Maryland 20850

Subject Troubled Properties	Number 05-17AM
Originating Department Housing and Community Affairs	Effective Date

CHAPTER 29. LANDLORD-TENANT RELATIONS — REGULATIONS

[insert the following in entirety below COMCOR 29.30.01 - Establishment of Contractual Obligations for Maintenance Costs in Single Family Rental Units]

COMCOR 29.40.01 Troubled Properties

29.40.01.01 Purpose

The minimum maintenance standards that apartment complexes and buildings with personal living quarters (“rental housing” or “rental housing properties”) must meet are set forth in Chapter 26 of the Montgomery County Code. When the Department conducts a visual assessment of rental housing for compliance with Chapter 26, any violation of the Chapter 26 standards is noted by the Department without distinction as to the severity of the violation, except those violations cited under Section 26-13 and Section 26-15 of the Code. However, for the purposes of meeting the requirements of Section 29-22(b)(2), the Department categorizes and ranks violations in the order of severity, as outlined in this regulation to determine whether rental housing is to be designated as a Troubled Property.

This regulation sets forth a methodology for designating Troubled Properties under Section 29-22(b)(2) of the Montgomery County Code based on the severity and quantity of violations of Chapter 26, with rental housing designated as Troubled Properties being subject to annual inspections and the requirement to develop and implement a corrective action plan under Section 29-22(c).

29.04.01.02 Definitions

Unless defined below, all terms herein have the same meanings as those in Chapter 29 of the Code.

- (a) *Corrective action plan* means a written property maintenance plan prepared by the Landlord of a Troubled Property, that describes in detail the specific actions that the Landlord will take within a specified time schedule to both identify and correct current and ongoing housing code violations in a timely manner and prevent future housing code violations to the greatest extent possible.
- (b) *Troubled Property* means rental housing which, because of the severity and quantity of violations under Chapter 26, is subject to annual inspections by the Department and requires the development and implementation of a corrective action plan.

29.04.01.03 Classifying Violations by Severity

- (a) The Department shall maintain and publicize a list of violations (“violations list”) with an assigned level of severity for each violation based on the four categories described below. The violations list may, by Executive Order, be revised periodically for completeness and clarity.
- (b) *Health and Safety Violations*. Health and Safety Violations are generally those that present an imminent or immediate risk to tenants including, but not limited to:



MONTGOMERY COUNTY EXECUTIVE REGULATION

Offices of the County Executive • 101 Monroe Street • Rockville, Maryland 20850

Subject Troubled Properties	Number 05-17AM
Originating Department Housing and Community Affairs	Effective Date

- (1) Those violations listed in Section 29-22(b)(1) of the Code;
- (2) Violations which cause the Department to exercise the powers delineated in Section 26-13 and Section 26-15 of the Code;
- (3) Missing, disabled, or non-functioning smoke detectors;
- (4) Broken entrance doors and/or missing or broken locks;
- (5) HVAC system not maintaining a temperature of 68 degrees in heating months; or
- (6) Any other violation designated on the violations list maintained by the Department. Unless the magnitude of a violation necessary to meet the level of a health and safety violation is specified in the Code or regulation, a violation must meet the requirements of Section 26-13(a) of the Code in order to achieve the designation of a health and safety violation.

(c) *Higher Priority Violations.* Higher Priority Violations are generally those that do not present an imminent or immediate risk to tenants' health or safety, but require more substantial and expensive repairs, including but not limited to:

- (1) Damage to interior doors and/or door locks;
- (2) Major wall damage;
- (3) The limited presence of mold that does not meet the standard set in Section 26-13(a)(3) of the Code;
- (4) Overcrowding;
- (5) Infestation not rising to the level established in Section 29-22(b)(1)(a);
- (6) Non-functioning or inadequately functioning major appliance, such as a refrigerator not cooling, or a stove not heating, to the required temperature;
- (7) Other damage to windows not related to egress;
- (8) Missing address indicators; or
- (9) Any other violation designated on the violations list maintained by the Department.

(d) *Medium Priority Violations.* Medium Priority Violations are generally those related to ongoing maintenance issues including, but not limited to:

- (1) Poor housekeeping presenting conditions conducive to infestation and/or accidents;
- (2) Faucet leaks and other non-emergency plumbing repairs;
- (3) Minor wall and/or tile repairs;
- (4) Carpet damage;
- (5) Deteriorated refrigerator gaskets;
- (6) HVAC system requiring general maintenance; or
- (7) Any other violation designated on the violations list maintained by the Department.



