



MONTGOMERY COUNTY EXECUTIVE REGULATION

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

Subject Rent Stabilization	Number 2-24
Originating Department Department of Housing and Community Affairs	Effective Date

Montgomery County Regulation on:

RENT STABILIZATION

Issued by: County Executive

COMCOR 29.58.01, 29.59.01, 29.60.01, 29.61.01

Authority: Code Sections 29-58, 29-59, 29-60, 29-61

Council Review Method (2) Under Code Section 2A-15

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Comment Deadline: March 1, 2024

Effective Date: _____

Sunset Date: None

SUMMARY: The regulation establishes the procedures for Rent Stabilization.

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MONTGOMERY COUNTY CODE CHAPTER 29, SEC. 29-58 RENT INCREASES – IN GENERAL; VACANT UNITS; AND LIMITED SURCHARGES FOR CAPITAL IMPROVEMENTS

COMCOR 29.58.01 Rent Increases

29.58.01.01 Rent Increase for New Lease or Lease Renewal

- (a) A landlord of a regulated rental unit must not increase the base rent of the unit more than once in a 12-month period.
- (b) The annual rent increase allowance governing the first year of a multi-year lease applies to the subsequent lease years.

29.58.01.02 Rent Increases for Troubled or At-Risk Properties

A landlord of a regulated rental unit located in a property designated by the Department as Troubled or At-Risk under Section 29-22(b) of the Code must not increase rent in excess of an amount the Director determines necessary to cover the costs required to improve habitability. The Director must determine if the landlord of such a regulated rental unit is unable to cover the costs required to improve habitability by requiring the landlord to submit a fair return application under Section 29-59 of the Code.

- (a) If the Director approves the fair return application submitted by the landlord for a property designated by the Department as Troubled or At-Risk under Section 29-22(b) of the Code, the Director must allow the landlord to increase the rent on a regulated rental unit in the amount approved by the fair return application while the property is still designated by the Department as Troubled or At-Risk under Section 29-22(b) of the Code.
- (b) If the Director denies the fair return application submitted by the landlord for a property that is designated by the Department as Troubled or At-Risk under Section 29-22(b) of the Code, the landlord must not increase the rent on the regulated rental unit while the property is designated by the Department as Troubled or At-Risk under Section 29-22(b) of the Code.

29.58.01.03 Allowable Rent Increase for Previously Vacant Lots

- (a) If a unit becomes vacant after the Rent Stabilization law was enforceable, the base rent for the unit may be increased up to the banked amount or to no more than the base rent on the date the unit became vacant plus each allowable increase under Section 29-58(a) of the Code.
- (b) If a unit was vacant before the Rent Stabilization law was enforceable, then upon return to the market, the landlord may set the base rent. After the unit has been on the market for 12 months,



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the rent for the subsequent lease or lease renewal must be determined by Section 29-58(a) of the Code.

29.58.01.04 Limited Surcharge for Capital Improvements

- (a) A landlord may petition the Director for a limited surcharge for capital improvements under Section 29-58(d) of the Code.
- (b) Processing of Petitions
 - (1) Filing of Petition. The Petition form and one copy of supporting documents must be filed with the Department.
 - (2) Notice of Filing. The landlord must notify each affected tenant by first-class mail of the filing of the Petition within five business days of the filing of the Petition.
 - (3) Decisions on a Petition. The Director must review the petition and supporting documentation and must issue and notify the landlord of a decision stating the recommended rent increase, if any, to be allowed.
 - (4) If the landlord fails to file all necessary documentation or respond in a timely manner to requests for additional information or documentation, the Director may deny the application.
 - (5) The landlord must, by first class mail notify all affected tenants of the decision within five business days of issuance.
- (c) Except as provided in (d), the landlord must not recover the cost of a capital improvement through a rent surcharge under Section 29-58(d) of the Code if a landlord makes the improvement to a rental unit or a housing accommodation prior to the approval of a capital improvement petition.
- (d) A landlord who makes a capital improvement without prior approval of a capital improvement petition may recover the cost of the improvement under Section 29-58(d) of the Code, following the approval of the petition, only if the capital improvement was immediately necessary to maintain the health or safety of the tenants and the petition was filed no later than 30 days after the completion of all capital improvement work.



