



# **Code Enforcement in Montgomery County**

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## Executive Summary

**Overview:** This report seeks to improve the Council’s understanding and oversight of the Department of Housing and Community Affairs’ (DHCA) code enforcement processes, procedures, and outcomes. This report responds to the Council’s request to understand how code violations are addressed in the County, the process that residents go through to report violations, and the responsiveness of DHCA and property owners to residents’ complaints of code violations.

To complete this study, OLO interviewed key stakeholders inside and outside of DHCA (including tenants in focus groups), reviewed published and unpublished documents, compiled and analyzed available data, and compared the County’s code enforcement practices to best practices in code enforcement. Ten key findings emerge from the information reviewed and analyzed for this project. Based on these, OLO offers two sets of recommendations aimed at improving code enforcement operations and outcomes.

## Montgomery County Housing Codes and Code Enforcement Operations

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The Montgomery County Code requires building owners to comply with local housing and building maintenance standards. Specifically, the Code requires building owners to maintain their structures in good repair, ensure that utility infrastructure and other equipment is installed correctly and functions safely, and comply with various other requirements related to maintenance and repair.

The Department of Housing and Community Affairs is charged with enforcing the County’s housing code, but it is not the only entity responsible for doing so. Common ownership communities, home inspectors, and property managers often address code violation complaints. Thus, DHCA often serves as the housing code enforcer of “last resort” for households who cannot rely on these other entities. Yet, through license fees paid by rental property owners, renters exclusively fund the County’s code enforcement program that serves both renters and owner-occupied households. DHCA’s code enforcement budget for FY25 is \$6.2 million.

With a few exceptions, the County’s housing codes generally align with the National Healthy Housing Standards (NHHS), which are designed to advance public health. The most significant distinction between the County and NHHS is the County’s exterior building standards for minimizing visual blight, which are not included in NHHS. For example, the County Code requires that property owners:

- Trim grass, weeds, and other vegetation;
- Maintain hardscapes (e.g. aprons, driveways, sidewalks);
- Maintain building exteriors to prevent flaking, peeling, or loose paint; and
- Prohibit unused vehicles on residential property for more than 30 days.

The County Code and DHCA’s enforcement often seeks to enforce interior and exterior code requirements with equal priority. This suggests that correcting violations that compromise public health should not be prioritized over those that threaten property values. Yet, in some instances, DHCA prioritizes correcting violations that can foster visual blight (e.g. trim tall grass) over violations that can harm public health in multifamily buildings (e.g. pervasive and recurring water leaks).

## Code Enforcement Processes and Compliance with Local Laws and Regulations

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DHCA relies on three code enforcement processes to enforce the County's housing codes:

- **The complaint-driven code enforcement process**, where residents initiate code enforcement inspections, usually by contacting MC311. DHCA responds to exterior violation complaints for any building and to interior violation complaints for any rental.
- **The mandated multifamily properties code enforcement process**, where DHCA initiates inspections to identify properties in need of greater DHCA oversight to promote compliance. This process identifies violations in multifamily properties not identified through the complaint-driven process.
- **The proactive inspection and code enforcement process**, where owners of accessory dwelling units and federally subsidized rental units are required to demonstrate their compliance with the Code or federal standards as a condition of occupancy or receiving a license.

Except for proactive inspections, DHCA does not use a standardized checklist to conduct inspections or follow a standardized approach to communicate with either complainants or tenants. Beyond issuing citations, DHCA also does not consistently use available code enforcement tools to promote adherence to the County's housing code. While DHCA uses "clean and liens" to correct violations that can contribute to visual blight, it seldom uses available tools to abate violations in multifamily properties, including those that could undermine public health.

Overall, DHCA does not fully comply with the County's code enforcement laws for multifamily properties in at least three ways. First, DHCA does not charge rental property owners reinspection fees as required by Bill 19-15 and Executive Regulation 5-17AM. Second, DHCA only partially complies with Bill 19-15's annual reporting requirements. And third, DHCA does not follow the methodology for classifying multifamily properties as required by Executive Regulation 5-17AM.

## Code Enforcement Trends and Stakeholder Perspectives

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Annually, DHCA reports data on the inspections it conducts, the number of complaints it receives, and service requests resolved in 60 days. It also reports on the number of violations, severity of violations, and number of citations issued to multifamily properties. A review of this data shows that:

- From FY19 to FY23, the number of code inspections increased by 37 percent;
- In FY24, most MC311-complaints were for single-family properties;
- From FY18 to FY23, the share of code enforcement service requests resolved within 60 days increased by 6 percent; and
- From FY19 to FY24, the number of citations issued to multifamily properties increased from 307 to 754 with a peak of 2,783 citations in FY23.

These data points are informative, but insufficient for assessing program performance. Based on surveys, interviews, and focus groups, OLO finds that rental property owners and property managers have a more favorable impression of DHCA than tenants and community-based organizations (CBOs). While rental property owners and managers rated their experiences with DHCA as excellent or good, most tenants and representatives from CBOs rated their experiences as poor.

## Racial Inequity and Code Enforcement Best Practices

Historically, over-enforcement of the housing code via condemnations was used as a tool to displace Black residents as the County transitioned from a rural community to a White suburb. The development of the County's current housing standards, with an emphasis on preventing urban blight, reflects the norms and priorities of when the County's codes were enacted. Conversely, contemporary racial inequity in code enforcement often occurs as under-enforcement in Black, Indigenous, and People of Color (BIPOC) communities. OLO finds that under-enforcement among BIPOC communities is driven by four factors:

- **A complaint-driven code enforcement process** that disproportionately directs housing inspections and enforcement to single-family and predominantly White communities.
- **A housing code that prioritizes correcting exterior violations** that prevent neighborhood blight rather than interior violations that compromise public health and safety.
- **The inconsistent or non-use of existing code enforcement tools** to encourage rental property owners to abate uncorrected code violations.
- **A lack of sufficient County resources** to abate most uncorrected code violations.

Since DHCA does not collect code enforcement data by race or ethnicity, the magnitude of racial disparities in code enforcement remains unknown. Yet, the County's use of renter paid landlord-tenant fees to fund code enforcement services suggests racial inequity in the funding of code enforcement as a greater share of BIPOC residents are renters rather than property-owners.

ChangeLab Solutions describes ten best practices for improving outcomes in code enforcement. The County Code and DHCA's policies and practices partially align with these best practices as summarized below.

ChangeLab Best Practices	County Alignment with Best Practices
1. Strong Housing Code	<b>Partial.</b> County Code mostly aligns with National Healthy Housing Standards.
2. Fund Enforcement Sufficiently	<b>Partial.</b> DHCA relies on landlord-tenant fees to fund Code Enforcement programs; does not rely on reinspection fees to help fund enforcement.
3. Train Officers Comprehensively	<b>Partial.</b> DHCA uses experienced inspectors to train new ones. More training needed to increase awareness of County resources and inequities.
4. Partner with Community Organizations	<b>Partial.</b> DHCA employs a Community Engagement Manager but does not employ proactive community-centric practices with renters and BIPOC.
5. Cross-Agency Coordination	<b>Partial.</b> Code Enforcement collaborates with other DHCA offices and with DEP but competes with other County agencies for staff.
6. Develop Cooperative Compliance Model	<b>No.</b> Code Enforcement Officers do not possess the resources necessary to implement this model.
7. Use Administrative Enforcement	<b>Partial.</b> Code Enforcement Section has administrative enforcement tools but has not used to correct interior code violations.
8. Adopt Proactive Approach to Code Enforcement	<b>Partial.</b> DHCA requires mandated inspections for multifamily properties, but policy not implemented correctly.
9. Establish Supplemental Programs	<b>Partial.</b> DHCA provides Landlord-Tenant Handbook but does not offer aid to correct code violations nor financial assistance to relocate households.
10. Evaluate Code Enforcement Program	<b>No.</b> DHCA does not routinely evaluate its Code Enforcement Program nor collect the data required.

## Recommendations

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Given this project's key findings, OLO offers two sets of recommendations for County action.

1. **Primary Recommendations.** First, OLO recommends that DHCA adopt two broad recommendations aimed at improving its code enforcement operations and outcomes.
  - ***Create a taskforce with community-based stakeholders representing renters and BIPOC residents to co-develop a strategic plan to advance racial equity and social justice in code enforcement.*** OLO recommends organizing the County's Code Enforcement Strategic Plan around five racial equity principles that center BIPOC communities, considers impacts for each BIPOC community separately, develops policies and programs that are proportionate to disparate impacts, and requires the co-creation of an implementation and evaluation plan that is accountable to stakeholders
  - ***Improve data collection and reporting to better understand code enforcement practices, trends, and outcomes overall and by race, ethnicity, and location.*** DHCA needs more comprehensive baseline data to understand its current code enforcement performance and trend data to assess its progress in achieving the goals of the recommended strategic plan.
2. **Secondary Recommendations.** Second, OLO offers nine secondary recommendations for the proposed taskforce to consider as they develop and implement the County's code enforcement strategic plan:
  - ***Increase staffing for multifamily team.***
  - ***Recommend revisions to the County Code and DHCA code enforcement policies and practices to prioritize violations that compromise public health over violations that reduce property values.***
  - ***Expand the use of proactive inspections for rentals.***
  - ***Require DHCA to use a standardized checklist and approach to communicating with tenants.***
  - ***Increase "Clean and Lien" budget to abate interior code violations in multifamily properties.***
  - ***Revise methodology for classifying multifamily properties with CBO partners.***
  - ***Fully comply with annual data reporting requirements for Bill 19-15 under Section 29-6(h).***
  - ***Enhance two-way communication and engagement with renters and BIPOC residents.***
  - ***Increase awareness and responsiveness to racial inequities that shape code enforcement locally.***

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## Chapter 1. Introduction

The mission of the Office of Legislative Oversight (OLO) is to provide accurate information, analysis, and independent findings and recommendations that help the County Council fulfill its legislative oversight function. Towards this end, the Council tasked OLO to complete this study of how the Montgomery County Department of Housing and Community Affairs (DHCA) enforces the County's housing codes.

The Montgomery County Code requires building owners to comply with local housing and building maintenance standards. Specifically, the Code requires building owners to maintain their structures in good repair, ensure that utility infrastructure and other equipment is installed correctly and functions safely, and comply with a variety of other requirements related to maintenance and repair.

DHCA is the primary entity in the County that is responsible for enforcing the County's housing code, but it is not the only entity that enforces the housing code. Given the overlap between the County's housing and building standards with industry standards enforced by common ownership communities (COCs), home inspectors, and property managers, DHCA often only addresses a code violation complaint if these other entities have not resolved a problem or are unavailable to do so. As such, DHCA in many ways serves as the housing code enforcer of "last resort" for residents who can neither rely on a homeowner's association nor a property manager to address their code violation concerns.

This report seeks to improve the Council's understanding and oversight of DHCA's code enforcement processes, procedures, and outcomes. This report responds to the Council's request to understand how code violations are addressed in the County, the process that residents go through to report violations, and the responsiveness of DHCA and property owners to residents' complaints of code violations. To complete this study, OLO interviewed key stakeholders inside and outside of DHCA including tenants in focus groups, reviewed published and unpublished documents, compiled and analyzed available data, and compared the County's code enforcement practices to best practices in code enforcement.

Ten key findings emerge from the information reviewed and analyzed for this report. Taken together, these findings reflect a narrative of racial and social inequity. While the County's code enforcement system works best for residents of single-family communities who are disproportionately White, it does not work well for many renters who are disproportionately Black, Indigenous, and other people of color (BIPOC) residents, especially if they reside in multifamily properties with many code violations.

Based on this project's findings, OLO offers two sets of recommendations for County action. First, OLO recommends that DHCA implement the following two primary recommendations:

- Partner with BIPOC community-based stakeholders to co-develop a strategic plan for improving code enforcement - especially among multifamily buildings - that prioritizes racial equity and social justice (RESJ); and
- Improve data collection and reporting to better understand code enforcement practices, trends, and outcomes overall and by race, ethnicity, and location.

Second, OLO recommends that DHCA in partnership with renters and BIPOC stakeholders also consider adopting as a secondary recommendation nine additional policy options aimed at improving RESJ in code enforcement. OLO recommends the consideration of each of these secondary recommendations for inclusion in a RESJ Action Plan for Code Enforcement for the County.

The remainder of this report is presented in eight chapters:

- **Chapter 2, Code Enforcement Administration, Operations, and Budget**, describes the administrative structure and operations of the Code Enforcement Program as part of DHCA.
- **Chapter 3, County Housing and Building Codes and Enforcement**, summarizes the County's standards for housing and buildings that shape DHCA's code enforcement practices.
- **Chapter 4, DHCA Code Enforcement Processes**, describes the three processes administered by DHCA to enforce the County's code enforcement policies and regulations.
- **Chapter 5, DHCA Compliance with Code Enforcement Laws and Regulations**, describes DHCA's compliance with key code enforcement requirements specified in the Montgomery County Code and in executive regulations.
- **Chapter 6, Code Enforcement Data and Performance**, describes data on code enforcement performance measures from two sources: the County Executive's Recommended Annual Operating Budgets and DHCA's annual reports on Section 29-6(h).
- **Chapter 7, Key Stakeholder Perspectives**, summarizes how varying stakeholders experience code enforcement in Montgomery County, including rental property owners and tenants.
- **Chapter 8, Code Enforcement, Racial Equity, and Best Practices**, provides overviews of racial inequity, how it shapes code enforcement, and best practices for improving racial equity and performance outcomes in code enforcement.
- **Chapter 9, Key Findings and Recommendations**, describes this report's key findings and offers two sets of recommendations for County action.
- **Chapter 10, Agency Comments.**

## Acknowledgments

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## Chapter 2. Code Enforcement Administration, Operations, and Budget

This chapter describes the administrative structure and operations of the County's Code Enforcement Program as part of the broader Department of Housing and Community Affairs (DHCA). It also examines trends in operations and budget data that support Code Enforcement. It is presented in four sections:

- A. Department of Housing and Community Affairs Operations and Structures;**
- B. Code Enforcement Operations and Structures;**
- C. Code Enforcement Operating Budget, Revenue, and Staffing; and**
- D. Landlord-Tenant Affairs and Licensing and Registration.**

Information and data reviewed for each section were compiled from several sources, including DHCA's annual operating budgets and interviews with key DHCA staff. Four findings emerge from the information compiled and reviewed in this chapter.

- Code enforcement personnel comprise the largest share of positions within DHCA's workforce, , accounting for 39 percent of DHCA's full-time personnel. However, code enforcement accounts for less than 8 percent of DHCA's operating budget.
- DHCA has been in the process of updating its standard operating procedures (SOPs) and training for code enforcement. Ongoing technology problems with their Code Enforcement App, however, have undermined their efforts to streamline, track, and improve their operations.
- Since FY19, code enforcement's budget has increased by 68 percent and its staffing by 17 percent. The growth in code enforcement staffing has been driven by two policy changes: additional DHCA requirements for accessory dwelling units (implemented in FY20) and short-term rentals (implemented in FY25).
- Overall, fees paid by renters' fund code enforcement services for non-renters in owner-occupied communities. Since renters have lower levels of wealth and income than homeowners, the funding of code enforcement services in the County is regressive. Moreover, most code enforcement staff are dedicated to teams serving non-multifamily buildings and communities.

### **A. Department of Housing and Community Affairs Operations and Structures**

The Department of Housing and Community Affairs (DHCA) is responsible for local programs and initiatives to increase affordable housing, promote neighborhood revitalization and enforce housing rules and regulations. It operates across five divisions, whose chiefs report to the DHCA director:

- The **Division of Community Development** works to maintain safe and sanitary housing, revitalize low- and moderate-income areas, and support common ownership. This division has three sections: Code Enforcement, Neighborhood Revitalization, and Common Ownership Communities.
- The **Division of Finance and Administration** provides financial oversight and administrative guidance to DHCA, including information technology. It is comprised of three sections: Licensing and Registration, Asset Management, and Grants Administration.

- **The Division of Housing** focuses on increasing affordable housing, maintaining rental options, and supporting community development. This division houses three sections: Affordable Housing, Multifamily Housing, and Neighborhood Revitalization.
- The new **Division of Rental Housing** is responsible for ensuring fair tenant-landlord relations and implementing the County's new rent stabilization law under Bill 15-23. It is comprised of two sections: Landlord-Tenant Affairs and Rental Stabilization.
- Another recently established **Division of Process Management and Analytics**.<sup>1</sup>

**DHCA Operating Budget and Structure.** For FY25, DHCA has 127 budgeted full-time positions, no part-time positions, and a total of 121 full-time equivalents (FTEs) with a total operating budget of \$78,527,281. Personnel costs comprise 21.3 percent of the budget while operating expenses and debt service account for the remaining 78.6 percent.<sup>2</sup> DHCA's staff are a mix of union and non-union workers. Code enforcement and administrative staff are primarily part of the Municipal and County Government Employees Organization (MCGEO) union.

## **B. Code Enforcement Operations and Structures**

Housed within the Division of Community Development, the Code Enforcement section is responsible for the preservation and improvement of housing and property standards through the enforcement of the Montgomery County Code. Specifically, Code Enforcement is responsible for ensuring that residential and non-residential properties adhere to the County's housing and building requirements specified in Chapter 26 and parts of Chapters 29, 48, 49, and 58 of the County Code. Toward these ends, Code Enforcement conducts housing inspections for single-family properties, multifamily properties, accessory dwelling units, short-term rentals, and commercial buildings.<sup>3</sup> Additionally, Code Enforcement addresses complaints concerning the upkeep and state of vacant lots and unimproved parcels.