MONTGOMERY COUNTY EXECUTIVE REGULATION

Offices of the County Executive • 101 Monroe Street • Rockville, Maryland 20850

Subject Troubled Properties	Number 05-17AM
Originating Department Housing and Community Affairs	Effective Date

(e) *Lower Priority Violations.* Lower Priority Violations are generally those of a superficial or cosmetic nature including, but not limited to:

- (1) Interior walls and ceilings requiring general painting, scraping and preparation;
- (2) Lights and light covers in need of repairing or replacing;
- (3) Window blinds in need of repairing or replacing;
- (4) Broken or damaged toilet seat;
- (5) Broken or damaged bathroom towel rack and/or toothbrush holder;
- (6) Bath tub in need of re-glazing and/or repairing grout and caulking; or
- (7) Any other violation designated on the violations list maintained by the Department.

(f) The quantity and severity of violations under each category necessary to designate rental housing as a Troubled Property is set forth in Section 29.04.01.04 of this regulation.

29.04.01.04 Designating Troubled Properties

(a) After an inspection of rental housing and based on the inspection findings, the Department shall calculate two scores to be assigned to each rental property based on the following criteria:

- (1) The severity of the violations found in the rental housing (the Severity of Violations Score, or "SV Score");
- (2) The total number of violations found in the rental housing (the Total Number of Violations Score, or "TV Score");

(b) *Severity of Violations ("SV") Score.*

- (1) The Severity of Violations score shall be based on the following point system:
 - (i) Five (5) points for each Health and Safety Violation found;
 - (ii) Three (3) points for each Higher Priority Violation found;
 - (iii) Two (2) points for each Medium Priority Violation found;
 - (iv) One (1) point for each Lower Priority Violation found.
- (2) The Department will assign the appropriate point value to each violation based on its severity and will add the points together to calculate the total number of points. The Department will then divide this total number of points by the total number of violations found in the Multifamily Dwelling Units inspected to determine an average number representing the Severity of Violations ("SV") Score for that rental housing.

(c) *Total Number of Violations ("TV") Score.* The Department will divide the total number of violations found in the rental housing by the total number of Multifamily Dwelling Units inspected to determine an



MONTGOMERY COUNTY EXECUTIVE REGULATION

Offices of the County Executive • 101 Monroe Street • Rockville, Maryland 20850

Subject Troubled Properties	Number 05-17AM
Originating Department Housing and Community Affairs	Effective Date

average number of violations per unit which will be the Total Violations (“TV”) Score for that rental housing.

- (d) On or about July 1, 2019, the Department shall analyze the results of inspections of rental properties that were conducted on or after January 15, 2017 according to the method described below. Thereafter, the Department will conduct this analysis annually for those rental properties inspected within the preceding 12-month period.
- (e) The SV Score and the TV Score for each rental property shall be plotted as two coordinates on an “X-Y scatter graph” where the X-axis (horizontal) represents the property’s SV Score, and the Y-axis (vertical) represents the property’s TV Score (an illustration of such a graph is provided below).
- (f) The coordinates for all rental properties shall be plotted on this graph to show the relative position of each rental property in relation to every other rental property based the quantity and severity of its violations.
- (g) Additionally, the Department shall calculate the mean TV Score and the mean SV Score for all rental properties. These mean values shall be plotted as points on the X-axis (representing the average severity of all violations across all properties) and the Y-axis (representing the average number of total violations across all properties), respectively.
- (h) The graph shall then be divided into four quadrants by drawing a line perpendicular to each axis (the “mean line”), beginning at the mean score on each axis and ending at a point parallel to the endpoint of each axis. Each quadrant contains the coordinates of properties with certain characteristics:
 - (1) The northwest quadrant (upper left) represents rental properties with a higher than average number of violations, and violations of a relatively lower level of severity;
 - (2) The northeast quadrant (upper right) represents rental properties with a higher than average number of violations, and violations of a relatively higher level of severity;
 - (3) The southeast quadrant (lower right) represents rental properties with a lower than average number of violations, and violations of a relatively higher level of severity; and,
 - (4) The southwest quadrant (lower left) represents rental properties with a lower than average number of violations, and violations of a relatively lower level of severity (please refer to the illustration below).