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- (e) A landlord must file a capital improvement petition on a form approved by the Director (“Capital Improvement Form”), certifying:
- (1) that the capital improvements are permanent structural alterations to a regulated rental unit intended to enhance the value of the unit;
 - (2) whether the capital improvements include structural alterations to a regulated rental unit required under federal, state, or County law;
 - (3) that the capital improvements do not include the costs of ordinary repair or maintenance of existing structures;
 - (4) that the capital improvements would protect or enhance the health, safety, and security of the tenants or the habitability of the rental housing;
 - (5) whether the capital improvements will result in energy cost savings that will be passed on to the tenant and will result in a net savings in the use of energy in the rental housing or are intended to comply with applicable law;
 - (6) that the required governmental permits have been requested or obtained, and copies of either the request form or issued permit must accompany the Capital Improvement Form;
 - (7) the basis under the federal Internal Revenue Code for considering the improvement to be depreciable;
 - (8) the costs of the capital improvements, including any interest and service charge;
 - (9) the dollar amounts, percentages, and time periods computed by following the instructions listed in (f); and
 - (10) that the petitioner has obtained required governmental permits and approvals.
- (f) The Capital Improvement Petition must contain instructions for computing the following in accordance with this section:
- (1) the total cost of a capital improvement;
 - (2) the dollar amount of the rent surcharge for each rental unit in the housing accommodation and the percentage increase above the current rents charged; and



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(3) the duration of the rent surcharge and its pro-rated amount in the month of the expiration of the surcharge.

(g) The total cost of a capital improvement must be the sum of:

(1) any costs actually incurred, to be incurred, or estimated to be incurred to make the improvement, in accordance with (i);

(2) any interest that must accrue on a loan taken by the landlord to make the improvement, in accordance with (j); plus

(3) any service charges incurred or to be incurred by the landlord in connection with a loan taken by the landlord to make the improvement, in accordance with (k).

(h) The interest and service charge on, “a loan taken by the landlord to make the improvement or renovation” is the portion of any loan that is specifically attributable to the costs incurred to make the improvement or renovation, in accordance with (l). The dollar amount of the calculated interest and service charge must not exceed the amount of the portion of that loan.

(i) The costs incurred to make a capital improvement must be determined based on invoices, receipts, bids, quotes, work orders, loan documents or a commitment to make a loan, or other evidence of costs as the Director may find probative of the actual, commercially reasonable costs. The amount of costs incurred must be reduced by the amount of any grant, subsidy, credit, or other funding not required to be repaid that is received from or guaranteed by a governmental program for the purposes of making the subject improvement.

(j) The interest on a loan taken to make a capital improvement means all compensation paid by the landlord to a lender for the use, forbearance, or detention of money used to make a capital improvement over the amortization period of the loan, in the amount of either:

(1) the interest payable by the landlord at a commercially reasonable fixed or variable rate of interest on a loan of money used to make the capital improvement, or on that portion of a multi-purpose loan of money used to make the capital improvement, as documented by the landlord by means of the relevant portion of a bona fide loan commitment or agreement with a lender, or by other evidence of interest that the Director finds probative; or

(2) in the absence of any loan commitment, agreement, or other evidence of interest, the Director may apply the average 52-week Wall Street Journal’s U.S. Prime Rate, as reported by The Wall Street Journal’s bank survey, applied over a seven-year period. Such average is calculated as the mid-point between the high and low Prime Rates



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reported for the 52 weeks immediately prior to the limited surcharge petition for capital improvements.