**Structure and Organization.** For FY25, the Code Enforcement section consists of 43 budgeted full-time positions and 41.5 FTEs.<sup>4</sup> The City of Takoma Park contributes funding for 2.5 inspector positions among the 41.5 budgeted FTEs to address code violation complaints in rental residences within their jurisdiction. Chart 1.1 on the next page shows Code Enforcement's organizational structure and the number of staff within each program.

As observed in Chart 2.1, the Code Enforcement Section is led by a Manager III who is responsible for managing staff, overseeing the budget, and setting operational policies. The Manager is supported by one office services coordinator and one administrative specialist. Further, the Code Enforcement Section is organized into four teams based on geographic area or property type. Teams are responsible for conducting inspections, identifying violations, and investigating complaints to ensure that code violations are corrected in a timely fashion. Each team is comprised of at least one Program Manager II position and several field inspectors.

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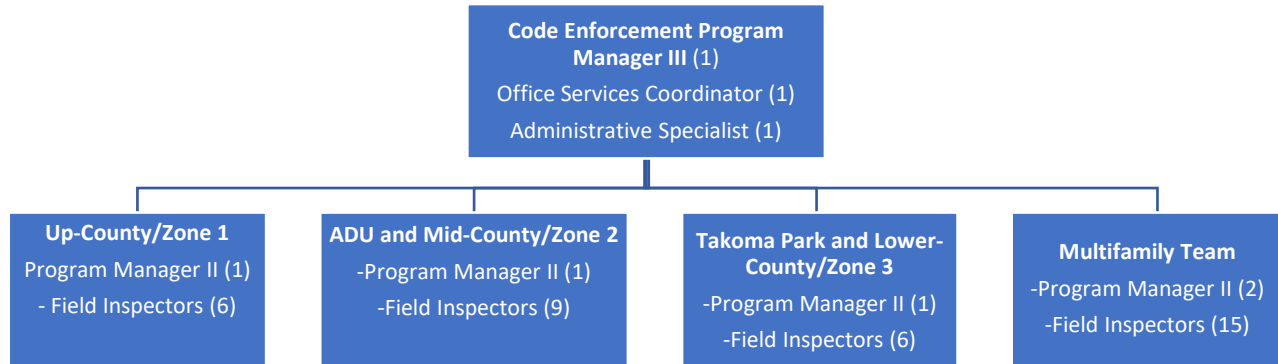
<sup>1</sup> New DHCA division shared with OLO staff during technical review of draft report in April 2025.

<sup>2</sup> Montgomery County, Office of Management and Budget. [FY25 Approved Budget](#).

<sup>3</sup> Montgomery County, Department of Housing and Community Affairs. June 30, 2023. [Housing and Building Code Enforcement Handbook](#).

<sup>4</sup> Montgomery County, Office of Management and Budget. [FY25 Approved Budget](#).

**Chart 2.1 Housing Code Enforcement Organizational Structure**



The four Code Enforcement teams are as follows:

- **Up-County/ Zone 1.** This team of six (6) inspectors manages complaints for single-family and commercial properties in Poolesville, Barnesville, Beallsville, Boyds, Dickerson, Clarksburg, Damascus, Derwood, Olney, Germantown, Washington Grove, Montgomery Village, and Brookeville.
- **Mid-County/ Zone 2 and ADU.** This team of nine (9) inspectors manages complaints for single-family and commercial properties in North Potomac, Wheaton, Kensington, Potomac, Sandy Spring, Ashton and Brinklow. Four inspectors on this team are also assigned to oversee Accessory Dwelling Unit (ADU) complaints and inspections throughout the County.
- **Lower-County/ Zone 3 and Takoma Park.** This team of six (6) inspectors manages complaints for single-family and commercial properties in Chevy Chase, Glen Echo, Cabin John, Bethesda, Garrett Park, Silver Spring, Burtonsville and Spencerville. DHCA has an agreement with the City of Takoma Park to address code violation complaints for rental residences.
- **Multifamily Team.** This team of 15 inspectors oversees all multifamily properties across the County.

For FY24, there were 32 code enforcement inspectors on staff across these four teams despite an approved staffing level of 36.<sup>5</sup> Effective October 1, 2024, Code Enforcement began inspecting complaints against short-term rentals, of which there are approximately 1,300 in the County. To facilitate these inspections, DHCA budgeted two additional inspectors, two licensing specialists, and one IT staff member.<sup>6</sup>

**Inspector Classifications and Schedule.** According to the Montgomery County Classification Plan, code enforcement inspectors are classified as Housing Inspectors I, II, and III, with Grades 19, 21, and 23 respectively.<sup>7</sup> All code enforcement inspectors are unionized through MCGEO and work a compressed schedule of four 10-hour days per week. They are not classified as essential staff, meaning any work outside regular hours or during emergencies is optional and must be compensated as overtime.

<sup>5</sup> Interview Tamala Robinson, Housing Code Enforcement Manager. February 2, 2024.

<sup>6</sup> Interview with DHCA Staff. August 26, 2024.

<sup>7</sup> Montgomery County Office of Human Resources. 2007. [Classification Plan](#).

Currently, code enforcement inspectors operate almost entirely in the field. They start their day in their assigned areas and only come into the office on an as-needed basis. DHCA equips inspectors with laptops, phones, tablets and take-home vehicles. DHCA also equips each inspector with a wooden dowel to test smoke and carbon monoxide alarms, a flashlight, a GFCI outlet tester, a heat temperature thermometer, a water thermometer, and a screwdriver to conduct interior and exterior inspections.

**Inspector Workload.** According to interviews with staff, code enforcement inspectors typically handle a caseload of 80-100 cases each, without a mandated number of inspections required per inspector. On average, an inspector conducts seven to eight inspections daily, or approximately 1,200 annually. The duration of a standard inspection typically lasts between 30 to 45 minutes, but this timeframe may vary depending on the type of inspection. The estimated inspection duration excludes the time allocated for administrative tasks or travel to the inspection site as described in Chapter 4.<sup>8</sup>

Supervisors are responsible for distributing caseloads among inspectors. They review caseloads on a daily basis and redistribute them as necessary, considering each inspector's current workload. While supervisors try to keep inspectors within their designated geographical areas, they may reassign inspectors to help cover other geographic areas when needed. Supervisors also implement annual rotation of inspectors throughout the County to ensure fairness and equality throughout inspections.<sup>9</sup>

**Training and Standard Operating Procedures.** Per DHCA, the process for training new staff had been informal in previous years. It primarily involved new hires reading regulations and relevant literature, followed by a period of shadowing experienced inspectors.<sup>10</sup> In recent years, Code Enforcement has created a formal training program and established an agreement with the union to offer experienced inspectors additional compensation for conducting training as an incentive. The current training program begins with a two-day training that includes presentations outlining personnel requirements, job expectations, interpretation of laws, and their application. New inspectors then undergo a two-week shadowing period with each team. Then, after a two-month period, they gradually begin to conduct inspections independently, although they continue to work under the close supervision of their manager.<sup>11</sup>

Code Enforcement has also instituted a new process modeled after Montgomery County's Department of Corrections' "Blue Book." Their Blue Book is a chart that outlines the skills new inspectors must acquire over a specific period. Peer trainers and supervisors assess the achievement of these skills by signing off on the chart and noting the date when proficiency was assessed. The skill categories are divided into general administration, code cases, notices and enforcement, vehicle care, inspections, and research.

DHCA is also implementing and developing numerous standard operating procedures (SOPs) for code enforcement. As of this study's writing, DHCA has implemented the Multifamily Inspection SOP and drafted SOPs for ADU inspections, legal actions, the condemnation process, photographic evidence, single-family inspection procedures, and Takoma Park inspection procedures. Other SOPs scheduled for completion include those for attendance, vehicle use, court preparation, communication, case assignments, promotions, language access, vacant properties, emergency notices, solid waste, vehicles on private property or on the street, overcrowding complaints, and unpermitted additions/construction.

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<sup>8</sup> Interview Tamala Robinson, Housing Code Enforcement Manager. February 2, 2024.

<sup>9</sup> Ibid.

<sup>10</sup> Ibid.

<sup>11</sup> Ibid.

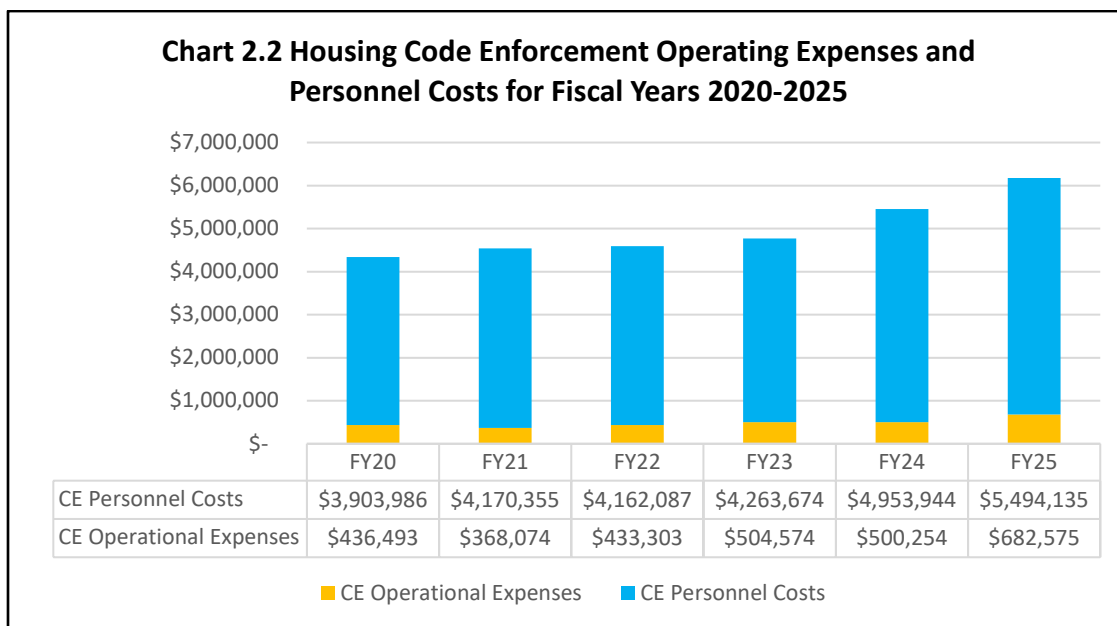
**Mobile Device/Tablet Field Inspection Application.** To increase efficiency, DHCA-IT developed a native iOS application (the “App”) in 2019. The App, which was installed on inspectors’ iPhones and iPads, provides contact information, as well as any notes and 311 service requests. Inspectors can use the App to view and enter violations while in the field. The App also features various drop-down lists, including one for violations. This allows inspectors to use the App as a checklist when conducting inspections and ensures data entry consistency. Upon completion of an inspection, the data is synchronized with the main database to generate a Notice of Violation (NOV) or other standard letters. The App also allows inspectors to add photos directly to the violation cited and issue or reissue citations. DHCA is currently working with a vendor to update the system and the App to improve its functionality and ability to operate across different platforms.<sup>12</sup>

### C. Code Enforcement Operating Budget, Revenue, and Staffing.

This subsection describes trends in the Code Enforcement budget, revenue sources, and staffing.

**Budget.** For FY25, Code Enforcement had 41.5 budgeted full-time equivalent positions with a budget of \$6.18 million. Overall, Code Enforcement accounts for 7.9 percent of DHCA’s overall budget but 39% of DHCA’s total FTE count, the largest share among all DHCA sections.<sup>13</sup>

**Personnel and Operating Costs.** As observed in Chart 2.2, Code Enforcement’s personnel costs account for 88.9 percent of their budget in FY25 while operating expenses account for the remaining 11.1 percent.<sup>14</sup> Personnel costs comprise salaries, employee benefits, and retirement costs. Operational expenses include motor pool vehicles, clerical services, uniforms, cellular phones, and general office supplies among other expenses. Chart 2.2 also shows the distribution of Code Enforcement’s operating and personnel costs as part of their overall budget for fiscal years (FYs) 2020 to 2025.



<sup>12</sup> On January 22, 2025, DHCA’s Nathan Bovelle shared that “DHCA’s IT department and contractors recently created a new application” that is “expected to be more functional and stable than the previous one.”

<sup>13</sup> Montgomery County, Office of Management and Budget. [FY25 Approved Budget](#)

<sup>14</sup> Ibid.



**Budget and Revenue Trends.** Tables 2.1 and 2.2 compares operating budgets and general revenue sources for Code Enforcement, Landlord-Tenant Affairs, and Licensing and Registration from FY19 to FY25. These three budgets are considered together because they are funded by a common source: rental license fees referred to as Landlord-Tenant fees in DHCA's operating budget. An analysis of this data shows Code Enforcement accounts for two-thirds of the costs of these three DHCA sections. It also shows that Landlord-Tenant fees cover 96 percent of the costs of these three budgets.

Rental property owners are responsible for paying Landlord-Tenant fees to the County via annual rental licenses. Fees range from \$47 per dwelling unit in an apartment building to \$114 per single-family rental.<sup>15</sup> These fees are usually passed along to renters. Yet, the revenue from renters to fund these three sections do not solely nor perhaps primarily serve renters or rental property owners.

Whereas the Landlord-Tenant Affairs and Licensing and Registration sections primarily serve renters and rental property owners, the largest section – Code Enforcement – serves owners and renters of both residential and commercial properties. This includes owner-occupied single-family homes. Thus, there is some perversity in funding of the Code Enforcement section where revenue exclusively generated from renting households, who tend to have lower incomes and levels of wealth than owner-occupied households, funds code enforcement services that benefit owner-occupied households who do not contribute to landlord-tenant fees.

**Table 2.1: Code Enforcement, Landlord-Tenant Affairs, and Licensing and Registration Budgets (000's)**

	FY19	FY20	FY21	FY22	FY23	FY24	FY25	%Change
Code Enforcement	\$3,679.6	\$4,340.5	\$4,538.4	\$4,595.4	\$4,768.2	\$5,454.2	\$6,179.7	67.9%
Landlord-Tenant Affairs	\$1,063.5	\$1,426.4	\$1,417.0	\$1,412.0	\$1,487.9	\$2,010.3	\$2,509.2	135.9%
Licensing and Registration	\$442.8	\$455.8	\$423.1	\$456.3	\$470.9	\$486.9	\$811.9	87.3%
Total Budget	\$5,185.9	\$6,222.7	\$6,378.5	\$6,463.7	\$6,727.0	\$7,951.4	\$9,500.8	83.2%

Sources: Approved Operating Budget and Public Services Program, FY19 – FY25 Budget Books.

**Table 2.2: Code Enforcement, Landlord-Tenant Affairs, and Licensing and Registration Revenue (000's)**

	FY19	FY20	FY21	FY22	FY23	FY24	FY25	%Change
Landlord-Tenant Fees	\$6,418.3	\$6,278.2	\$6,998.0	\$7,119.8	\$7,592.5	\$7,487.4	\$9,092.3	46.6%
COC Fees	\$685.1	\$715.0	\$717.5	\$722.5	\$792.5	\$1,024.7	\$998.4	45.7%
Other Charges/Fees	\$104.3	\$75.6	\$74.3	\$74.4	\$74.4	\$9.0	\$96.0	-8.0%
Other Fines/Forfeiture	\$40.0	\$40.0	\$40.0	\$40.0	\$40.0	\$41.5	\$76.6	91.4%
Other Licenses/Permit	-	\$813.4	\$492.0	\$492.0	\$492.0	\$3.0	\$657.5	-
Total Revenue	\$7,276.7	\$7,934.7	\$8,336.9	\$8,463.1	\$9,065.9	\$8,572.1	\$10,960.0	50.6%

Sources: Approved Operating Budget and Public Services Program, FY19 – FY25 Budget Books.

<sup>15</sup> See COMCOR 29.20.01 Establishment of Annual Rental License Fees, Section 29.20.02.02 Fees

**Staffing Trends.** Table 2.3 describes trends in budgeted full-time equivalent positions for the Code Enforcement Section from FY19 to FY25 using data from approved operating budgets. The table also estimates the number of staff assigned to each Code Enforcement function – administration, zone teams, and the multifamily team – based on an analysis of current and prior staffing allocations to support Code Enforcement’s implementation of new laws and regulations.

Between FY19 and FY25, the number of FTEs assigned to Code Enforcement increased by 17 percent. The estimated number of FTEs assigned to the administration function increased by one position during this time frame, while the number of FTEs assigned to zone teams increased by five. Conversely, the number of staff assigned to the multifamily team did not change during this timeframe. As such, the share of Code Enforcement FTEs assigned to the multifamily team diminished by 15 percent during this frame, accounting for 36 percent of Code Enforcement FTEs in FY25 compared to 42 percent in FY19.

**Table 2.3: Code Enforcement Full Time Equivalent (FTE) Positions by Function, FY19-FY25**

Positions	FY19	FY20	FY21	FY22	FY23	FY24	FY25	Change
Total Positions (FTEs)	35.5	38.5	38.5	38.5	38.5	39.5	41.5	16.9%
Administration	3.5	3.5	3.5	3.5	3.5	4.5	4.5	28.6%
Zone Teams	18.0	21.0	21.0	21.0	21.0	21.0	23.0	27.8%
Multifamily (MF) Team	15.0	15.0	15.0	15.0	15.0	15.0	15.0	0.0%
MF Team as % of FTEs	42.3%	39.0%	39.0%	39.0%	39.0%	38.0%	36.1%	-14.7%

Sources: Approved Operating Budget and Public Services Program, FY19 – FY25 Budget Books

#### **D. Landlord-Tenant Affairs and Licensing and Registration**

This section provides a brief overview of two additional DHCA sections that influence and overlap with its code enforcement work: the Office of Landlord-Tenant Affairs and Licensing and Registration.