MONTGOMERY COUNTY EXECUTIVE REGULATION

Offices of the County Executive • 101 Monroe Street • Rockville, Maryland 20850

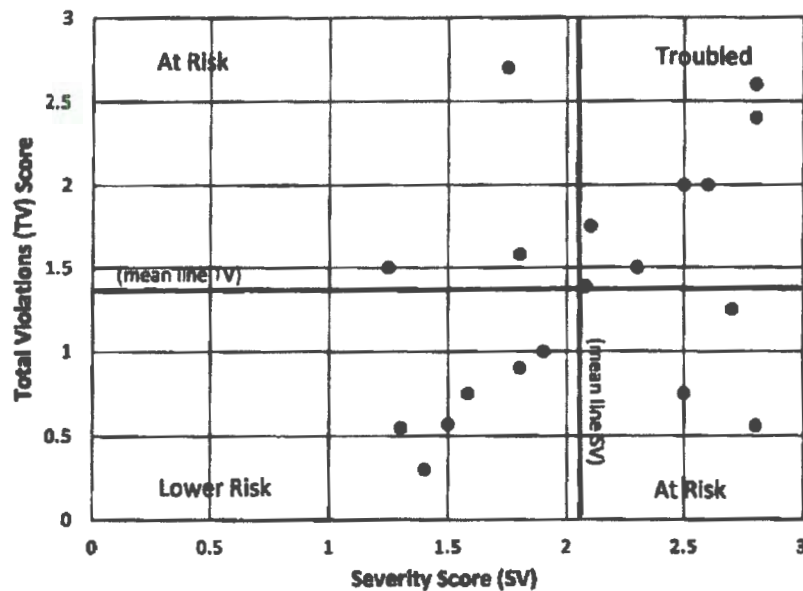
Subject
Troubled Properties

Number
05-17AM

Originating Department
Housing and Community Affairs

Effective Date

Troubled Properties Analysis



- (i) Those rental properties whose coordinates are located within or touching any boundary of the northeast quadrant shall be designated as Troubled Properties.
- (j) Those rental properties whose coordinates are located within the northwest or southeast quadrant shall be considered "at-risk" properties commensurate with their coordinates proximity to the northeast quadrant containing Troubled Properties. The Director shall exercise his or her discretion to inspect these properties more frequently than once every three years to monitor the properties and encourage the Landlords to avoid Troubled Properties designation.
- (k) Within 30 days of the Department's designation of a rental property as a Troubled Property, the Department shall provide written notice of such designation to the Landlord. The Department may include any supporting documentation deemed necessary to support or explain that designation. The written notice should also include:



MONTGOMERY COUNTY EXECUTIVE REGULATION

Offices of the County Executive • 101 Monroe Street • Rockville, Maryland 20850

Subject Troubled Properties	Number 05-17AM
Originating Department Housing and Community Affairs	Effective Date

- (1) The date established by the Department of the upcoming annual inspection of all dwelling units in the rental property;
- (2) The requirement for, and description of, a corrective action plan which must be submitted to the Department prior to the date of the above annual inspection;
- (3) The requirements of Section 29-22(e), including the requirement to submit quarterly maintenance logs to the Department, effective as of the date of the written notice;
- (4) The remedies available under Section 29-25 and Section 26-16 of the Code if the Landlord fails to comply with the requirements of all applicable laws.

(l) Beginning on or about July 1, 2019, the Department will inspect every Troubled Property at least once within the succeeding 12-month period, as measured from the date all previously identified violations from the most recent inspection of the rental housing complex have been corrected and the case file for that property is closed. So long as a rental housing remains a Troubled Property, the Department will inspect the complex at least once within each succeeding 12-month period until the rental housing is no longer designated as a Troubled Property.

(m) Rental housing designated as a Troubled Property may have that designation removed at such time as the Director determines that the corrective action plan for the rental housing has been successfully completed and the property's SV and TV scores are no longer located in the upper northeast quadrant of the X-Y scatter graph.

Marc Elrich
County Executive

Date: 2/25/19

Approved as to Form and Legality
Office of the County Attorney

By:

Date: 2-14-19