- (k) For the purposes of (j)(1), if a landlord has obtained a loan with a variable rate of interest, the total interest payable must be calculated using the initial rate of the loan. If the interest rate changes over the duration of the rent surcharge, any certificate filed under (t) must list all changes and recalculate the total interest on the loan.
- (l) The service charges in connection with a loan taken to make a capital improvement must include points, loan origination and loan processing fees, trustee's fees, escrow set-up fees, loan closing fees, charges, costs, title insurance fees, survey fees, lender's counsel fees, borrower's counsel fees, appraisal fees, environmental inspection fees, lender's inspection fees (in any form the foregoing may be designated or described), and other charges (other than interest) required by a lender, as supported by the relevant portion of a bona fide loan commitment or agreement with a lender, or by other evidence of service charges as the Director may find probative.
- (m) Except when a continuation is permitted in accordance with (s), the duration of a rent surcharge requested or allowed by a capital improvement petition must be the quotient, rounded to the next whole number of months, of:
- (1) the total cost of the capital improvement, in accordance with (g); divided by
 - (2) the sum of the monthly rent surcharges permitted by Sections 29-58(d)(3) and (4) of the Code on each affected rental unit.
- (n) A rent surcharge in the final month of its duration must be no greater than the remainder of the calculation in (m), prior to rounding.
- (o) A Capital Improvement Petition must be accompanied by external documents to substantiate the total cost of a capital improvement and must be supplemented with any new documentation reflecting the actual total cost of the improvement, until the Director approves or denies the petition.
- (p) A Capital Improvement Petition, as filed with the Director, must be accompanied by a listing of each rental unit in the housing accommodation, identifying:
- (1) which rental units will be affected by the capital improvements;
 - (2) the base rent for each affected regulated rental unit, and any other approved capital improvement surcharges; and



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- (3) the dollar amount of the proposed rent surcharge for each rental unit and the percentage by which each surcharge exceeds the current rents charged.
- (r) A decision authorizing a capital improvement surcharge must be implemented within 12 months of the date of issuance but no earlier than 12 months following any prior rent increase for an affected rental unit; provided, that if the capital improvement work renders the unit uninhabitable beyond the expiration of time, the rent surcharge may be implemented when the unit is reoccupied. The amount of the surcharge must be clearly identified as an approved capital improvement surcharge in the new lease or in the lease renewal and may not be implemented mid lease.
- (s) Not less than 90 days before the expiration of an authorized rent surcharge a landlord may request to extend the duration of the rent surcharge by filing an application with the Director and serving each affected rental unit with notice that the total cost of the capital improvement has not been recovered during the originally approved period of the rent surcharge and requesting to extend the approval ("Certificate of Continuation").
- (t) A Certificate of Continuation must set forth:
- (1) the total cost of the capital improvement as approved by the capital improvement petition, including, if applicable, any changes in the total interest due to a variable-rate loan;
 - (2) the dollar amount actually received by the implementation of the rent surcharge within its approved duration, including any amount estimated to be collected before the expiration of its approved duration;
 - (3) an accounting of and reason(s) for the difference between the amounts stated in (1) and (2); and
 - (4) a calculation of the additional number of months required, under currently known conditions, for the landlord to recover the total cost of the capital improvement by extension of the duration of the rent surcharge.
- (u) The Director must review the Certificate of Continuation and must issue and notify the landlord of a decision either approving or denying the continuation. The Director must only approve the request if the landlord demonstrates good cause for the difference between the amounts stated in (t)(1) and (2).



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- (v) If the Director does not issue a decision prior to the expiration of the surcharge, the landlord may continue the implementation of the rent surcharge for no more than the number of months requested in the Certificate of Continuation. If a Certificate of Continuation is subsequently denied, the order of denial must constitute a final order to the landlord to pay a rent refund to each affected tenant in the amount of the surcharge that has been demanded or received beyond its original, approved duration in which it was implemented, and, if the rent surcharge remains in effect, to discontinue the surcharge.
- (w) A rent surcharge implemented pursuant to an approved capital improvement petition may be extended by Certificate of Continuation no more than once.

MONTGOMERY COUNTY CODE CHAPTER 29, SEC. 29-59 FAIR RETURN

COMCOR 29.59.01 Fair Return

29.59.01.01 Purpose

A landlord has a right to a fair return as defined by Chapter 29 of the Montgomery County Code. This Regulation establishes the fair return application process.

29.59.01.02 Definitions

In this Regulation, the following words and terms have the following meanings:

- (a) Terms not otherwise defined herein have the meaning provided in Article VI of Chapter 29 of the Montgomery County Code, 2014, as amended (“Chapter 29” or “Code”).
- (b) “Annual Consumer Price Index” (CPI) means the Consumer Price Index. All Urban Consumers all items, Washington-Baltimore (Series ID: CUURA311SAO) published as of March of each year, except that if the landlord’s Current Year is a fiscal year, then the annual CPI for the Current Year must be the CPI published in December of the Current Year.
- (c) “Base Year” means the year the unit becomes a regulated unit per requirements of Chapter 29 of the Code.
- (d) “Current Year” means either the calendar year (January 1st to December 31st) or the fiscal year (July 1st to June 30th) immediately preceding the date that the fair return application required in Section 29.59.01.04 is filed.