**Office of Landlord-Tenant Affairs.** The Office of Landlord-Tenant Affairs (OLTA) acts as a sister division to the Code Enforcement Section as both are charged to address housing complaints and educate the public regarding the County’s housing laws and regulations. While Code Enforcement is primarily responsible for enforcing Chapter 26 of the County Code to ensure that properties comply with housing and building standards, OLTA is primarily responsible for enforcing Chapter 29 of the County Code to ensure that rental property owners and tenants comply with state and County laws that impact leases.

Since complaints regarding housing code violations often overlap with complaints regarding leases, Code Enforcement and OLTA often work together to address disputes among renters and property owners. Yet, the approaches that each section undertakes to resolve housing complaints differs. Whereas Code Enforcement relies on their inspectors to inspect properties accused of code violations, OLTA relies on investigators to review complaints and mediate disputes. Moreover, while Code Enforcement relies on citations and the District Court process to address code violations, OLTA relies on the Commission of Landlord-Tenant Affairs to resolve disputes administratively when its investigators are unable to mediate them. The Commission consists of 15 members who represent tenant organizations, and rental property owners. For FY25, the approved operating budget for OLTA is \$2.5 million with 10.0 FTEs.

**Licensing and Registration.** DHCA's Licensing and Registration section is responsible for licensing all rental housing in the County (multifamily apartments, single-family rentals, and condominiums) and for registering all housing units within Common Ownership Communities (COCs). In FY23, Licensing and Registration issued 109,266 rental licenses. As noted in the prior section, annual revenue from rental license fees funds this section, Code Enforcement, and OLTA. For FY25, anticipated revenue from rental license and COC fees is budgeted at \$10.1 million. In FY25, the approved operating budget for Licensing and Registration is \$812,000 for 5.2 FTEs.

## **Chapter 3. County Housing and Building Codes and Enforcement**

The Montgomery County Code includes standards for housing and buildings that drive code enforcement in the County. This chapter is presented in four parts to describe:

- A. A summary of housing and building standards in the Montgomery County Code;**
- B. How County's standards align with recommended standards for promoting health and safety;**
- C. The jurisdictions where DHCA enforces the County's housing and building codes; and**
- D. Other entities, public and private, that also enforce the County's housing and building codes.**

Information reviewed for this chapter were compiled from several sources, including the Montgomery County Code, DHCA documents, and the American Public Health Association. Four findings emerge from the information compiled and reviewed in this chapter.

- The County's housing and building codes can be classified as interior and exterior standards. Both the County's interior and exterior standards are generally aimed at promoting safety and public health, while the exterior standards are often aimed at promoting property value.
- Each violation to the County's Code in Chapter 26 is a Class A violation and each day a violation exists is a separate offense. The County's housing code also authorizes the County to abate uncorrected code violations through repairs of properties with severe conditions and demolition of condemned buildings and to charge property owners for the cost of abatements.
- The County's housing codes generally align, but not entirely, with the National Healthy Housing Standard to advance safety and public health. Recommended healthy housing standards absent from the County's Codes include requirements for dwellings to have fire extinguishers, use integrated pest management methods, and abate lead or asbestos in buildings.
- DHCA is one of several entities that enforces the County's housing and building codes. Since the County's housing and building standards overlap with industry standards, common ownership communities (COCs), rental property managers, and home inspectors also enforce the County's codes. Thus, DHCA's code enforcement efforts can often serve as a last resort for residents without responsive COCs or property managers to have outstanding code violations corrected.

### **A. Summary of Housing and Building Standards in the County Code**

The County Code describes local requirements for the maintenance of residential and nonresidential properties. This section summarizes the Code's property standards enforced by DHCA's code enforcement section as follows:

- Chapter 26, Housing and Building Maintenance Standards;
- Chapter 29, Landlord-Tenant Relations, Obligations of Landlords, Window Guards, Radon Testing;
- Chapter 48, Solid Waste, Waste Removal & Containers for Commercial & Residential Properties;
- Chapter 49, Snow and Ice Removal;
- Chapter 58, Weeds and Plant Growth; and

- Executive Regulation 4-21 Obligations of Landlord – Air Conditioning.

## 1. Chapter 26, Housing and Building Maintenance Standards.

The mission of this chapter is as follows:<sup>16</sup> “This chapter is intended to protect the people of the County against the consequences of urban blight, assure the continued economic and social stability of structures and neighborhoods, and protect the health, safety, and welfare of residents, by authorizing the enforcement of:

- Minimum standards of health and safety, fire protection, light and ventilation, cleanliness, repair and maintenance, and occupancy for residential properties; and
- Minimum standards of repair and maintenance for non-residential properties.”

Towards these ends, Chapter 26 outlines building maintenance requirements for residential and non-residential properties and authorizes DHCA to inspect and enforce these standards for the interiors of all rental housing in the County and for the exteriors of all buildings in the County.

Table 3.1 summarizes Chapter 26’s requirements for housing interiors and Table 3.2 summarizes requirements for building exteriors. Overall, DHCA is responsible for enforcing 22 interior code requirements and 18 exterior code requirements.<sup>17</sup>

**Table 3.1 Summary of Chapter 26 Interior Standards for Residential Dwellings**

<ul style="list-style-type: none"> <li>• <b>Basements:</b> Dry and insulated with required window above ground level when used as living space</li> <li>• <b>Cellars:</b> Permission to use as a living space if meet other code requirements</li> <li>• <b>Ceilings:</b> At least 6 feet 8 inches high in half the area of living spaces</li> <li>• <b>Living Space:</b> At least 150 sq. ft. for the 1st person and at least 100 sq. ft. for each additional person</li> <li>• <b>Sleep Spaces:</b> Required square footage depending on the type of dwelling</li> <li>• <b>Privacy:</b> Adequate room privacy</li> <li>• <b>Lighting:</b> Adequate lighting in hallways and stairways</li> <li>• <b>Natural Light:</b> Different sources of natural light such as windows, skylights, and glazed doors</li> <li>• <b>Windows &amp; Doors:</b> Working windows and doors</li> <li>• <b>Interior Locks:</b> Working locks on interior doors</li> <li>• <b>Kitchens:</b> Adequate facilities and appliances for food storage, preparation, and cooking</li> <li>• <b>Bathrooms:</b> Working toilet, sink, and bathtub or shower</li> <li>• <b>Bathroom Floors:</b> Water-resistant bathroom floors</li> <li>• <b>Plumbing:</b> Fixtures and pipes installed and kept in working order, without leaks or blockages</li> <li>• <b>Water Damage &amp; Paint:</b> Interior surfaces free from water damage and peeling or loose paint</li> <li>• <b>Cooling &amp; Heating Systems:</b> Safe and functioning air conditioning, heating, and water heating</li> <li>• <b>Space Heating:</b> Safe and functioning space heating</li> <li>• <b>Smoke &amp; Carbon Monoxide Detectors:</b> Working smoke detectors and carbon monoxide alarms</li> <li>• <b>Electricity:</b> Safe, up-to-code electric service, outlets, and fixtures</li> <li>• <b>Utilities:</b> Working utilities</li> <li>• <b>Vermin:</b> No insects, rodents, or other vermin in the dwelling unit or building</li> <li>• <b>Common Areas:</b> Clean and hygienic common areas in multifamily properties</li> </ul>
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<sup>16</sup> Section 26-1 of Montgomery County Code.

<sup>17</sup> For details regarding provisions of Chapter 26, see Appendix A

**Table 3.2 Summary of Chapter 26 Exterior Standards for Buildings**

<ul style="list-style-type: none"><li>• <b>Address:</b> Clearly marked address numbers</li><li>• <b>Lighting:</b> Exterior lighting directed away from the windows of any adjacent dwellings</li><li>• <b>Egress:</b> Safe, unobstructed means of escape</li><li>• <b>Door Security:</b> Doors with peepholes or a clear view to the outside</li><li>• <b>Door Locks:</b> Working locks on each exterior door</li><li>• <b>Sliding Doors:</b> Secure exterior sliding doors</li><li>• <b>Ground-Level Windows:</b> Secured ground-level windows</li><li>• <b>Erosion Control:</b> Lawn and land reasonably free of erosion or gullying</li><li>• <b>Grass &amp; Weeds:</b> Neither grass nor weeds more than 12 inches high</li><li>• <b>Landscaping:</b> Trimmed shrubbery, trees, vines, hedges, and other vegetation</li><li>• <b>Hardscapes:</b> Aprons, driveways, sidewalks, walkways, parking lots, and patios in safe and good condition</li><li>• <b>Water Damage &amp; Paint:</b> Exterior surfaces free from water damage and flaking, peeling, or loose paint</li><li>• <b>Water Drainage:</b> Properly drained water from roofs and paved areas</li><li>• <b>Water- &amp; Rodent-Proof Exteriors:</b> Watertight, rodent-proof foundations, floors, walls, ceilings, and roofs</li><li>• <b>Garbage Containers:</b> Enough garbage containers to prevent overflow</li><li>• <b>Vehicles:</b> No unused vehicle on a residential property for more than 30 days</li><li>• <b>Graffiti:</b> Graffiti-free exterior surfaces in multifamily properties</li></ul>
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As observed in Table 3.1, the County’s interior standards are aimed at ensuring that residents have sufficient space, privacy, lighting, heating, air conditioning, utilities, kitchen and bathroom facilities, and interior spaces free of water damage, peeling and flaking paint, and vermin. As observed in Tables 3.1 and 3.2, the County’s interior and exterior standards also promote safety and escape routes. Yet, as observed in Table 3.2, the County’s exterior standards for landscapes and unused vehicles generally align with the goals of promoting property values by preventing visual blight. Visual blight is defined as “conditions or use of building or surrounding land which because of its appearance, viewed at ground level, from a public right of way or from neighboring premises is likely to reduce the value or nearby property.”<sup>18</sup>

Chapter 26’s emphasis on maintaining property values likely reflects the community norms and priorities of the 1960’s when the County’s codes were enacted. Civic associations reflecting White property owner interests disproportionately informed the development of the County’s housing and building codes.<sup>19</sup> Meanwhile, input from Black residents and renters were largely excluded. While the County’s increasing commitment to enforcing interior standards reflects an increasing commitment to ensuring the County’s housing and building codes include the interests of BIPOC residents and renters, the prioritization of exterior property standards remains in Chapter 26.

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<sup>18</sup> Section 26-2

<sup>19</sup> See [Racial Equity and Social Justice Policy Handbook: Land Use, Housing, and Economic Development](#), OLO Report 2024-11 (June 18, 2024) for discussion of civic associations influence on County policy-making

Chapter 26 establishes that any violations to the chapter or any regulations issued under it are Class A violations and each day a violation exists is a separate offense.<sup>20</sup> Chapter 26 further establishes requirements for pest extermination, vacant dwellings, condemning unsafe properties, repairing and demolishing structures, and addressing severe conditions that are summarized as follows.

- **Pest Extermination.** To address infestations, occupants of single dwelling units are required to exterminate any insects, rodents, or other vermin in or on the premises.<sup>21</sup> Occupants of multifamily units are also required to exterminate pests in their units if theirs is the only unit infested within their building. However, the owner of a multifamily unit is required to exterminate an infestation if more than one unit or the shared common area of a dwelling is infested or if the owner failed to maintain a dwelling in “a rat-proof or reasonably insect-proof condition.”
- **Unmaintained Vacant Dwellings.** The County is required to identify unmaintained vacant dwellings and notify the owner in writing if their dwelling has been designated as such. DHCA must inspect each unmaintained vacant dwelling at least annually to ensure it is not a *public nuisance*, does not pose a threat to health, safety, or welfare, and is not a hazard in response to emergencies. Public nuisances are defined as any dwelling or nonresidential structure that is a threat or hazard to the community due to being unsafe or severely deteriorated, rubbish and unsanitary conditions, visual blight, and conditions that damage adjacent properties.<sup>22</sup>
- **Standards for condemnations** can include being a public nuisance or being a vacant, unoccupied property that has been cited for five or more violations by a court.<sup>23</sup>
- **Repair and demolition of condemned buildings** are authorized actions that the County can undertake to abate uncorrected code violations.<sup>24</sup> The County is also authorized to charge property owners for the costs of abating uncorrected code violations.
- **Severe conditions that threaten public health.** The County is also authorized to take immediate action to abate severe conditions that threaten public health and to charge property owners for the costs of abatement actions taken by the County.<sup>25</sup>

## 2. Chapter 29, Landlord-Tenant Relations.

The stated purposes of this chapter are to clarify the laws governing the rental of dwellings, to encourage rental property owners and tenants to maintain and improve the quality of housing in the County, and to promote equitable relationships between property owners and tenants.<sup>26</sup> Two sections of Chapter 29 are especially germane to DHCA Code Enforcement: the obligations of rental property owners and requirements for window guards and radon testing.

- **Obligations of Landlords.** Section 29-30 requires that each rental property owner “must reasonably provide for the maintenance of the health, safety, and welfare of all tenants and individuals properly on the premises of rental housing.” Toward this end, landlords must:

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<sup>20</sup> Section 26-16

<sup>21</sup> Section 26-9

<sup>22</sup> Section 26-2

<sup>23</sup> Section 26-13

<sup>24</sup> Section 26-14

<sup>25</sup> Section 26-15

<sup>26</sup> Section 29-3

- Keep all areas of the building, grounds, and facilities in a clean and safe condition.
- Make all repairs and arrangements necessary to put and keep the dwelling unit in as good a condition as they were, or should be by law, when the tenancy began.<sup>27</sup>
- Maintain all electrical, plumbing, and other facilities and conveniences supplied by the landlord in good working order.
- Supply and maintain appropriate receptacles to remove trash and pay for its removal.<sup>28</sup>
- Supply water and hot water as reasonably required by the tenant and adequate heat.<sup>29</sup>
  - For units which were not individually metered, provide the tenant with all information required on electric and gas submeters and energy allocation systems.
  - Display in a prominent public place on the premises signage about filing a complaint under this chapter and prohibition of retaliatory practices in English, Spanish, French, Chinese, Korean, Vietnamese, and other languages as determined by DHCA.
  - Supply and maintain air conditioning service that meets requirements of Section 26-7.
  - Comply with mercury service regulation, window guard, and radon testing requirements.
  - Prepare and maintain an emergency safety plan in compliance with Section 22-74.
- **Window Guards and Radon Testing.** Sections 29-35D and 29-35E further establish requirements for landlords related to window guards and radon testing. Owners of multifamily dwellings must install window guards if the dwelling is occupied by children under the age of 10 or when a tenant makes a written request. For ground-floor or basement units in single-family homes or multifamily buildings, rental property owners must also conduct radon tests before leasing, with results valid for three years. If radon levels are high and not addressed, tenants can terminate their lease without penalty.

### 3. Chapter 48, Solid Waste.

Section 48-24 of Chapter 48 establishes requirements for solid waste storage and removal for commercial and residential properties. DHCA's Code Enforcement is responsible for enforcing requirements related to residential properties, while the Department of Environmental Protection (DEP) is responsible for enforcing commercial property requirements. Table 3.3 lists solid waste requirements for residential properties.

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<sup>27</sup> However, a lease for a single-family dwelling may provide that a tenant must pay, up to a maximum set by executive regulation for the cost of maintenance of the dwelling unit.

<sup>28</sup> For single-family rentals, the occupant may pay for the receptacles while the landlord pays for trash removal unless trash collection is provided by private trash hauler instead of the County.

<sup>29</sup> This does not preclude obligations that a tenant pay for gas, heating oil, electricity, water, or sewer service that the tenant uses.



**Table 3.3 Summary of Chapter 48 Residential Solid Waste Requirements**

<b>Dwelling Type</b>	<b>Section 48-24, Solid Waste Storage and Removal Requirements</b>
Containers, Multifamily Dwellings	<ul style="list-style-type: none"><li>• Property owners or managers must provide enough approved containers to store solid waste and prevent overflow between collections.</li><li>• Property owners or managers must maintain property free of solid waste and debris.</li><li>• Owners must screen from view solid waste containers or storage areas if the storage area can be seen from the street level of any residential property.</li><li>• All containers or local disposal systems shall always be accessible to the users.</li><li>• All doors to solid waste storage rooms, chutes, and lids to all solid waste containers must be properly installed and kept closed when not actively in use.</li><li>• Containers and storage area surfaces shall be washed periodically.</li><li>• Garbage must be collected at least weekly, or more often, if necessary, to maintain proper containment and prevent overflow or odors.</li></ul>
Containers, Single-Family Dwellings	<ul style="list-style-type: none"><li>• Occupants of single-family and duplex properties must provide enough approved containers to store solid waste between collections.</li><li>• Occupants must also maintain the premises free of solid waste and debris.</li><li>• Containers and storage area surfaces shall be washed periodically.</li></ul>
Container Standards	<ul style="list-style-type: none"><li>• All solid waste containers must be vermin-proof, waterproof, made of noncorrodible metal or similar material with tight-fitting lids.</li></ul>
Vacant Properties	<ul style="list-style-type: none"><li>• Owners of vacant land must keep their properties free of solid waste.</li></ul>

#### **4. Chapter 49, Snow and Ice Removal.**

Most of Chapter 49 governing the standards for public streets and roads fall under the jurisdiction of the Department of Transportation (DOT). However, DHCA's Code Enforcement is responsible for enforcing Section 49-17 regarding the accumulation and removal of snow and ice. More specifically, Chapter 49 requires property owners, tenants, and/or managers to clear snow and ice from sidewalks, paths, and parking areas on or adjacent to their property within 24 hours after the end of a storm. If ice or hardpacked snow is unreasonably difficult to remove, it is up to the responsible party to apply sufficient sand, other abrasives, or salt for safe pedestrian use.