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- (e) “Current Year CPI” means either 1) if the current year is a calendar year, the current year CPI is the annual CPI for that year or 2) if the current year is a fiscal year, the current year CPI must be the CPI for December during the current year.
- (f) “Gross Income” means the annual scheduled rental income for the property based on the rents and fees (other than fees that are reimbursed to the tenants) the landlord was permitted to charge at the time of the application.
- (g) “Net Operating Income” means the rental housing’s Gross Income minus operating expenses.

29.59.01.03 Formula for Fair Return

- (a) Fair Return. The fair return rent increase formula is computed as follows: Gross Income minus operating expenses permitted under Section 29.59.01.06 for the Current Year.
 - (1) In calculating Gross Income for the Current Year, the Base Year Net Operating Income under Section 29.59.01.06 must be adjusted by the annual rent increase allowance under Section 29-57 since the Base Year.
 - (2) Any fair return increase request must be:
 - (A) demonstrated as actual operating expenses to be offset through a fair return rent increase; or
 - (B) demonstrated to be commensurate with returns on investments in other enterprises having comparable risks.
- (b) Fair Return Rent Increases. Fair return rent increases (“rent increases”) approved by the Director must be determined as a percentage of the Current Year rents, and each restricted unit in the rental housing must be subject to the same percentage increase.
 - (1) Except as provided herein, any rent increase approved by the Director must be implemented within 12 months of the date of the issuance of the decision or at the end of the current tenant’s lease term, whichever is later, in accordance with Section 29.59.01.07.

If the rent increase for an occupied unit is greater than 15%, the rent increase assessed to the tenant must be phased-in over a period of more than one year until such time as the full rent increase awarded by the Director has been taken. Rent increases of more than 15% must be implemented in consecutive years.
 - (2) If the Director determines that a rental unit requiring an increase of more than 15% is



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vacant or if the unit becomes vacant before the required increase has been taken in full, the Director may allow the required increase for that unit to be taken in one year or upon the vacancy of that unit, provided the unit became vacant as a result of voluntary termination by the tenant or a termination of the tenancy by the landlord for just cause.

29.59.01.04 Fair Return Application

- (a) Requirement. A landlord may file a fair return application with the Director to increase the rent more than the amount permitted under Section 29-58 of the Code.
- (b) Rolling Review. The Director will consider fair return applications on a rolling basis.
- (c) Prerequisites for a fair return application. In order for the Director to consider a fair return application, it must meet the following requirements:
 - (1) All units within the rental housing listed in the fair return application must be properly registered and licensed with the Department.
 - (2) The fair return application must be completed in full, signed, and include all required supporting documents.
 - (3) All Banked Amounts have been applied to restricted units.
- (d) Fair Return Application Requirements. A fair return application must include the following information and must be submitted in a form administered by the Department:
 - (1) The applicant must submit information necessary to demonstrate the rent necessary to obtain a fair return.
 - (2) The application must include all the information required by these Regulations and contain adequate information for both the Base Year and the Current Year. If the required information is not available for the Base Year, a landlord may, at the discretion of the Director, use an alternative year. Such approval must be secured in writing from the Director prior to the filing of the application.
 - (3) The landlord must supply the following documentation of operating and maintenance expense items for both the Base Year and the Current Year:
 - (A) Copies of bills, invoices, receipts, or other documents that support all reported expense deductions must be submitted. The Department reserves the right to inspect the rental housing to verify that the identified maintenance has been



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completed and associated costs are reasonable.

- (B) Copies of time sheets maintained by the landlord in support all self-labor charges must be submitted if such charges are claimed. The time sheet must include an explanation of the services rendered and the landlord's calculation of the expense. If the landlord is claiming an expense for skilled labor, a statement substantiating the landlord's skill, or a copy of the applicable license is required.
 - (C) For amortized capital improvement expenses, copies of bills, invoices, receipts, or other documents that support all reported costs are required. The Director reserves the right to inspect the rental housing to verify that identified capital improvements have been completed and associated costs are reasonable.
 - (D) All expense documentation must be organized in sections by line item on the application. A copy of a paid invoice or receipt documenting each expense must be attached to the front of the documentation for each line item. The documents must be submitted to the Director in the same order as the corresponding amounts on the invoice or receipt. The total of the documented expenses for each line item on the invoice or receipt must be equal to the amount on the corresponding line on the application.
 - (E) Any justification for exceptional circumstances that the owner is claiming under this regulation.
 - (F) Any additional information the landlord determines would be useful in making a determination of fair return.
- (4) Upon a finding by the Director that the net operating income calculated using the financial information included on the landlord's tax return for the Base Year is more accurate than the financial information provided on the application, the Base Year net operating income must be re-computed using the financial information on the tax return. This decision must be made at the Director's discretion.

29.59.01.05 Processing of Fair Return Applications

- (a) Filing of Application. The fair return application form and one copy of supporting documents must be filed with the Department.



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- (b) Notice of Filing. Within five business days of filing the fair return application, the landlord must notify each affected tenant of the filing via first class mail, providing each tenant a copy of the Notice of Filing and the application (excluding supporting documentation).
- (c) Decisions on a Fair Return Application. The Director must review the fair return application and supporting documentation and must issue and notify the landlord of a decision stating the recommended rent increase, if any, to be awarded to the landlord. The landlord’s failure to file all necessary documentation or to respond in a timely manner to requests for additional information or supporting documentation may delay the issuance of a decision or may result in the denial of a decision.
- (d) Required Notice of Decision to Tenants
 - (1) The landlord must distribute a copy of the decision to each affected tenants by first-class mail within five business days of the date of issuance.
 - (2) The implementation of any rent increase awarded by the Director must comply with Section 29-54 of the Code, and must be clearly identified in the lease, rent increase notice and/or renewal as a DHCA authorized fair return increase. Said increases are contingent on the decision of the Director becoming final in accordance with Section 29.59.01.05(c) of these Regulations.

29.59.01.06 Fair Return Criteria in Evaluation

- (a) Gross Income. Gross income for both the Base Year and the Current Year includes the total amount of rental income the landlord could have received if all vacant rental units had been rented for the highest lawful rent for the entire year and if the actual rent assessed to all occupied rental units had been paid.
 - (1) Gross income includes any fees paid by the tenants for services provided by the landlord.
 - (2) Gross income does not include income from laundry and vending machines, interest received on security deposits more than the amounts required to be refunded to tenants, and other miscellaneous income.
- (b) Operating Expenses.
 - (1) For purposes of fair return, operating expenses include, but are not limited to the following items, which are reasonable expenditures in the normal course of operations and maintenance:



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- (A) utilities paid by the landlord, unless these costs are passed through to the tenants;
 - (B) administrative expenses, such as advertising, legal fees, accounting fees, etc.;
 - (C) management fees, whether performed by the landlord or a property management firm; if sufficient information is not available for current management fees, management fees may be assumed to have increased by the percentage increase in the CPI between the Base Year and the Current Year, unless the level of management services either increased or decreased during this period. Management fees must not exceed 6% of Gross Income unless the landlord demonstrates by a preponderance of the evidence that a higher percentage is reasonable;
 - (D) payroll;
 - (E) amortized cost of capital improvements. An interest allowance must be allowed on the cost of amortized capital expenses; the allowance must be equal to the interest the landlord would have incurred had the landlord financed the capital improvement with a loan for the amortization period of the improvement, making uniform monthly payments, at an interest rate equal to the average 52-week Wall Street Journal's U.S. Prime Rate, as reported by The Wall Street Journal's bank survey. Such average is calculated as the mid-point between the high and low Prime Rates reported for the 52 weeks immediately prior to the substantial renovation application.
 - (F) maintenance related material and labor costs, including self-labor costs computed in accordance with the regulations adopted pursuant to this section;
 - (G) property taxes;
 - (H) licenses, government fees and other assessments; and
 - (I) insurance costs.
- (2) Reasonable and expected operating expenses which may be claimed for purposes of fair return do not include the following:
- (A) expenses for which the landlord has been or will be reimbursed by any security deposit, insurance settlement, judgment for damages, agreed-upon payments or any other method;