#### **5. Chapter 58, Weeds and Plant Growth.**

Section 58-3 establishes height limits for overgrown weeds and plant growth, while Section 58-5 authorizes DHCA to remove such overgrowth at the owner's expense.

Property owners or persons in charge of land within a subdivision, or within 100 feet of one, must not allow weeds or generalized plant growth exceeding 12 inches in height within 15 feet of any property boundary. Generalized plant growth excludes trees, ornamental shrubs, flowers, and garden vegetables.

If the owner or responsible party fails to comply, DHCA may issue a written notice allowing 10 days for correction. If the issue is not resolved, DHCA is authorized to remove the weeds or trim the overgrowth at the owner's expense, which may be recovered through property tax liens or other legal means.

## **6. Executive Regulation 4-21 (ER 4-21), Obligations of Landlord - Air Conditioning**

This regulation requires rental property owners to provide and maintain air conditioning that keep rooms below 80 degrees from June 1 to September 30 each year. The regulation also requires rental property owners to service air conditioning systems between October and May to ensure they work properly between June and September. Rental property owners must inform tenants before servicing their air conditioning systems and provide an estimate of the time when their air conditioning will not meet the required standards. Any servicing or unit replacement scheduled between June and September must be completed within five days unless the property owner requests and receives an extension from DHCA. Of note, tenants are informed of extension requests and landlords must provide a temporary cooling source until the service or replacement is completed. For rental housing without air conditioning, ER 4-21 mandates that property owners install air conditioning units or a new central system within 30 days from the notice of violation.

### **B. Alignment between County Code and National Healthy Housing Standards**

As stated in Chapter 26, protecting the health, safety and welfare of County residents is a core purpose of the County's housing and building codes. To evaluate how well the County Code embodies this purpose, OLO compared the County's housing and building requirements to the National Healthy Housing Standards (NHHS) created by the National Center for Healthy Housing (NCHH) and the American Public Health Association (APHA). These standards were created "as a tool to reconnect the housing and public health sectors as an evidence-based standard of care for those in positions to improve housing conditions."<sup>30</sup> According to NCHH and APHA, the NHHS drew from "the latest and best thinking in the fields of environmental public health, safety, building science, engineering, and indoor environmental quality."<sup>31</sup>

Like the County's codes for housing and buildings, the NHHS include requirements for dwelling interiors and exteriors. Unlike the County's Code requirements, NHHS' requirements focus exclusively on public health and safety and do not reflect requirements to limit visual blight often enforced by homeowner associations. For example, the County Code includes the following requirements excluded from NHHS:

- Trim grass, weeds, and other vegetation;
- Maintain hardscapes (e.g. aprons, driveways, sidewalks);
- Maintain building exteriors to prevent flaking, peeling, or loose paint; and
- Prohibit unused vehicles on residential property for more than 30 days.

Table 3.4 describes the alignment between NHHS and the County Code. As observed, there is overlap and considerable alignment between NHHS and the County's housing and building codes. However, there are deficits in the County's Code relative to NHHS regarding promoting health and safety. For example, the County's housing codes do not require dwelling units to have fire extinguishers, use integrated pest management methods, or change deadbolt locks between single-family leases. Nor does County law specify requirements for abating lead or asbestos in buildings or limit the use of pesticides to improve indoor and outdoor environmental quality as required by NHHS.

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<sup>30</sup>National Center for Healthy Housing and American Public Health Association. 2018. [National Health Housing Standard](#), Page 1.

<sup>31</sup> Ibid.

**Table 3.4. Montgomery County Code Alignment with National Healthy Housing Standards (NHHS)**

Standard Areas	NHHS Requirements	Montgomery County Code (MCC) Alignment with NHHS
Duties of Owners and Occupants	<ul style="list-style-type: none"> <li>Duties of Owners</li> <li>Duties of Occupants</li> </ul>	<b>Partially Aligned.</b> Chapter 29 aligns with NHHS trash and container requirements and duty for owners to make repairs and maintain utilities. MCC does not align with NHHS integrated pest management requirements; MCC requires single family occupants to cut grass and weeds.
Structures, Facilities, Plumbing, and Space Requirements	<ul style="list-style-type: none"> <li>Structure and Facilities</li> <li>Plumbing System</li> <li>Kitchen and Bathroom</li> <li>Minimum Space</li> <li>Floors and Coverings</li> <li>Noise</li> </ul>	<b>Aligned.</b> Chapter 26 generally aligns with NHHS requirements for structures, facilities, plumbing, and space. MCC's space requirements exceed NHHS'. MCC, however, does not align with NHHS noise requirements. Instead, noise complainants are encouraged to contact police department, not DHCA.
Safety and Personal Security	<ul style="list-style-type: none"> <li>Egress</li> <li>Locks and Security</li> <li>Smoke Alarms</li> <li>Fire Extinguisher</li> <li>Carbon Monoxide Alarm</li> <li>Walking Surfaces</li> <li>Guards</li> <li>Chemical Storage</li> <li>Pools, Hot Tubs, and Water Features</li> </ul>	<p><b>Partially Aligned.</b> Chapter 26 mostly aligns with NHHS safety and personal security requirements. There are six areas, however, where MCC does not align with NHHS. Unlike NHHS, Chapter 26 does not require:</p> <ul style="list-style-type: none"> <li>Change of locks for new single-family leases</li> <li>Fire extinguisher in each dwelling</li> <li>Interior and exterior walking surfaces in good repair</li> <li>Guard rails for elevated walking surfaces</li> <li>Storage spaces for chemicals</li> <li>Fencing and anti-entrapment drain covers for pools</li> </ul>
Lighting and Electrical Systems	<ul style="list-style-type: none"> <li>Electrical System and Outlets</li> <li>Natural and Artificial Lighting</li> </ul>	<b>Aligned.</b> Chapter 26 generally aligns with NHHS requirements for lighting and electrical systems.
Thermal Comfort, Ventilation, and Energy Efficiency	<ul style="list-style-type: none"> <li>Heating, Ventilation, and A/C System</li> <li>Heating System</li> <li>Air Sealing</li> </ul>	<b>Aligned.</b> Chapter 26 aligns with NHHS requirements for thermal comfort, ventilation, and energy efficiency with one exception: MCC does not have requirements to ensure that openings into dwellings are sealed.
Moisture Control, Solid Waste, and Pest Management	<ul style="list-style-type: none"> <li>Moisture Prevention and Control</li> <li>Solid Waste</li> <li>Pest Management</li> </ul>	<b>Partially Aligned.</b> Chapters 26 and 48 mostly align with NHHS moisture prevention and control and solid waste requirements. Yet, neither aligns with NHHS use of integrated pest management methods requirements.
Chemical and Radiological Agents	<ul style="list-style-type: none"> <li>Lead-Based Paint</li> <li>Asbestos and Radon</li> <li>Manufactured Buildings</li> <li>Pesticides</li> <li>Methamphetamine</li> <li>Smoke in Multifamily Housing</li> </ul>	<b>Not Aligned.</b> Except for requirements for radon testing, neither Chapter 26 nor 29 include requirements for handling or abating chemical and radiological agents in dwellings as required by the NHHS.

### C. DHCA's Code Enforcement Jurisdiction

Code Enforcement estimates its oversight includes 386,995 owner-occupied single-family properties,<sup>32</sup> 123,000 renter-occupied units.<sup>33</sup> Renter-occupied units include 82,363 units in 715 multifamily properties,<sup>34</sup> 1,300 short-term rentals,<sup>35</sup> and 414 licensed ADUs<sup>36</sup> throughout the County. Current data regarding the number of vacant lots under DHCA's purview are not available.

Table 3.5 summarizes Code Enforcement's jurisdiction by dwelling type and geographic location. Generally, County code enforcement does not have jurisdiction within the municipalities of Gaithersburg and Rockville, nor does it have code enforcement authority over assisted living facilities, religious organizations, or military-operated facilities.

**Table 3.5 Department of Housing and Community Affairs Code Enforcement Jurisdiction**

Dwelling Type	Parameters of Jurisdiction
Single-Family	<ul style="list-style-type: none"><li>DHCA responsible for exterior areas for owner-occupied dwellings.</li><li>DHCA responsible for interior and exterior areas of rental properties.</li><li>Jurisdiction Countywide except for Cities of Rockville and Gaithersburg.</li></ul>
Multifamily	<ul style="list-style-type: none"><li>DHCA responsible for interior and exterior areas of rental properties.</li><li>Jurisdiction Countywide, except for Cities of Rockville and Gaithersburg.</li></ul>
Short-Term Rentals	<ul style="list-style-type: none"><li>DHCA responsible for interior and exterior areas of short-term rentals.</li><li>Jurisdiction Countywide, except for Cities of Rockville and Gaithersburg.</li></ul>
Accessory Dwelling Units (ADUs)	<ul style="list-style-type: none"><li>DHCA responsible for interior and exterior areas of properties.</li><li>Jurisdiction Countywide, except for Cities of Rockville and Gaithersburg, Towns of Laytonsville, Barnesville, Garrett Park, and Villages of North Chevy Chase.</li><li>ADUs in Takoma Park must obtain a license with DHCA and maintain a renewable rental license with DHCA.</li></ul>
Commercial	<ul style="list-style-type: none"><li>DHCA responsible for exterior areas (e.g., tall grass, lighting, solid waste).</li><li>Jurisdiction Countywide, except Cities of Rockville, Gaithersburg, and Takoma Park.</li></ul>

**Collaboration with Other Agencies.** While Code Enforcement is responsible for enforcing most housing sections within the County Code, some requirements fall under the jurisdiction of other County, state and regional agencies. Table 3.6 outlines the various requirements enforced by other agencies.

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<sup>32</sup> Ibid.

<sup>33</sup> Montgomery County, Department of Housing and Community Affairs. June 30, 2023. Housing & Building Code Enforcement Handbook.

<sup>34</sup> Memorandum from Nathan Bovel, January 25, 2025

<sup>35</sup> Mia, Naeem. September 28, 2023. [Code Enforcement and "Troubled" Properties](#). Memorandum.

<sup>36</sup> County ReMARCs. May 2019. [Accessory Dwelling Units](#).

**Table 3.6 Housing-Related Requirements Enforced by Other Departments or Agencies<sup>37</sup>**

<b>Department or Agency</b>	<b>Area of Enforcement</b>
Montgomery County Department of Environmental Protection	Trash (from the street or curb up to 10 feet onto the property), recycling, illegal dumping, noise and air pollution, lawn and tree care, home energy efficiency, and radon.
Montgomery County Department of Health and Human Services	Neighborhood vector (rat) control, adult or child protective services, homelessness issues, no smoking laws, food service facilities (including restaurants, grocery stores, bars, and bed and breakfasts) and swimming pools.
Montgomery County Department of Permitting Services	Building and land use permits, well and septic inspections, fire permits, sign permits, sediment control, zoning violations, and parking of commercial vehicles and recreational vehicles.
Montgomery County Department of Police	Abandoned vehicles on public streets, loitering, evictions, animal rescue, and wildlife.
Montgomery County Department of Transportation	Roads, sidewalks, storm drains, public right-of-the way, mowing, tree removal, snow removal, leaf collection, neighborhood parking permits, and streetlights.
Washington Suburban Sanitary Commission	Major plumbing projects, installation of gas furnaces and appliances, urgent gas repairs in multifamily complexes affecting essential services, water service repairs during freezing weather, and repairs to deep water/sewer piping where job site conditions pose an imminent public safety threat.
State of Maryland <sup>38</sup>	Elevators, dumbwaiters, escalators, and moving walkways.

#### **D. Other Entities that Enforce Housing and Building Standards**

Beyond other government departments and agencies, it is also important to recognize that private entities also enforce the County's housing and building standards. Since the County's housing and building standards overlap with industry building standards, common ownership communities (COCs), rental property managers, and home inspectors in real estate transaction also enforce the County's housing and building codes. COCs refer to organizations of property owners within residential developments that share common property. COCs include condominium associations, homeowner associations, and cooperatives. About 1,000 COCs operate in the County, which includes 133,000 homes that house over 340,000 residents, or about one-third of the County population.<sup>39</sup>

By design, COCs and rental property managers are often the first entities to respond to code violations. If an occupant residing in a COC experiences a code violation regarding an exterior or adjacent neighbors, they will usually contact their COC first to resolve the violation. Renters in multifamily units experiencing code violations will also contact their property manager or landlord first to resolve the violations. In both situations, a complaint to DHCA would only be submitted if the COC or the property manager did not resolve the code violation. As such, DHCA is often the code enforcer of last resort. Moreover, residents in communities without responsive COCs or property managers are especially dependent on DHCA to enforce the County's housing and building codes.

<sup>37</sup> Montgomery County, Department of Housing and Community Affairs. June 30, 2023. Housing and Building Code Enforcement Handbook.

<sup>38</sup> Division of Labor and Industry's Elevator Safety Unit

<sup>39</sup> Carrizosa, Natalia and Latham, Kristen. June 25, 2019. [Common Ownership Communities](#), OLO Report 2019-6

## Chapter 4. DHCA Code Enforcement Processes

This chapter describes the three code enforcement processes administered by DHCA to enforce the County's code enforcement policies and regulations:

- A. The complaint-driven inspection and code enforcement process;**
- B. The mandated multifamily properties inspection and code enforcement process; and**
- C. The proactive inspection and code enforcement process for accessory dwelling units and federally subsidized rental units.**

DHCA is also responsible for a fourth code enforcement process for vacant residential buildings that is described in a 2019 OLO Report.<sup>40</sup>

Information reviewed for this chapter were compiled from several sources, including interviews with DHCA staff and reviews of DHCA documents and the Montgomery County Code. Several findings emerge from the information compiled and reviewed in this chapter.

- The County primarily relies on a complaint-based process to enforce its housing code. Under this process, the onus of code enforcement is placed on residents who initiate code enforcement inspections by calling 311 to complain about suspected code violations.
- To a lesser extent, the County also relies on mandated inspections of multifamily buildings and proactive inspections of accessory dwelling units and federally subsidized units to enforce its housing code. The mandated and proactive inspection processes place the onus for code enforcement on DHCA rather than on residents.
- DHCA's code inspectors have considerable discretion in conducting inspections and communicating with residents about inspections as they are not required to use a standardized checklist for inspections nor to communicate inspection results in writing to complainants or multifamily tenants.
- DHCA neither collects nor reports trend data on most of its code enforcement processes. For example, for complaint-based inspections, DHCA does not track trend data on complaints by violation types (e.g. interior and exterior standards), inspectors' compliance with inspection timeframes, or data on the numbers of emergency field notices issued. Nor do they track notices of violations by type, violations corrected by the first reinspecton, or the number of citations issued by violation or property type. For mandated inspections, DHCA does not report how it scores multifamily properties as troubled, at-risk, and compliant. For proactive inspections, DHCA neither reports trend data on inspections nor violations cited and corrected.
- Further, DHCA does not utilize most code enforcement tools available to resolve uncorrected code violations. The only tools regularly utilized are "Clean and Liens" to abate tall grass and solid waste violations. Interior code violations harmful to health and safety can remain uncorrected indefinitely if not resolved by the rental property owner.

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<sup>40</sup> See DeFazio, Blaise and Carrizosa, Natalia. September 17, 2019. [Abandoned Property Receivership](#). OLO Memorandum Report 2019-13.

## **A. The Complaint-Driven Code Enforcement Process**

Reactive enforcement of the County's housing code is the goal of the complaint-driven code enforcement process. Rather than limiting the occupancy of dwellings to those that comply with the County's housing code, under the complaint driven-enforcement model, DHCA responds to tenant and neighbor complaints of violations to enforce the housing code. This approach puts the onus on the public for code enforcement, with the assumption that each constituent understands the County's housing laws and have similar agency in reporting and rectifying housing code violations.

In general, DHCA responds to complaints made by constituents for potential **exterior code violations** on any privately-owned properties, both residential and non-residential. DHCA also responds to complaints made by tenants for potential **interior code violations** among residential rentals. So, with complaint-driven code enforcement, the initial onus for enforcing the housing code is on residents (most often neighbors) for exterior code violations and on tenants for interior code violations.

The eight-steps that describe DHCA's complaint-driven code enforcement process are listed below. A more detailed description of each step follows.

1. A neighbor or tenant contacts the County to report a potential code violation.
2. The complaint is recorded and DHCA assigns a Code Enforcement inspector.
3. Inspectors investigate complaints and records results.
4. If any violation is found, DHCA issues "Emergency Field Notices" or "Notices of Violation."
5. DHCA posts information about the code enforcement case on its eProperty website.
6. DHCA reinspects the property to verify compliance.
7. If non-compliant, DHCA uses other code enforcement tools that can include citations.
8. If continued non-compliance, citations are adjudicated in District Court.

Finally, a ninth potential step in the complaint-driven code enforcement process referenced in Section 26-18A of the County Code (i.e., Outreach on Quality-of-Life Issues) offers an opportunity for DHCA to center community members most harmed by uncorrected violations and increase their accountability to them. A review of available information, however, suggests this potential step is not yet a meaningful practice within DHCA. This potential step is also described in more detail in this section.