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- (B) payments made for mortgage expenses, either principal or interest;
- (C) judicial and administrative fines and penalties;
- (D) damages paid to tenants as ordered by OLTA issued determination letters or consent agreements, COLTA, or the courts;
- (E) depreciation;
- (F) late fees or service penalties imposed by utility companies, lenders or other entities providing goods or services to the landlord or the rental housing;
- (G) membership fees in organizations established to influence legislation and regulations;
- (H) contributions to lobbying efforts;
- (I) contributions for legal fees in the prosecution of class-action cases;
- (J) political contributions for candidates for office;
- (K) any expense for which the tenant has lawfully paid directly or indirectly;
- (L) attorney's fees charged for services connected with counseling or litigation related to actions brought by the County under County regulations or this title, as amended. This provision must apply unless the landlord has prevailed in such an action brought by the County;
- (M) additional expenses incurred as a result of unreasonably deferred maintenance;
and
- (N) any expense incurred in conjunction with the purchase, sale, or financing of the rental housing, including, but not limited to, loan fees, payments to real estate agents or brokers, appraisals, legal fees, accounting fees, etc.

(c) Base Year Net Operating Income. To adjust the Base Year Net Operating Income, the Director must make at least one of the following findings:

- (1) The Base Year Net Operating Income was abnormally low due to one of the following factors:



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- (A) the landlord made substantial capital improvements which were not reflected in the Base Year rents and the landlord did not obtain a rent adjustment for these capital improvements;
- (B) substantial repairs were made to the rental housing due to exceptional circumstances; or
- (C) other expenses were unreasonably high, notwithstanding prudent business practice.
- (2) The Base Year Rents did not reflect market transaction(s) due to one or more of the following circumstances:
 - (A) there was a special relationship between the landlord and tenant (such as a family relationship) resulting in abnormally low rent charges;
 - (B) the rents have not been increased for five years preceding the Base Year;
 - (C) the Tenant lawfully assumed maintenance responsibility in exchange for low rent increases or no rent increases;
 - (D) the rents were based on MPDU or other affordability covenants at the time of the rental housing's Base Year; or
 - (E) other special circumstances which establish that the rent was not set as the result of an arms-length transaction.
- (d) Returns on investments in other enterprises having comparable risks. If data, rate information, or other sources of cost information indicate that operating expenses increased at a different rate than the percentage increase in the CPI, the estimate of the percentage increase in that expense must be based on the best available data on increases in that type of expense. Information on the rate of increases and/or other relevant data on trends in increases may be introduced by the landlord or the Director.
- (e) Burden of Proof. The landlord has the burden of proof in demonstrating that a rent increase should be authorized pursuant to these regulations.

29.59.01.07 Fair Return Rent Increase Duration



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- (a) Duration. A rent established under an approved fair return application remains in effect for a 12-month period. No annual rent increase allowance under Section 29-57(a) of the Code may be applied to a restricted unit for that 12-month period.
- (b) Establishment of New Base Year Net Operating Income. The net operating income, income, and expenses, determined to be fair and reasonable pursuant to a prior application for a fair return rent increase must constitute the Base Year income, expenses, and net operating income for those restricted units included in the finding of fair return for purposes of reviewing subsequent applications.
- (c) Limitations on Future Fair Return Requests.
 - (1) If a fair return application is approved by the Director, the property owner may not file a subsequent application for the greater of 24 months following the issuance of an approval, or until any remainder of the increase permitted under Section 29.59.01.03(b) (when a fair return rent increase is permitted above 15%) has been applied.
 - (2) If a fair return application is denied by the Director, the property may not file a subsequent application for 12 months following the issuance of a denial.

MONTGOMERY COUNTY CODE CHAPTER 29, SEC. 29-60 EXEMPT RENTAL UNITS

COMCOR 29.60.01 Substantial Renovation Exemption

29.60.01.01 Application for a Substantial Renovation Exemption

- (a) A landlord seeking an exemption for a substantial renovation under Section 29-60(12) must file an application with the Director that includes the following:
 - (1) detailed plans, specifications, and documentation showing the total cost of the renovations, in accordance with Section 29.60.01.02;
 - (2) copies of all applications filed for required building permits for the proposed renovations or copies of all required permits if they have been issued;
 - (3) documentation of the value of the rental housing as assessed by the State Department of Assessments and Taxation;
 - (4) a schedule showing all regulated rental units in the rental housing to be renovate showing whether the rental unit is vacant or occupied; and



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(5) a schedule showing the current lawful base rent.

(b) Within five days of filing the application with the Director, a landlord must send by first-class mail a copy of the application to the tenants of all units in the rental housing for which the application has been filed with the Director.

(c) The Director must review the application and supporting documentation and must issue and notify the landlord of a decision approving or denying the exemption.

29.60.01.02 Total Cost of Renovations Calculation

The total cost of renovations must be the sum of:

(a) any costs actually incurred, to be incurred, or estimated to be incurred to make the renovation, in accordance with Section 29.60.01.04;

(b) any interest that must accrue on a loan taken by the landlord to make the renovation, in accordance with Section 29.60.01.05; plus

(c) any service charges incurred or to be incurred by the landlord in connection with a loan taken by the landlord to make the improvement ore renovation, in accordance with Section 29.56.01.06.

29.60.01.03 Limits on Interest and Service Charges for a Substantial Renovation Loan

For the purposes of calculating interest and service charges, “a loan taken by the landlord to make the renovation” is the portion of any loan that is specifically attributable to the costs incurred to make the renovation, in accordance with Section 29.60.01.04. The dollar amount of that portion must not exceed the amount of those costs.

29.60.01.04. Determining Costs Incurred for a Substantial Renovation

The costs incurred to renovate the rental housing must be determined based on invoices, receipts, bids, quotes, work orders, loan documents or a commitment to make a loan, or other evidence of expenses as the Director may find probative of the actual, commercially reasonable costs.

29.60.01.05 Calculating Interest on a Loan for a Substantial Renovation



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The interest on a loan taken to renovate the rental housing means all compensation paid by the landlord to a lender for the use, forbearance, or detention of money used to make the improvement or renovation over the amortization period of the loan, in the amount of either:

- (a) the interest payable by the landlord at a commercially reasonable fixed or variable rate of interest on a loan of money used to make the improvement or renovation, or on that portion of a multi-purpose loan of money used to make the improvement or renovation, as documented by the landlord by means of the relevant portion of a bona fide loan commitment or agreement with a lender, or by other evidence of interest as the Director may find probative; or
- (b) in the absence of any loan commitment, agreement, or other evidence of interest, the Director may apply the average 52-week Wall Street Journal’s U.S. Prime Rate, as reported by The Wall Street Journal’s bank survey, applied over a seven-year period. Such average is calculated as the mid-point between the high and low Prime Rates reported for the 52 weeks immediately prior to application for an exemption for a substantial renovation.

29.60.01.06 Calculating Interest on a Variable Rate Loan for a Substantial Renovation

For the purpose of Section 29.60.01.05(a)(1), if a landlord has obtained a loan with a variable rate of interest, the total interest payable must be calculated using the initial rate of the loan.

29.60.01.07 Calculating Service Charges for a Loan for a Substantial Renovation

The service charges in connection with a loan taken to renovate the rental housing must include points, loan origination and loan processing fees, trustee's fees, escrow set up fees, loan closing fees, charges, costs, title insurance fees, survey fees, lender's counsel fees, borrower's counsel fees, appraisal fees, environmental inspection fees, lender's inspection fees (in any form the foregoing may be designated or described), and such other charges (other than interest) required by a lender, as supported by the relevant portion of a bona fide loan commitment or agreement with a lender, or by other evidence of service charges that the Director may find probative of the actual, commercially reasonable costs.

29.60.01.08 Exclusions for Costs, Interest, or Fees for a Substantial Renovation

Any costs, and any interest or fees attributable to those costs, for any specific aspect or component of a proposed improvement or renovation that is not intended to enhance the value of the rental housing, as provided by Section 29.60.01.09, must be excluded from the calculation of the total cost of the renovation.

29.60.01.09 Determining Whether a Substantial Renovation is Intended to Enhance the Value of the Rental Housing



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The Director must determine whether a proposed substantial renovation is intended to enhance the value of the rental housing by considering the following:

- (1) the existing physical condition of the rental housing;
- (2) whether the existing physical condition impairs or tends to impair the health, safety, or welfare of any tenant;
- (3) whether deficiencies in the existing physical conditions could instead be corrected by improved maintenance or repair; and
- (4) whether the proposed renovations are optional or cosmetic changes.