### **1. A neighbor or tenant contacts the County to report a potential code violation.**

Nearly all code violation complaints are received by phone via 311 and through DHCA's website.<sup>41</sup> The 311 system offers services in multiple languages and routes complaints to Code Enforcement according to their conformance to knowledge base articles developed by DHCA.<sup>42</sup> Complaints directly communicated to DHCA are also routed through the 311 system.

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<sup>41</sup> OLO analysis of FY23 data finds that 6,120 of 6,160 total complaints were made via 311 calls or DHCA's website.

<sup>42</sup> For information on DHCA's Knowledge Based Articles, see [Montgomery County, MD 311 - Answering to You](#)

Of note, complainants can choose to remain anonymous. 311 may require the complainant's contact information to allow DHCA staff to follow up for additional details about the complaint. However, complainants can request that their contact information not be released, even under a Public Information Act request. Yet, the request to remain anonymous is generally only meaningful to neighbors complaining about exterior violations. Tenants making complaints about interior code violations within their own rental dwellings cannot be anonymous.

## **2. The complaint is recorded. DHCA assigns staff who conducts inspection.**

Once 311 receives information about a code enforcement complaint, that information is entered into its system and then forwarded to DHCA who enters the complaint into its own system. Complaints for single-family properties, commercial properties and vacant lots are assigned by DHCA management to one of 21 inspectors on the non-multifamily teams based on geography (i.e., the Zone Teams). Complaints for multifamily properties and ADUs are assigned by DHCA management to one of 15 inspectors on the multifamily team. Before their initial inspection, each inspector reviews their assigned case to understand the history of code enforcement complaints and related cases for the property.

Emergencies (e.g. no egress in sleeping areas, no working smoke alarm, no working toilet, sewer back-up, fallen ceiling, heavy mold) or high priority complaints (e.g. lack of utilities, fire damage, or damage from a storm) are flagged by DHCA so that assigned inspectors can respond the same day or within 24 hours. Lesser priority complaints require inspectors to schedule an inspection within six business days and complete that initial inspection within 15 business days of the date assigned.

Code inspectors are instructed to schedule inspections with a tenant/complainant, property owners or their agents via phone, email, or a site visit. If they do not respond after five days, the inspector sends a Notice of Inspection with an inspection date and time that is no more than 15 days after the complaint was made. Inspections for interior code violations must include someone aged 18 or older. Data on the number of complaints processed by severity are not available nor are data on the percentage of initial inspections completed within required timeframes (e.g. one day or 15 days).

## **3. Inspectors investigate complaints and record results. If no violations are found, the case is closed.**

The code enforcement inspector investigates the complaint and, using an app, records what they observe in the code enforcement database, including taking pictures. After the inspection, the inspector leaves a postcard at the residence informing householders on how to track the results of the code enforcement investigation through the eProperty website. If no violations were found, the case is closed.

Of note, ***code inspectors currently do not use a standardized checklist*** when conducting inspections of code enforcement complaints.<sup>43</sup> When inspecting the interior of dwelling units, inspectors are instructed to survey the unit moving from the right to the left to document code violations and track them on their App. Inspectors conducting indoor inspections are also expected to check smoke and carbon monoxide alarms and to check if GFCI outlets are operating properly. When inspecting the exterior of dwellings, there is also no standardized guidance of what that inspection process should entail. Generally, the scope of both interior and exterior property inspections is at the discretion of the individual code inspector.

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<sup>43</sup> As part of OLO's technical review of this report in April 2025, DHCA staff indicated that they are developing a standardized checklist to integrate into their new App and that they are training code inspectors on its use as part of their Standard Operating Procedures.



**4. If any violations are found, DHCA issues one of three “Emergency Field Notices” for urgent health and safety violations or one of four “Notices of Violation” for less severe violations.**

**Emergency Field Notices:** If urgent health and safety violations are found because of a code enforcement inspection, code inspectors can issue one of three types of emergency field notices (EFNs):

- **An Immediate EFN** that condemns a building as unsafe to occupy. Severe health and safety violations that may result in an immediate condemnation can include fire damage, gas leaks, sewer backup, extreme mold, structural damage, and no egress.
- **A 24-Hour EFN** where condemnation can occur if urgent health and safety violations are not corrected. Violations that may result in a condemnation include lack of utilities, heat, and functioning smoke and carbon monoxide alarms, faulty electrical wiring, damaged doors and locks, non-working toilets, extensive mold, and significant infestations.
- **A 72-Hour EFN** where condemnation can occur if critical health and safety violations are not corrected. Violations that may result in a condemnation if not corrected within 72 hours include non-functioning major appliances.

If a building is condemned and its rental occupants are not at fault, a property owner may be required to pay relocation expenses for a tenant per Bill 18-19, Landlord-Tenant Relations – Relocation Expenses. Data on the number of EFNs issued overall and by type, condemnations, and resulting relocations are neither collected nor reported by DHCA.

**Notices of Violation:** If less severe code violations are found during a code enforcement inspection, code inspectors can issue one of five types of notices of violation (NOVs):

- **A 5-Day NOV** to correct air conditioning violations in multifamily buildings (ER 4-21).
- **A 10-Day NOV** (i.e., Severe Condition Notice) to correct trash, debris, abandoned vehicles, high grass, and weed violations. These violations generally occur among single-family dwellings.
- **A 15-Day NOV** for multifamily buildings to correct health and safety (Severity Level 5)<sup>44</sup> violations.

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<sup>44</sup> According to Executive Regulation 05-17AM, Severity Level 5 (Health and Safety) violations include violations listed in Section 29-22(b)(1) that are “in violation of any applicable law that adversely affects the immediate health and safety of the tenants, including: (A) rodent or insect infestation affecting 20% or more units in a building; (B) extensive and visible mold growth on interior walls or surfaces exposed to the occupied space; (C) windows that do not permit a safe means of egress; (D) pervasive and recurring water leaks that result in chronic dampness, mold growth, or personal property damage in more than one unit; or (E) lack of one or more working utilities that is not shut off due to tenant non-payment, including: (i) natural gas; (ii) electricity; (iii) water; and (iv) sewage disposal. They also include violations that require DHCA to exercise powers delineated in Section 26-13 (to condemn properties) and Section 26-15 (to order the abatement of severe conditions to protect public health and safety). Additional Severity Level 5 violations include missing, disabled, or non-functioning smoke detectors, broken entrance doors and/or missing door locks; HVAC systems not maintaining a temperature; other violations designated on the violations list maintained by DHCA; or other violations that would warrant condemnation as specific under Section 26-13.

- **A 30-Day NOV** to correct all violations in single-family dwellings, higher priority violations (Severity Level 3)<sup>45</sup> in all multifamily buildings, and medium (Severity Level 2)<sup>46</sup> and lower (Severity Level 1)<sup>47</sup> priority violations in multifamily buildings with fewer than 200 units. Violations to be corrected include interior door or wall damage, non-extensive mold, overcrowding, infestations, housekeeping, general maintenance issues, inadequate cooling/heating, and painting.
- **A 60-Day NOV** to correct medium (Severity Level 2), and lower (Severity Level 1) priority violations in multifamily buildings with 200 or more units. Violations to be corrected within 60 days include the same categories of violations in smaller multifamily buildings.

While EFNs are issued immediately with the code inspector placing a notice on the building, NOV's are issued within 24 hours of the initial inspection documenting the code violation(s). NOV's are sent to the property owner or designee (agent) indicating the violations to be corrected and the time and date for the reinspection to confirm that violations have been corrected. NOV's are not sent to the complainant.

Of note, **the NOV timelines prioritize public safety and health inconsistently**. For example, NOV's for tall grass violations have a shorter time for correction (10 days) than health and safety violations in multifamily properties (15 days). Moreover, the resolution of other violations among non-multifamily buildings (e.g., single-family dwellings) is the same regardless of the severity of the violation - 30 days.

Another observation is that **NOV's are not citations that fine property owners**. Instead, they are warnings that code violations not corrected within the timeframe mandated by the NOV could become a citation if left unaddressed. Data on the number of NOV's issued by type are not reported by DHCA. The eProperty website also does not describe NOV by type. According to DHCA's annual report on Bill 19-15, DHCA issued 2,896 NOV's for 30,998 code violations across 1,243 multifamily rental units in FY23.<sup>48</sup> Data regarding the number of NOV's for single-family properties were not reported.

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<sup>45</sup> According to Executive Regulation 5-17AM, Severity Level 3 (Higher Priority) violations can include damage to interior doors and/or locks; major wall damage; the limited presence of mold that does not meet the standard set in Section 26-13(a)(3); overcrowding; infestation not rising to the level of Section 29-22(b)(1)(a); non-functioning or inadequately functioning major appliance, such as a refrigerator not cooling, or a stove not heating, to the required temperature; other damage to windows not related to egress; missing address indicators; or any other violations designated on the violations list maintained by DHCA.

<sup>46</sup> According to Executive Regulation 5-17AM, Severity Level 2 (Medium Priority) violations can include poor housekeeping presenting conditions conducive to infestations and/or accidents; faucet leaks and other non-emergency plumbing repairs; minor all and/or tile repairs; carpet damage; deteriorated refrigerator gaskets; HVAC system requiring maintenance; or any other violations designated on the violations list maintained by DHCA.

<sup>47</sup> According to Executive Regulation 5-17AM, Severity Level 1 (Lower Priority) violations can include interior walls and ceilings requiring general painting, scraping, and preparation; lights and light covers in need of repairing or replacing; window blinds in need of repairing or replacing; broken or damaged toilet seat; broken or damaged bathroom towel rack and/or toothbrush holder; bathtub in need of reglazing and/or repairing grout or caulking; or any other violations designated on the violations list maintained by DHCA

<sup>48</sup> Memorandum from Scott Bruton to Marc Elrich, [FY23 Annual Report on Bill 19-15](#), September 15, 2023

## **5. DHCA posts information about the code enforcement case on its eProperty website.**

DHCA posts information about each code violation complaint it investigates into its eProperty website.<sup>49</sup> According to the eProperty website: “Any observed violations shall be noted in this site within 48 hours of the initial inspection date.”<sup>50</sup> Complainants and members of the public can track the status of code enforcement cases via this website by property address and/or building name. Data posted on eProperty include case number, date of complaint, case type, address, unit, complaint made, inspector assigned, inspection date, and disposition (e.g., violations corrected). While 311-calls can be accommodated in multiple languages, eProperty is only available in English.

Of note, the eProperty website provides the primary mode of communication between DHCA and complainants regarding the status of code enforcement investigations, as DHCA does not issue correspondence to complainants to verify when an enforcement case is opened or closed or to confirm a disposition as a standard practice. Interviews with DHCA staff confirm that inspectors connect with complainants via phone calls, emails, and inspections. Interviews with 311 staff and community members, as well as OLO reviews of 311 data, also confirm that complainants often rely on 311 to solicit updates about code complaints and the status of DHCA investigations.

## **6. First re-inspection. If violations are corrected, compliance is achieved, and the case is closed.**

DHCA re-inspects properties with 24- to 72-hour EFNs and with 5- to 60-day NOVs to document compliance. Whereas DHCA notifies property owners of scheduled re-inspections, DHCA delegates responsibility for notifying tenants of re-inspections to the rental property owner. If the property owner or agent does not notify the tenant, the code inspector will only re-inspect the exterior and common area violations as warranted. If 80 percent or more of the violations have been corrected at re-inspection, the code inspector will close the case. Data regarding the number of violations corrected by the first re-inspection and cases closed as a result are not reported by DHCA.

## **7. If there is no compliance after first re-inspection, DHCA can pursue other options aimed at correcting code violations and achieving compliance.**

DHCA has several tools it can use to promote adherence to the County’s housing code when property owners are not compliant after the first re-inspection as follows:

- **DHCA can issue a second Notice of Violation (NOV2).** Inspectors can extend a compliance deadline by seven days upon the request of the property owner or tenant. Extensions beyond seven days must be approved by a code enforcement supervisor. Data on the number and characteristics of NOV2 are neither collected nor reported by DHCA.
- **DHCA can issue citations for uncorrected violations.** Historically as a last resort, DHCA issues citations for uncorrected violations. These citations typically carry a fine of \$500 per violation that can be doubled by a judge in District Court. More recently, DHCA has begun to issue citations in greater frequency for properties with a history of uncorrected violations. For example, in FY23, DHCA issued 2,783 citations to 39 multifamily properties compared to 307 citations for 18 multifamily properties in FY19.<sup>51</sup> Data on the number of citations issued to non-multifamily properties have not been reported.

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<sup>49</sup> Montgomery County Department of Housing and Community Affairs. [eProperty - Data Discovery for Properties](#).

<sup>50</sup> Ibid

<sup>51</sup> FY19 and FY23 Annual Reports on Section 29-6(h)

- **DHCA can authorize a “Clean and Lien”** to abate tall grass and weeds (Sec 58-4), inoperable vehicles, and debris violations (Sec 48-24(6)) at the property owner’s expense. In 2018, DHCA completed 120 “clean and liens” for tall grass and weeds, solid waste, boarding up vacant properties, and court ordered clean ups where property owners were billed \$121,000 via their property taxes.<sup>52</sup> The County Code enables DHCA to authorize “clean and liens” to demolish condemned properties (Sec 26-14), but DHCA reports they have insufficient funding to do so with an annual “clean and lien” budget of \$99,000.<sup>53</sup>
- **DHCA can charge unmaintained vacant property inspection fees.** Executive Regulation 13-17 requires DHCA to inspect unmaintained vacant properties at least once every 12 months. If multiple inspections are required to ensure compliance with the County’s housing code, ER 13-17 allows DHCA to charge inspection fees for additional inspections ranging from \$200 for the second inspection to \$1,000 for the tenth inspection. It remains unclear whether DHCA has charged fees for multiple vacant property inspections as allowed.
- **DHCA can order and administer abatements for severe conditions.** Section 26-15 grants DHCA the power to abate uncorrected violations for severe conditions if immediate action is needed to protect public health and safety. More specifically, DHCA can order the owner to correct or abate the violation and if the owner does not, DHCA “may take any action reasonably necessary to abate or correct the condition or may contract to have the necessary action taken.” If DHCA abates violations, the costs are charged to the owner and can be placed on the tax bill as a lien. It’s unclear whether DHCA has ever used this authority to correct severe condition violations.
- For uncorrected code violations in residential rentals, DHCA can also:
  - **Authorize “Repair and Deduct.”** Executive Regulation 3-18 authorizes the DHCA Director to allow tenants to use a certified contractor to repair a violation and deduct up to one month’s rent for repair costs. DHCA can authorize “Repair and Deduct” for life and safety violations that have not been corrected within 24 to 48 hours. For lesser violations that do not threaten immediate life and safety, DHCA can authorize “repair and deduction” for violations that have not been corrected within 15 to 30 days of the first NOV. To date, DHCA has not authorized the use of this code enforcement tool because no tenant has requested it.
  - **Revoke rental licenses** for rental properties that fail to correct severe code violations. Bill 19-15 enables DHCA to revoke a rental license for properties with uncorrected violations that directly affect the health and safety of the tenant. Section 29-25 also enables DHCA to “revoke a rental license if the landlord after 10 days’ written notice, does not eliminate or initiate bona fide efforts to eliminate violations of applicable laws.” DHCA specified that OLTA administers Bill 19-15 rather than Code Enforcement. Data regarding how many rental licenses have been revoked because of this Bill was not provided to OLO.

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<sup>52</sup> Department of Housing and Community Affairs: Housing Code Enforcement Overview, April 1, 2019

<sup>53</sup> Interview with Scott Bruton, Nathan Bovel, Tamela Robinson, and Nicole Katrivanos, August 26, 2024

- **Allow tenants to terminate their leases for uncorrected violations.**<sup>54</sup> Bill 6-19, Landlord-Tenant Relations – Termination of Lease – Tenant, allows tenants to terminate their leases if their property owner has not corrected severe health and safety violations within 30 days if ordered by DHCA. Uncorrected public health and safety violations where this protection applies include:
  - Rodent or insect infestation affecting 20 percent or more units in a building,
  - Extensive, visible mold growth on interior walls/surfaces exposed to occupied space,
  - Windows that do not permit a safe means of egress,
  - Pervasive and recurring water leaks that result in chronic dampness or mold growth,
  - Personal property damage in more than one unit, and
  - Lack of one or more working utilities, provided the shutdown is not shut due to tenant non-payment.

DHCA specified that OLTA administers Bill 6-19 rather than Code Enforcement. It remains unclear, however, whether these protections afforded have been utilized in the County as data regarding lease terminations for uncorrected violations was not provided to OLO.

#### **8. If no compliance after citations issued, citations adjudicated in District Court.**

Once a citation is issued, DHCA forwards code enforcement citations to the Office of the County Attorney which files a case requesting a hearing in District Court and payment of fines. Before the pandemic, code enforcement hearings were scheduled 60-90 days from the filing. Post-pandemic, the scheduled wait time has increased to six months or more. The process for resolving code enforcement citations follows.

- **Before first court hearing.** DHCA encourages property owners with citations to correct outstanding violations. If property owners make corrections before their court date, the code enforcement case is closed, and the County usually rescinds citations.
- **First court hearing, if applicable.** If the violations have been corrected by the first hearing, the County may still request fees for citations. However, the judge will dismiss the case and usually waive or reduce the fees for the citations. If the violations remain uncorrected, the judge will instead issue an abatement order for the violations to be corrected within 30-60 days. The judge can also impose fines on the defendant, or suspend them, and order a follow-up inspection from DHCA to discern whether violations have been corrected prior to the next court date.
- **Second court hearing, if applicable.** If the violations have been resolved by the second hearing, the County may still request fees for citations, but the judge will dismiss the case whether they impose fees or not. If the violations remain uncorrected, the County will file a contempt of court complaint against the defendant and the judge will schedule a show-cause hearing.
- **Third court hearing, if applicable.** If the violations have been resolved by the third (show-cause) hearing, the judge will close the case but may still impose fines. If the violations remain uncorrected, the judge could impose fines and/or jail time for a defendant for being in contempt

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<sup>54</sup> Press Releases: Montgomery Council Passes Bill to Allow Tenants to Terminate Lease in Case of Uncorrected Violation, June 25, 2019

of court. Alternatively, the judge could also purge a contempt finding with a 30-60 day status hearing, and then follow up in 30-60 days for the status hearing. In short, a defendant could remain under the authority of the District Court until their code violations are resolved. However, the District Court cannot compel the defendant to correct outstanding code violations.

Data regarding the number of cases and citations resolved before the initial court hearing or after the first, second, or third hearings is not routinely reported. Nor is information available about the efficacy of citations, fines, and the threat of jail time to ensure compliance with the County's housing codes.

Of note, ***court action to compel adherence to the County's building and housing code might not achieve compliance***. In the absence of property owner action, the County is also not required to abate building and housing code violations except for tall grass, weeds, debris, and inoperable vehicles. Unlike other jurisdictions, the County does not abate urgent health and safety violations if property owners fail to do so. Nor does the County demolish properties with uncorrected code violations, force the sale of such properties, or seize properties to ensure their adherence to the County's building code, even if they are a public nuisance. So, in some cases, the County's process to address code enforcement complaints may fail to achieve its desired end: property owner adherence to the County's housing codes.

**Outreach on Quality-of-Life Issues.** Finally, there is a potential ninth step in the complaint-driven code enforcement process referenced in the County Code to address uncorrected violations that adversely affect impacted residents' quality of life. As referenced in Section 26-18A, in instances where "an aggregation of (code enforcement) problems have led to diminished quality of life for affected residents in affected communities," the Executive or their designee must:

- Submit quarterly reports to the Council that describe activities, plans, and objectives of Executive Branch departments to address quality of life issues;
- Consider issuing annual reports that can "include recommendations to increase enforcement of violations in the County laws related to housing maintenance standards, parking, and solid waste disposal;" and
- Hold semiannual meetings with County residents to discuss these problems.

Finding this requirement in its review of the County Code was a surprise to OLO, as no one in DHCA mentioned this requirement in staff interviews. Nor did OLO find any evidence of this requirement at work to address some persistent code enforcement challenges in the County such as the Enclave apartment complex. As such, outreach on quality-of-life issues does not yet serve as a meaningful step in the complaint-driven code enforcement process.<sup>55</sup>

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<sup>55</sup> DHCA leadership disagrees with OLO's assessment that it has not complied with this Section 26-18A regarding Quality-of-Life Issues, stating the following in its January 22, 2025 memorandum to OLO: "DHCA has attended numerous community meetings at properties where persistent violations exist, including at the Enclave. DHCA has coordinated with County Council representatives, community-based organizations, advocates, and tenant organizations at such properties, including the Enclave." These actions, however, do not fulfill the requirements of this section to submit quarterly reports to the Council, to consider submitting annual reports, or to convene semi-annual meetings with County residents to discuss problems.

## **B. Mandated Code Enforcement Process for Multifamily Properties.**

The intent of the mandated multifamily properties code enforcement process is to identify and correct code enforcement violations not identified through the complaint-driven code enforcement process. This approach, like the complaint-driven approach, does not limit occupancy to dwellings that comply with the County's housing code. However, this approach places more of the onus for identifying housing code violations on DHCA rather than on tenants.

The goal of the multifamily code enforcement process is to have DHCA identify code violations for investigation and to identify multifamily properties in need of greater DHCA oversight (e.g. more frequent inspections) to promote code compliance. Towards this end, the multifamily enforcement process identifies three property types:

- **Troubled Properties** that have both the highest number of code violations and severe violations because they exceed the County's average on both measures. Properties classified as troubled have all their units inspected by DHCA annually. Troubled properties must also submit corrective action plans annually and maintenance logs quarterly to DHCA, and, effective in FY25, request DHCA approval to increase rents.
- **At-Risk Properties** that have code violations or severity levels that exceed the County's averages on one but not both measures. Previously, DHCA inspected 25 percent of rental units in at-risk properties every two years. For FY25, DHCA proposed to inspect 50-100 percent of the rental units in at-risk properties. At-risk properties must also request DHCA approval to increase rents.
- **Compliant Properties** that have the lowest number of code violations and severity levels because they fall below the County's average on both measures. DHCA inspects 25 percent of rental units in compliant properties every three years.

The ten steps of DHCA's mandated multifamily property code enforcement process are listed below. A more detailed description of Steps 1 – 4 and 7 follows. The remaining steps of the mandated multifamily code enforcement process (Steps 5, 6, and 8 - 10) are the same as Steps 4 - 8 of the complaint-driven enforcement process; these steps were described in the prior section on pages 23-30.

1. Develop a schedule of multifamily inspections.
2. Contact multifamily property owners/agents, schedule inspections, and notify tenants.
3. Confirm inspections and select multifamily units for random inspections.
4. Conduct inspections and record results.
5. If any violations found, issue Emergency Field Notices or Notices of Violation.
6. Post information on eProperty website.
7. Assign multifamily properties to troubled, at-risk, and compliant categories based on results.
8. Reinspect properties to verify compliance.
9. If non-compliant, use other code enforcement tools that can include citations.
10. If continued non-compliance, citations adjudicated in District Court.

Like the complaint-driven code enforcement process, there is also a “silent” final step – Outreach on Quality-of-Life Issues – that could characterize the mandated multifamily property code enforcement process but does not.

- **Develop a schedule of multifamily inspections.**

Bill 19-15, Landlord-Tenant Relations – Licensing of Rental Housing – Landlord-Tenant Obligations, requires that DHCA schedule inspections of multifamily buildings in the County at least on a triennial basis where a quarter of units in complaint properties are inspected every three years, a quarter of units in at-risk properties are inspected every two years, and all units in troubled properties are inspected annually. DHCA staff annually schedules multifamily building inspections based on their designation and assigns one of 15 multifamily team code inspectors as the inspection lead.

DHCA also annually reports on the addresses of each multifamily property inspected in the prior fiscal year and those that have been or will be inspected during the current fiscal year as required by Bill 19-15 (under Section 29-6(h) of the County Code) by September 1<sup>st</sup> of each year.

- **Contact multifamily property owners/agents, schedule inspections, and notify tenants.**

DHCA sends a Notice of Pending Inspection (NOPI) to property owners/agents, instructing them to contact the assigned inspector within 10 days to schedule the inspection. The assigned inspector will coordinate with the owner/agent to schedule the inspection within 30 days. If the owner/agent does not respond within 10 days after receiving the NOPI, the inspector will follow up within five days. If there is still no response, the inspector will send a Notice of Inspection (NOI) selecting a date that is within 30 days from the date on the NOI.

While reaching out to the property owners/agents, the inspector will also coordinate with other DHCA team members to conduct the inspection. Each initial inspection needs an additional inspector for every 15-25 units. Additionally, if more than 100 units need to be inspected, the assigned inspector must schedule the inspections for Tuesdays, Wednesdays, or Thursdays.<sup>56</sup> Each multifamily building inspection also requires the property owners/agents to provide a staff person to accompany each code inspector and each tenant to provide an adult householder to observe the inspection.

Once the inspector sets the inspection date, tenants are notified by DHCA via postcards within 30 days.

DHCA’s postcard includes instructions to tenants on how to report issues in their unit so that DHCA can include these units among the sample inspected for compliant and at-risk properties. This is intended to eliminate the fear of retaliation associated with a tenant reporting an issue during an inspection in front of a representative of the property owner.

- **Inspector confirms inspections and selects multifamily units for random inspections.**

Within 72 hours before DHCA’s inspection, property owners must send an inspection notice to their tenants. Inspectors confirm tenant notification and ensure all units to be inspected are listed in the inspection App. Random unit selection for inspection among complaint and at-risk properties is communicated to property owners/agents by DHCA 24 hours before the inspection.

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<sup>56</sup> Montgomery County Department of Housing and Community Affairs. April 10, 2019. Multifamily Housing Inspection Process (MFHIP). Standard Operating Procedures.



Of note, all tenants in complaint and at-risk buildings are notified of impending DHCA inspections, not just the 25 percent of tenants whose units will be inspected. If a property owner fails to notify tenants of DHCA's inspection within 72 hours, the interior inspections are canceled and rescheduled for a later date. Rescheduled inspections create a burden on:

- DHCA inspectors who must assemble new teams to convene inspections at later dates;
- Property owners/agents who will have to staff inspections for a new date; and
- Tenants who may have to forgo a workday or other commitments to be present for an inspection that might not actually include their unit (for inspections of complaint and at-risk properties).

While DHCA inspectors and property agents are compensated regardless of the inconvenience, many tenants are not, especially those earning hourly wages.

- **Conduct inspections and record results.**

Like complaint-based inspections, there is no standardized inspection list for mandated multifamily property inspections conducted by DHCA inspectors. However, Bill 19-15 required DHCA to utilize a standardized approach to complete its surge of multifamily property inspections between 2017 and 2019. Then and now, inspectors often use an App as a guide and inspect the property starting from right to left, documenting violations as they inspect. They check all common areas (both interior and exterior), property grounds, parking lots, and garages.

For mandated multifamily inspections, code inspectors also verify the presence of a "Renters Have Rights" poster in a prominent location,<sup>57</sup> the most recent inspection certificates for elevators, boilers, fire safety, and the adequacy of designated areas for trash and recycling. Inspectors are expected to carry the same tools used for complaint-based inspections. Additionally, they are expected to check smoke and carbon monoxide alarms and to check if GFCI outlets are operating properly. DHCA's approach to conducting mandated inspections, however, may fall short of the standardized approach to rental inspections required under the County Code because they do not utilize a standardized checklist.<sup>58</sup>

- **If any violations are found, inspectors issue Emergency Field Notices or Notices of Violation.** (See page 25)
- **Post information on eProperty website.** (See page 27)
- **Assign properties to troubled, at-risk, and compliant classifications based on results.**

The County's Troubled Properties regulations establish a methodology for assigning multifamily buildings into three categories based on their inspection results where DHCA assigns:<sup>59</sup>

- Troubled properties status to multifamily buildings whose number of violations and severity of violations exceed the County's averages;

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<sup>57</sup> Montgomery County Department of Housing and Community Affairs. [Tenants' Rights and Resources Poster](#)

<sup>58</sup> Section 29-22, Section 2(b)(2) required the DHCA Director to provide to the Council a plan to inspect multifamily rental housing that includes "standardized inspections for all units" by January 15, 2017. [Sec. 29-22. Inspection of rental housing.](#)

<sup>59</sup> See Executive Regulation 5-17AM

- At-risk properties status to multifamily buildings whose number of violations or severity of violations exceeding the County's averages; and
- Compliant properties status to multifamily buildings whose number of violations and severity of violations fall below the County's averages.

The number of violations and severity of violations used to designate properties are calculated as the:

- Total Violations Score (TV) = Sum of Violations/Sum of Units; and
- Severity Score (SV) = Sum of Weighted Violations/Sum of Violations.

To calculate the Severity Score, Executive Regulation 5-17AM requires DHCA to assign the following weights to violations based on their severity:<sup>60</sup>

- A weight of five (5) to health and safety violations that present an imminent risk to tenants;
- A weight of three (3) to high priority violations that do not present an imminent risk to tenants, but require substantial and expensive;
- A weight of two (2) to medium priority violations related to ongoing maintenance issues; and
- A weight of one (1) to lower priority violations reflecting superficial maintenance issues.

As observed in the Troubled Properties Analysis Chart (Figure 4.1)<sup>61</sup> and described in greater detail in the next chapter beginning on page 48, the required methodology for classifying multifamily properties suggests that ***about a quarter of multifamily properties would be classified as compliant, half would be classified as at-risk, and a quarter as troubled*** if the median for both metrics approximates their average. Yet, in FY24, DHCA classified:<sup>62</sup>

- 76 percent of multifamily properties as compliant;
- 11 percent of multifamily properties as at-risk; and
- 13 percent of multifamily properties as troubled.

More specifically, the classification group predicted to have the largest share of properties had the smallest (i.e. multifamily buildings DHCA classified as at-risk) and one of the classification groups predicted to have a smaller share of properties had the largest (i.e., multifamily buildings classified as compliant). ***This finding suggests that DHCA is not following the required methodology for classifying multifamily properties as required by Executive Regulation 5-17AM.***

Of note, DHCA does not report the average number of violations or severity of violations among all annual mandated multifamily building inspections used to classify properties as compliant, at-risk, and troubled. Moreover, OLO questions to DHCA about the process that DHCA uses to assign and move properties annually across the compliant, at-risk, and troubled properties continuum were left unanswered despite repeated requests.

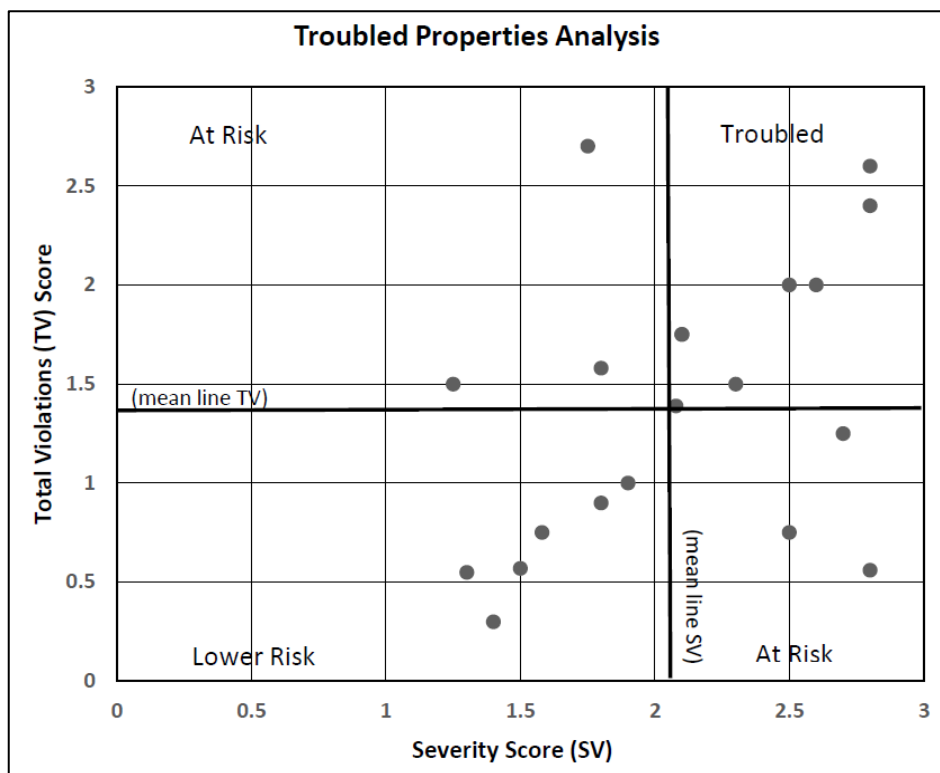
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<sup>60</sup> For more information about the Troubled Properties methodology, see Appendix A

<sup>61</sup> Ibid

<sup>62</sup> Montgomery County Department of Housing and Community Affairs. October 1, 2024. [Troubled Property Report FY24](#). Memorandum.

**Figure 4.1: Troubled Properties Analysis Chart**



- **Reinspect properties to verify compliance.** (See page 28)
- **If non-compliant, use other code enforcement tools that can include citations.**

DHCA’s code enforcement tools to address uncorrected violations in the complaint-driven code enforcement process are also available during the mandated multifamily property code inspection process (see page 31). Additionally, there is another tool DHCA is required to use to address uncorrected violations identified during the annual inspection of troubled properties:

- **Escalate re-inspection fees.** Executive Regulation 2-17 requires DHCA to charge and escalate reinspection fees for troubled properties to encourage them to correct violations identified during the mandated inspection process on a timely basis. If DHCA needs a third inspection to verify violations are corrected, DHCA is required to charge property owners a reinspection fee of \$100 per apartment complex and \$25 per unit. Between the third and sixth inspection, fees escalate to \$1,000 per apartment complex and \$250 per unit for any subsequent inspection. Despite this requirement, DHCA has yet to enforce it because it lacks the infrastructure to track and charge fees for multiple re-inspections.<sup>63</sup>
- **If continued non-compliance, citations adjudicated in District Court.** (See page 30)

<sup>63</sup> During technical review of this report, DHCA indicated that it had not assessed these fees “because the technical platform does not exist to access these fees.” They further indicated they are working to create a platform to assess these fees.

### **C. Proactive Code Enforcement Process for Other Housing Units.**

The proactive code enforcement process refers to DHCA's code enforcement process for accessory dwelling units (ADUs) and federally subsidized rental housing for low- and moderate-income households such as the HOME program.<sup>64</sup> Local and federal policy requires ADUs and federally subsidized units to demonstrate compliance with local and/or federal housing code requirements before awarding rental licenses. Federal policy further requires regular inspection of federally subsidized units to ensure their compliance with federal housing code requirements.

The primary purpose of the proactive code enforcement process for other housing units is to ensure that ADUs and federally subsidized units fully comply with the County's housing code and parallel federal requirements before they are issued a rental license. The secondary purpose of the proactive code enforcement process is to also ensure that federally subsidized units continue to comply with federal housing code requirements after an initial rental license is issued.