29.60.01.10 Implementation of a Substantial Renovation Exemption

- (a) Within thirty days of the completion of a substantial renovation a landlord must file an affidavit attesting to the completion with the Director. If the Director determines that the renovations have been completed according to the substantial renovation application, the date of filing of the affidavit of completion must be deemed the approved exemption date.
- (b) Once a decision approving a substantial renovation exemption has been issued, the exemption must be implemented within twelve months of the approval, but no earlier than the expiration of the current lease, if any, for that rental unit.

MONTGOMERY COUNTY CODE CHAPTER 29, SEC. 29-61 REGULATION OF FEES

COMCOR 29.61.01 Fees

29.61.01.01 Applicable Fees

A landlord of a regulated rental unit must not assess or collect any fee or charge from any tenant in addition to the rent except for the following permitted fees:

- (a) Application fee



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A landlord of a regulated rental unit must not assess or collect a fee or charge a fee of more than \$50 from any household in connection with the submission of an application for rental of the regulated rental.

(b) Late fee

(1) Late fees must comply with Section 29-27 of the Code.

(2) Under Section 29-27(l) of the Code, a landlord of a regulated rental unit must not assess or collect from the tenant of such unit any late fee or charge for a late payment for a minimum of ten days after the payment was due;

(A) After the ten-day period established under Section 29-27(l) of the Code, a landlord of a regulated rental unit may issue the tenant of such unit an invoice to be paid within 30 days after the date of issuance for any lawfully imposed late fees. If the tenant does not pay the late fee within the 30-day period, the housing provider may deduct from the tenant's security deposit, at the end of the tenancy, any unpaid, lawfully imposed late fees.

(B) A landlord of a regulated rental unit must not:

(i) charge interest on a late fee;

(ii) impose a late fee more than one time on each late payment;

(iii) impose a late fee on a tenant for the late payment or nonpayment of any portion of the rent for which a rent subsidy provider, is responsible for payment.

(c) Pet fee

(1) A landlord of a regulated rental unit must not assess or collect from the tenant of such unit any fee, charge, or deposit in connection with the tenant having a pet present in the unit, except that the owner may require the tenant of the unit to maintain with the owner during each rental term a pet deposit not exceeding \$100, which must be held in escrow by the owner.

(2) The pet deposit must be returned in full within 45 days after the termination of the tenancy unless costs are incurred by the landlord as a result of damages relating to the presence of



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pets in the unit. The tenant may choose to use any balance toward a deposit for an ensuing lease term.

(3) If any portion of the pet deposit is withheld, the landlord must present by first-class mail directed to the last known address of the tenant, within 45 days after the termination of the tenancy, a written list of the damages claimed under this section with an itemized statement and proof of the cost incurred.

(d) Lost key fee

A landlord of a regulated rental unit must not assess or collect from the tenant of such unit any fee or charge for the replacement of a mechanical or electronic key exceeding the actual duplication cost plus \$25.

(e) Lock out fee

A landlord of a regulated rental unit must not assess or collect from the tenant of such unit any lockout fee or charge exceeding \$25.

(f) Secure storage unit accessible only by tenant

A landlord of a regulated rental unit must not assess or collect from the tenant of such unit any fee or charge for a secured storage unit accessible only by the tenant in an amount exceeding \$3 per square foot per month.

(g) Internet or cable television

A landlord of a regulated rental unit must not assess or collect from the tenant of such unit any fee or charge for internet or cable television service greater than the actual cost to the landlord divided by the number of rental units in the property.

(h) Motor vehicle parking fee

(1) A landlord of a regulated rental unit that rents parking spaces for motor vehicles must not charge more than one rent or fee per parking space, that exceeds the following:

(A) 4% of the base rent for the unit for any secured, covered parking space;

(B) 2% of the base rent for the unit for a reserved motor vehicle parking space; or



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(C) 1% of the base rent for the unit for any other motor vehicle parking space.

(2) This Section does not require a landlord to charge rent or fees for motor vehicle parking.

(i) Bicycle parking fee

(1) A landlord of a regulated rental unit may charge a tenant of such unit a bicycle parking fee under Section 29-35A of the Code.

Approved:

Marc Elrich, County Executive

Date

Approved as to form and legality:

By: _____
Date: 1/31/24