The seven steps that describe DHCA's code enforcement process for ADUs and federally subsidized dwellings are listed below. A more detailed description of each step follows.

1. DHCA requests code inspection for ADU and federally subsidized unit rental license applications, and maintenance of federally subsidized units.
2. DHCA assigns a code enforcement inspector and schedules appointment.
3. Inspectors investigate unit using required checklist and records results.
4. If no violations found, inspection report is issued, and license recommended for approval/renewal.
5. If violations found after the initial inspection, DHCA can issue EFN or NOV with required resolution within one to 30 days.
6. DHCA reinspects property to verify compliance. If no violations found, inspection report issued, and license recommended for approval/renewal.
7. If violations found after reinspection, property neither recommended for rental license nor renewal. DHCA can also issue citations and abate rental subsidy and renter's contributions.

Unlike the complaint-based and mandated multifamily code enforcement processes, the proactive code enforcement process places the onus of identifying code violations on DHCA and more directly compels property owners to resolve code violations by prohibiting the initial licensing of ADU and federally subsidized housing units with uncorrected violations. The proactive code enforcement process also prohibits the continued occupancy of federally subsidized housing units with uncorrected maintenance violations.

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<sup>64</sup> Montgomery County Department of Housing and Community Affairs. 2018. [Home Program Rental Compliance Guide](#).

**1. For ADU and federally subsidized unit rental license applications, and maintenance of federally subsidized units, DHCA requests code inspection.**

Local policy requires ADUs to pass a housing code inspection before they are granted a rental license by DHCA. Federal policy also requires federally subsidized dwellings to undergo housing code inspections for initial rental licenses and maintenance of properties. As such, when DHCA's Licensing and Registration Division processes rental license applications for ADUs and federally subsidized housing, it submits a request to DHCA's Code Enforcement Division to schedule an inspection. DHCA also inspects federally subsidized units, such as HOME-assisted rental properties, to assure their ongoing compliance with federal housing quality standards.

Of note, while Montgomery County only requires ADUs to undergo inspections prior to granting rental licenses, this is standard practice for all forms of rental housing in several other local jurisdiction. For example, Baltimore and Howard Counties require all properties to be inspected by a housing inspector or a private contractor before issuing a rental license.<sup>65</sup> Takoma Park, Gaithersburg, and Rockville each also require inspections for any property owners seeking rental licenses and that any violations be corrected before issuing a rental license.<sup>66</sup> Further, Rockville requires rental property owners to renew rental licenses every two years.<sup>67</sup>

**2. DHCA assigns a code enforcement inspector and schedules appointment.**

The assigned inspector contacts the applicant to schedule required inspections for ADUs and federally subsidized rental units. Once an inspection date for a rental unit is scheduled with the code enforcement inspector, the owner/manager must provide 24 hours written notice to the tenant of the pending inspection. The initial inspection and preliminary inspection report are usually completed within 30 days.

**3. Inspectors investigate unit using required checklist and records results.**

Inspections of ADUs are based on compliance with County standards for all homes and buildings (e.g. Chapters 26, 48, and 58 of the County Code). They must also comply with specific regulations and requirements for ADUs described in Bill 22-19 and ZTA 19-01.<sup>68</sup> Inspections of federally subsidized rental units are also based on County Code and the following federal Housing Quality Standards:<sup>69</sup>

- Ceilings – ensure all ceilings in all rooms are in good working condition;
- Walls – ensure all walls in all rooms are in good working condition;
- Floors – ensure all floors in all rooms are in good working condition;
- Utilities – ensure all utilities (gas, electric, water, sewage, etc.) provided by the property owner are in good working order;

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<sup>65</sup> Linda McMillan memorandum to Planning, Housing, and Economic Development Committee regarding Single Family Rental Licensing and Code Enforcement (including condominiums), November 27, 2019

<sup>66</sup> Ibid.

<sup>67</sup> Ibid.

<sup>68</sup> See [Bill 22-19](#); and [ZTA 19-01](#).

<sup>69</sup> U.S. Department of Housing and Urban Development, Housing Choice Voucher Program. April 2023. [HUD Form - 52580](#), Inspection Checklist.

- Windows – ensure all windows in all rooms are in good working condition and that they feature any required locking mechanisms;
- Doors – ensure all doors in all rooms, and for entrance and egress to the unit itself, are in good working condition and they feature any required locking mechanisms;
- Paint – ensure all painted surfaces in all rooms are maintained in a clean and neat condition without any noticeable peeling or chipping;
- Appliances – ensure all appliances (stove, oven, refrigerator, freezer, laundry) provided by the property owner are in good working order;
- HVAC – ensure all heating, ventilation, and cooling systems provided by the property owner are in good working order;
- Lighting – ensure all lighting provided by the property owner is in good working order;
- Bathrooms – ensure all bathroom equipment (sink, toilet, tub, shower, etc.) provided by the property owner are in good working order;
- Roof – ensure all roofing above all rooms in the unit is in good working condition;
- Smoke detectors – ensure all smoke detectors are appropriately placed and in good working condition;
- Carbon monoxide detectors - ensure all carbon monoxide detectors are appropriately placed and in good working condition;
- Fire escape information - ensure all fire escape information is appropriately placed and readily understandable to tenants; and
- Pest control - ensure any necessary pest control is provided.

Federal policy also requires that subsidized rentals meet these requirements before a new lease begins and throughout the affordability period. These standards apply not only to the individual units but also to the building and premises. Owners of federally subsidized housing units are responsible for inspection failures or damage to the unit caused by normal wear and tear. DHCA typically inspects a sample of federally subsidized rentals (e.g. 15-20 percent of HOME-assisted units) for property maintenance every one to three years depending on the number of subsidized units within a building:

- For buildings with one (1) to four (4) units, inspections occur every three (3) years;
- For buildings with five (5) to 25 units, inspections occur every two (2) years; and
- For buildings with 26 or more units, inspections occur annually.

Additionally, DHCA inspections of ADUs and federally subsidized housing units are the only code enforcement inspections conducted with standardized checklists. Conversely, neither code enforcement inspections for complaints nor mandated multifamily inspections rely on standardized checklists. As noted previously, DHCA instead instructs inspectors to inspect units moving from the right of the unit in a counterclockwise position and note the violations observed on the Code Enforcement App rather than on an inspection checklist.

**4. If no violations found, inspection report issued, and license recommended for approval/renewal.**

If no violations are found in DHCA's inspection of ADUs or federally subsidized housing units, Code Enforcement submits an inspection report to the property owner and a recommendation for rent licensure to the Division of Licensing and Registration. If no violations are found in DHCA's maintenance inspection of federally subsidized housing units, Code Enforcement submits an inspection report to the property owner and tenant indicating that the unit complies with both local and federal building and housing codes.

Of note, the processes for approving rental licenses for accessory apartments (i.e. ADUs) requires public notice as described in ER 4-13T. When DHCA determines that an application is complete, the owner must post signage on their property informing the public of their pending accessory apartment application with the applicant's reference number and DHCA's contact information. Failure to do so can invalidate a rental license application.

**5. If violations are found after inspection, DHCA can issue notice with required resolution within one (1) to 30 days or preliminary inspection report with required resolution within three (3) to six (6) months.**

DHCA's expectations for how violations are addressed vary by the type of inspection. If violations are present for existing ADU's and federally subsidized rentals seeking an initial rental license, DHCA may issue a preliminary inspection report requesting resolution of violations within 30 days to three months before a reinspection. For violations found among ADU's that are still being built, the inspection report may allow up to six months for resolution before a reinspection. A property owner can contact DHCA to schedule a reinspection sooner than indicated on their notice of violation (NOV) or preliminary inspection report.

If maintenance violations are present for federally subsidized rental units, a NOV is sent to the property owner and to the tenant. The NOV will specify the violations cited and the corrective actions required. Most maintenance violations are required to be corrected within 24 hours to 30 days of the property inspection unless otherwise indicated by the NOV. The deadline for completion of the corrective actions will be indicated on the NOV.

**6. DHCA reinspects property to verify compliance. If no violations are found, inspection report is issued, and rental license is recommended for approval or renewal.**

During the final inspection of ADUs and federally subsidized housing units for initial rent licenses, Code Enforcement will verify the work listed in the preliminary inspection report has been completed. Afterwards, they will generate a final inspection letter and send it to DHCA's Licensing and Registration to authorize occupancy. For re-inspections of corrected maintenance violations among federally subsidized housing units, if no violations are found, Code Enforcement will notify the property owner and tenant, indicating the unit complies with local and federal building and housing codes. This in effect renews the unit's rental license although DHCA does not formally renew rental licenses based on code enforcement inspections as required by other jurisdictions.

**7. If violations are found after reinspection, property is not recommended for rental license or renewal. DHCA can also issue citations and terminate rental subsidy and renter's contributions.**

If violations are found after the reinspection of ADUs and federally subsidized units, several consequences can occur. For properties seeking an initial rental license, Code Enforcement can recommend to Licensing and Registration that their requested rental licenses not be issued until the violations are corrected and verified by Code Enforcement.

For federally subsidized rental units with violations observed during maintenance inspections, DHCA can issue citations for uncorrected violations. Failure to address violations for properties receiving federal rental subsidies could also result in the loss of the federal subsidy to the property owner as well as the renter's contribution to their rent. As such, failure to address maintenance violations within federally subsidized units in effect eliminates the rental license for such a unit, as federal guidelines prohibit the subsidy of units that do not meet federal housing codes.



## Chapter 5. DHCA Compliance with Code Enforcement Laws and Regulations

This chapter describes DHCA's compliance with key code enforcement requirements specified in the Montgomery County Code and in executive regulations. This section is presented in three parts to describe DHCA's Code Enforcement compliance with the following:

- A. Bill 19-15, Landlord-Tenant Relations – Licensing of Rental Housing – Landlord-Tenant Obligations;**
- B. Executive Regulation 05-17AM, Requirements for Troubled Properties; and**
- C. Other code enforcement policies and regulations, including Executive Regulation 13-17 for unmaintained vacant dwellings.**

Information reviewed for this chapter were compiled from several sources, including interviews with DHCA staff and reviews of DHCA documents and the Montgomery County Code.

Four key findings emerge from the information compiled and reviewed in this chapter.

- DHCA does not comply with Bill 19-15's requirement to charge rental property owners reinspection fees. Nor has DHCA revoked any rental licenses or authorized tenants to remediate uncorrected violations as authorized under Bill 19-15.
- DHCA only partially complies with Bill 19-15's annual reporting requirements as they do not report on the following metrics of rental inspections required by County law:
  - Addresses for non-multifamily rentals inspected the prior year;
  - Data on violations among non-multifamily rentals;
  - Data on corrected violations for all rental housing;
  - Data on corrected violations among multifamily rentals;
  - Data on the status of corrective action plans;
  - Citations issued to non-multifamily rentals;
  - Fines collected from rental properties; and
  - Data on complainant preferred languages in languages other than English or Spanish.
- DHCA has not followed the methodology for classifying multifamily properties as troubled, at-risk, and compliant as required by Executive Regulation 5-17AM. In turn, too many properties were classified as compliant while too few properties were classified as at-risk and troubled.
- DHCA recently introduced new regulations (Executive Regulation 1-25) to modify how it classifies multifamily properties. If adopted, ER 1-25 would classify properties based on a standard established by the DHCA Director rather than current requirements. Adopting the initial threshold scores recommended by ER 1-25, however, would likely increase the number of properties classified as at-risk and troubled.

## A. Bill 19-15 Code Enforcement Requirements

There are three key requirements for code enforcement specified under Bill 19-15:

1. Under Section 29-6(h) of the Montgomery County Code, DHCA must annually report data on rental housing inspections;
2. Under Section 29-22(f), DHCA has the authority to revoke rental licenses or to authorize tenants to use up to one month's rent to remediate uncorrected violations; and
3. Under Section 29-22 (g), DHCA is required to charge rental property owners inspection fees if violations are not corrected by the second inspection.

A description of these three code enforcement requirements and DHCA's compliance with each follow.

Overall, OLO finds that DHCA partially complies with Bill 19-15's data reporting requirements but does not utilize its existing authority to remediate uncorrected violations with its "repair and deduct" and license revocation policies. OLO also finds that DHCA does not comply with Bill 19-15's requirement to charge landlords escalating inspection fees if violations are not corrected by the second inspection.

### 1. Section 29-6(h) Data Reporting Requirements and Compliance.

**Rental Housing Inspections.** Section 29-6(h) states: "The Director must report on rental housing inspections to the Executive and the Council by September 1 of each year." This requirement infers that the Director must report on housing inspections for all types of rental properties (e.g. multifamily and single-family units) across the first three code enforcement processes previously described:

- The complaint-driven process;
- The mandated multifamily building process; and
- The proactive code enforcement process for ADUs and federally subsidized rentals.

Chart 5.1 describes the universe of rental housing types across the three code enforcement processes that DHCA should track in its annual reports on rental housing inspections.

**Chart 5.1: DHCA Housing Code Enforcement Processes by Rental Housing Type**

Dwelling Types	Complaint-Driven Inspections	Mandated Multifamily Building Inspections	Proactive Inspections Required for Occupancy
Multifamily Buildings	X	X	
Single-Family Homes	X		
Short-Term Rentals	X		
Accessory Dwelling Units	X		X
Federally Subsidized Rentals	X		X

Yet, DHCA has scoped their annual reports on 29-6(h) to describe data on “troubled properties” and multifamily buildings rather than inspections for all rental properties, inclusive of single-family rentals.<sup>70</sup> As such, DHCA only partially complies with the 29-6(h)’s requirement to report on rental housing inspections. Additional comparisons noted below between 29-6(h)’s specific reporting requirements and what DHCA includes in its annual data reports further demonstrate DHCA’s partial compliance with Section 29-6(h) of the County Code.

**Addresses of Inspected Properties.** Section 29-6(h) states that DHCA’s annual reports include:

- (1) The address of each property inspected during the prior year; and
- (2) The address of each property that has been inspected or is scheduled to be inspected on an annual or triennial basis during the current fiscal year.

Instead of listing the address of every rental property inspected in the past year, DHCA only lists the addresses of properties inspected during mandated multifamily building inspections. Inspections of rentals conducted through the complaint-driven and proactive inspection processes are not reported in the 29-6(h) annual report.

DHCA’s annual reports, however, do meet the requirements of listing the addresses of multifamily buildings scheduled for mandated inspections during the current fiscal year. Overall, DHCA’s annual reports do not comply with 29-6(h)(1)’s reporting requirement (i.e., addresses for prior year inspections for all rental properties) but do comply with 29-6(h)(2)’s reporting requirement (i.e., addresses for mandated inspections).

Of note, DHCA lists the addresses of all properties inspected in the prior year, including rentals, in the eProperty database previously described. Section 29-6(h)(1) however, explicitly states that the “address of each property inspected during the prior year” must be included in the annual report, not in a separate website or database.

**Violations.** Section 29-6(h)(3)(A) requires DHCA to annually report on data for rental units summarizing (i) the number of violations found, (ii) the number of violations corrected, and (iii) the types of violations. Instead of summarizing the number of violations found for all rental properties, DHCA’s recent annual reports only describe the number of code violations among multifamily properties. Moreover, their annual reports do not summarize the number of violations corrected among all rental properties.

DHCA’s annual reports, however, provide violation data summarized for multifamily buildings across four violation types – violations for vermin, mold, smoke alarms and carbon monoxide (CO) alarms. This information, however, is not reported for other rental property inspections. As such, DHCA’s annual reports only partially comply with Section 29-6(h)(3)(A)’s reporting requirements.

**Incomplete Inspections.** Section 29-6(h)(3)(B) requires DHCA’s annual reports on rental housing inspections to describe the status of any incomplete inspections from the prior fiscal year. DHCA’s most recent annual reports, however, have not included this data point. However, DHCA’s earlier annual reports indicated that incomplete inspections among mandated inspections generally did not occur. As such, this reporting requirement is no longer applicable.

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<sup>70</sup> DHCA staff contend that Section 29-6(h) requirements only apply to multifamily properties. OLO concurs that while Section 29-6(h)(2) refers to multifamily properties, Section 29-6(h)(1) refers more broadly to each rental property that DHCA has inspected the prior year: not solely multifamily properties.

**Troubled Properties.** Section 29-6(h)(4) mandates that DHCA’s annual reports describe the following data points for troubled multifamily properties required to enact corrective action plans:

- a. A list of violations found;
- b. A list of violations corrected; and
- c. The status of corrective action plans.

DHCA’s annual reports neither describe the number of violations found among troubled properties nor the number of violations corrected. DHCA’s annual reports also do not describe troubled property owners’ progress in implementing their corrective action plans or in addressing violations. The only information reported on the status of corrective action plans has been whether troubled properties have submitted corrective action plans to DHCA as required by law. As such, DHCA’s annual reports do not comply with Section 29-6(h)(4)’s reporting requirements.

**Citations.** Section 29-6(h)(5) mandates that DHCA’s annual reports describe the number of citations issued to rental property owners. Instead of describing the number of citations issued to all rental properties, DHCA’s annual reports only describe the number of citations issued to multifamily buildings.

As such, DHCA’s annual reports partially comply with Section 29-6(h)(5)’s reporting requirements.

**Fines.** Section 29-6(h)(6) mandates that DHCA’s annual reports describe the amounts of fines collected from each rental property owner during the prior and current fiscal year. In general, DHCA’s initial annual report in FY19 described the amount of fines issued by the courts rather than collected, and for all property owners rather than rental owners specifically.<sup>71</sup> DHCA’s most recent reports have neither reported fines issued nor collected. Instead, they have merely stated that fines issued have been negligible. Thus, DHCA’s annual reports do not comply with Section 29-6(h)(6)’s reporting requirements.

**Rental Complaint Calls by Language.** Section 29-6(h)(7) requires DHCA’s annual reports to describe the number of calls to the County concerning rental housing complaints by language of the caller. DHCA’s annual reports describe the preferred language of housing complainants making 311 calls among all properties, not just rental properties. As such, the data collected and reported by DHCA is broader than the subset of information required by this section. Moreover, the preferred languages of housing complainants are incomplete because 311 operators are not required to record each caller’s preferred language. Instead, operators have the option to record what they perceive as the preferred language of the caller in the 311 system or to leave the language preference field blank.

Additionally, since FY21, DHCA has combined both data points on the number of callers whose preferred language was other than English or Spanish and callers whose language preference was unknown into an “Other” category in its 29-6(h) annual reports. Because DHCA blurs the number of complainants with language preferences other than English or Spanish with the language unknown category and attempts to report preferred languages for all housing complaints rather than for rental housing complaints as required, DHCA’s annual reports, at best, only partially comply with Section 29-6(h)(7)’s reporting requirements.

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<sup>71</sup> DHCA’s FY19 report states the courts issued \$9,175 in fines to two property owners.

**Summary of 29-6(h) Compliance Findings.** Overall, DHCA’s annual reports do not comply with most of Section 29-6(h)’s requirements for reporting data on rental property inspections. This results from DHCA alternately reporting data for some measures for multifamily buildings rather than all rentals while at other times reporting data for other metrics for all properties rather than rentals as specified.

Table 5.1 summarizes DHCA’s compliance with Section 29-6(h). Of the eight data reporting requirements specified, one is no longer applicable. DHCA fully complies with one other requirement, partially complies with four requirements, and does not comply with two requirements.

**Table 5.1: Summary of Section 29-6(h) Reporting Requirements and DHCA Compliance**

<b>Annual Report Data Requirements</b>	<b>DHCA Compliance</b>
Addresses for rental inspections - <i>Section 29-6(h)(1)</i>	<b>No.</b> Data reported excludes non-multifamily rentals, although this data is reported in the eProperty database.
Addresses for scheduled rental inspections - <i>Section 29-6(h)(2)</i>	<b>Yes.</b> Data reported in annual reports.
Number of violations, number corrected, and types of violations - <i>Section 29-6(h)(3)(A)</i>	<b>Partial.</b> FY23 and FY24 annual reports describe the number of violations for multifamily properties but not for other rentals. Reports also describe some violation types for multifamily properties (i.e. vermin, mold, smoke, and carbon monoxide alarm violations). Yet, no data reported on corrected violations.
Status of incomplete inspections - <i>Section 29-6(h)(3)(B)</i>	<b>N/A.</b> Recent annual reports do not report on the status of incomplete inspections because prior reports indicated that most inspections were completed within expected timeframes.
Among troubled properties, number of violations, number corrected, and status of corrective action plans - <i>Section 29-6(h)(4)</i>	<b>Partial.</b> FY23 and FY24 annual reports describe the number of violations for multifamily properties, but not the subset of properties identified as troubled. No data reported on corrected violations for troubled properties nor on status of corrective action plans regarding implementation/outcomes.
Citations issued to rental properties - <i>Section 29-6(h)(5)</i>	<b>Partial.</b> Citation data only reported for multifamily buildings.
Fines collected from rental properties - <i>Section 29-6(h)(6)</i>	<b>No.</b> The FY19 annual report described fines issued to two property owners but not collected. No annual reports have described fines collected from rental properties.
Housing complaint calls by language for rental properties - <i>Section 29-6(h)(7)</i>	<b>Partial.</b> Data reported on all housing complainants instead of just rental housing complainants. Additionally, data only reported for English or Spanish preference, but not for other languages, as this data is combined with data on unknown preferred language in the annual report since FY22.

## 2. Section 29-22(f) DHCA Authorization to Remediate Code Violations and Compliance.

Section 29-22(f) states: “If an inspection indicated that any rental housing does not comply with all applicable laws, the Director must notify the landlord in writing and order correction of each violation within a specified period of time.” It further states: “If the landlord does not correct the violation within the specified period of time, the Director may:”

- (1) Authorize a tenant to have the violation corrected by a state-licensed contractor and deduct the reasonable cost of the repair up to the amount of one month’s rent, or
- (2) Revoke the rental license and take other remedial action.

Similarly, ER 3-18 authorizes tenants, with written authorization from DHCA, to correct violations and deduct the cost of the repair up to one month’s rent.

This provision can only be used after an NOV is issued to the landlord, detailing the violations, and providing a specified time to correct them. If the landlord does not make the repairs in time, DHCA authorizes the tenant to hire a Maryland-licensed contractor to complete the repairs and apply the appropriate deduction.

Yet, as observed on page 32, DHCA has never authorized a “repair and deduct” request from a tenant to correct outstanding violations. Nor has DHCA ever revoked a rental license for uncorrected violations. These findings suggest DHCA is not complying with Section 29-22(f).<sup>72</sup>

## 3. Section 29-22(g) DHCA Reinspection Fees and Compliance.

For multifamily properties specifically, Section 29-22(g) states: “An owner of licensed rental housing notified after initial inspection of a violation of applicable laws must pay the costs of the third and subsequent inspections as established by regulation of the violation is not corrected by the second inspection.” ER 2-17 establishes DHCA’s reinspection fees as follows:

**Table 5.2: Multifamily Rental Property Inspection Fee Schedule**

Inspection Number	Inspection Fee
1 <sup>st</sup> and 2 <sup>nd</sup> Inspection	\$0
3 <sup>rd</sup> Inspection	\$100 for apartment complex and \$25 for each multifamily unit that must be re-inspected
4 <sup>th</sup> Inspection	\$200 for apartment complex and \$50 for each multifamily unit that must be re-inspected
5 <sup>th</sup> Inspection	\$500 for apartment complex and \$125 for each multifamily unit that must be re-inspected
6 <sup>th</sup> and Subsequent Inspections	\$600 for apartment complex and \$250 for each multifamily unit that must be re-inspected

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<sup>72</sup> During technical comments, DHCA’s Code Enforcement staff shared that they are actively working to address this issue in part by collaborating with OLTA to ensure that the law is properly implemented. They are also working with their inspectors to ensure that tenants are informed of their rights and responsibilities. In turn, OLTA has received one complaint related to the repair and deduct process.

Under this provision, DHCA covers the cost of the initial and second inspections for rental housing required to be inspected within each three-year period. However, if a mandated inspection reveals that the property needs a corrective action plan, the property owner must pay for each subsequent reinspection as outlined in the fee schedule above. Additionally, if further inspections are required due to unresolved violations from prior inspections, DHCA will charge reinspection fees.

DHCA is authorized to take legal action against a landlord to recover any unpaid reinspection fees and to revoke their rental license for failing to make timely payments. Yet, DHCA has neither established nor implemented a system for collecting inspection fees due to the loss of key IT staff. As such, DHCA is not complying with Section 29-22(g).

## **B. Executive Regulation 5-17AM Requirements for Troubled Properties**

While Bill 19-15 addresses all rental properties, Executive Regulation (ER) 5-17AM focuses explicitly on establishing a system of mandated inspections for multifamily buildings. Referenced in the County Code under Section 29.04.01.04, ER 5-17AM describes the methodology that DHCA must follow to designate “troubled properties” based on the severity and quantity of the code violations cited during mandated inspections.

A summary of the key components of this regulation and assessment of DHCA’s compliance follows.

Overall, OLO finds that DHCA has not followed its current the methodology for classifying multifamily properties as troubled, at-risk, and compliant as required by ER 5-17AM. DHCA has classifies too many properties as compliant and too few as at-risk and troubled. OLO also finds that the bar that troubled and at-risk properties must meet to become compliant is likely set too high. Further, ER 1-25 recently introduced by DHCA to establish an objective standard for classifying troubled properties may require DHCA to classify more properties as troubled and at-risk than current regulations.

### **1. Methodology for Designating Multifamily Properties**

Executive Regulation 5-17AM establishes the methodology that DHCA must apply to designate multifamily buildings as compliant, at-risk, and troubled. The specific steps that DHCA must apply toward this end follows.

- (a) Distinguish between severity of violation scores and total violation scores.
- (b) Adopt the required methodology for calculating severity of violation scores.
- (c) Adopt the required methodology for calculating total violation scores.
- (d) Use calculations for severity of violation scores and total violation scores to categorize properties inspected between January 2017 and July 2019 as compliant, at-risk, or troubled. Then annually, use the same methodology to classify properties among those inspected that year.
- (e) Annually, calculate and plot the severity score and total violation scores for each multifamily property inspected on an X-Y axis.
- (f) Annually, plot all multifamily properties to show their relative position to one another.
- (g) Annually, calculate the mean total violation scores and severity of violation scores on the X-Y axis.

- (h) Graph data points into four quadrants as follows:
- Northwest Quadrant for high total violation and low severity of violation scores.
  - Northeast Quadrant for high total violation and high severity of violation scores.
  - Southeast Quadrant for low total violation and high severity of violation scores.
  - Southwest Quadrant for low total violation and low severity of violation scores.
- (i) Classify Northeast Quadrant as Troubled.
- (j) Classify Northwest and Southeast Quadrants as At-Risk.
- (k) Within 30 days of designations, DHCA provide written notice to multifamily property owners.
- (l) DHCA inspects Troubled Properties annually.
- (m) Buildings classified as Troubled Properties must successfully complete corrective action plans and move out of the Northeast Quadrant to move off the Troubled Properties list.

## **2. DHCA Compliance with Troubled Properties Regulations**

Apart from the pandemic, DHCA has developed an annual troubled properties list since FY19. Each year, DHCA is required to classify multifamily properties based on the methodology established by ER 5-17AM. Yet, a comparison of this regulation's methodology to the actual designation of properties demonstrates that DHCA is not using the methodology correctly. Moreover, the exact method DHCA uses to classify properties remains unknown.

As observed on page 35, the predicted distribution of properties among the three classifications – troubled, at-risk, and compliant – does not match the actual distribution of properties. The regulations suggest that the largest category reflecting two quadrants should be at-risk properties with the remaining properties designated as either compliant or troubled. Yet, DHCA designates most properties as compliant, classifying three-quarters of multifamily properties into this category when the regulations suggest that about a quarter of properties should be designated as such.

Mathematically, it is impossible to classify most multifamily properties inspected annually as compliant when using average total violation and severity of violation scores to assign properties to the three classifications – compliant, at-risk, or troubled. Justifying the FY24 distribution of multifamily properties where 76 percent are classified as compliant, would require classifying properties in the at-risk SE and NW quadrants as compliant. The number of properties in one quadrant using the Troubled Properties methodology cannot exceed the number of properties in the other three quadrants when the quadrants are established by two averages (i.e., total violations and severity of violation scores) that roughly divide the population into four equal parts.



None of DHCA's Section 29-6(h) annual reports describe the Countywide total violation (TV) and severity of violation (SV) averages used to calculate the four quadrants and classify properties as required by ER 5-17AM.<sup>73</sup> Nor has DHCA ever reported how it plotted total violation and severity of violation scores for multifamily properties to show the relative position of properties to one another as required by ER 5-17AM. DHCA also has not described how properties that have been on the Troubled Properties list in prior years moved out of the Northeast quadrant in later years per OLO's requests.

While the exact methodology that DHCA uses to assign properties to the three categories remains unknown and the distribution of classifications suggest DHCA does not comply with ER 5-17AM. OLO also recognizes that use of this regulation to classify properties is problematic for at least two reasons.

- First, the methodology requires classifying most multifamily properties as non-compliant (i.e. troubled or at-risk) because compliant properties only account for one of four quadrants (i.e., the Southwest Quadrant). Making compliant the majority choice would also require reclassifying the Northwest and Southeast Quadrants from at-risk to compliant.
- Second, the requirement that multifamily properties must move out of the Northeast quadrant to move off the Troubled Property list depends on at-risk or compliant properties worsening to move into the troubled properties designation. Since current regulations establish a ranked list of properties based on the severity and number of violations, multifamily properties classified as troubled cannot move out of the Northeast quadrant unless another property previously in the other quadrants moves into the Northeast quadrant.

OLO further finds that the Troubled Properties regulations as designed for classifying properties may be incompatible with attainable efforts to enable properties to move off the troubled properties list. More specifically, the bar for compliance is likely set too high and should instead be based on an objective standard of housing code performance rather than a relative one based on the housing code performance of other multifamily buildings.

### **3. Proposed Methodology for Designating Multifamily Properties**

In February 2025, DHCA proposed new regulations (Executive Regulation 1-25) to revise its approach to how DHCA designates multifamily buildings as compliant, at-risk, and troubled.<sup>74</sup> Rather than using average TV and SV scores to classify multifamily properties, ER 1-25 would authorize the DHCA Director to determine TV and SV scores for assigning properties. If enacted, ER 1-25 would establish initial TV and SV thresholds of 2.0 and 1.5 respectively. Properties exceeding one of the thresholds would be classified as at-risk and those exceeding both thresholds would be classified as troubled.

Of note, these initial thresholds for ER 1-25 are set below the average TV score of 2.6 and SV score of 2.2 for FY24.<sup>75</sup> If these initial thresholds were adopted, this would likely require DHCA to identify more than a quarter of multifamily properties as troubled and more than half as at-risk.

To be useful, the TV and SV scores used to classify properties should rely on an objective threshold that reflects the actual performance of multifamily properties, the overall distribution of threshold scores, and a goal for what percentage of multifamily properties should be targeted for improvement. For

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<sup>73</sup> Averages for total violations and severity of violation are reported as a lag variable in the Executive's Recommended Operating Budget for DHCA's Code Enforcement budget.

<sup>74</sup> Montgomery County [Executive Regulation 1-25](#), February 1, 2025

<sup>75</sup> Data from [FY26 Recommended Operating Budget and Public Services Program FY26-31](#), page 67-7

example, troubled properties could be defined as the ten (10) percent of properties with the absolute highest TV and SV scores; at-risk properties could be defined as the fifteen (15) percent of properties with the next highest set of TV and SV scores.

## **C. Other Code Enforcement Policies and Regulations**

This subsection outlines additional laws and executive regulations related to rental dwelling maintenance, including condemnation requirements and air conditioning standards.

### **1. Section 26-13, Designation of Unfit Dwellings and Unsafe Nonresidential Structures; Condemnation**

Under Section 26-13 of the County Code, DHCA may condemn any property that:

- Is so damaged, decayed, unsafe, or unsanitary that it poses a serious health or safety hazard to occupants or the public;
- Lacks essential utilities or facilities like lighting, ventilation, heating, water, or sanitation.
- Is a danger to the health or safety of occupants or the public;
- Contains unsafe or faulty equipment, such as boilers, elevators, electrical wiring, or flammable liquid containers, that pose a hazard;
- Has been vacant and unused for its intended purpose for at least one year; or
- Has been cited for five or more violations or is considered a public nuisance.

To condemn a property, DHCA is required to notify the owner and post a warning placard on the property. Occupants must vacate immediately and may not return to the property until DHCA confirms that all health and safety violations have been resolved. Annual data on the number of condemnations made by DHCA are not reported, nor was this information shared with OLO when requested.<sup>76</sup>

Additionally, Bill 18-19 (Relocation Expenses) states that if a rental property is condemned through no fault of the tenant, the lease can be terminated, and the landlord may be required to pay the tenant's relocation expenses. Code Enforcement typically makes this determination in coordination with OLTA, but OLTA is not currently tracking the number of lease terminations due to condemnation.

### **2. Bill 6-19, Termination of Lease**

Bill 6-19 mandates that all rental housing leases in the County must include a provision allowing tenants to terminate their lease if the landlord fails to address a violation affecting the tenant's immediate health and safety within 30 days of receiving a correction order from DHCA.

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<sup>76</sup> During technical review, DHCA staff shared that they are currently developing a comprehensive dashboard that will include data on condemnations.

Under the bill, a tenant could terminate a lease only if DHCA orders a landlord to correct certain violations and the landlord fails to correct them. This tenant protection is prompted only when DHCA finds violations that adversely affect the immediate health and safety of the tenant, including:<sup>77</sup>

- Rodent or insect infestation affecting 20 percent or more units in a building;
- Extensive and visible mold growth on interior walls or surfaces exposed to the occupied space;
- Windows that do not permit a safe means of egress;
- Pervasive and recurring water leaks that result in chronic dampness, mold growth, or personal property damage in more than one unit; or
- Lack of one or more working utilities that is not shut off due to tenant non-payment.

To apply this provision, the tenant must have previously allowed the landlord access to make the required repairs, and DHCA must reinspect the property to confirm the violations have not been corrected.

This bill does not specify any compliance requirements for DHCA. For example, it does not include any reporting or data collection requirements that would enable DHCA to assess the scope and effectiveness of the law. Without these provisions, it is not possible to track how well the law is being implemented or its impact on rental properties and tenants.

### **3. Executive Regulation 4-21, Obligations of Landlord - Air Conditioning**

As described on page 21, ER 4-21 requires rental property owners to regularly service air conditioning units and systems between October and May of each calendar year to ensure that they keep rooms in their rentals below a temperature of 80 degrees from June to September.

This regulation also mandates that rental property owners notify tenants of scheduled services, provide estimates of anticipated repairs, and complete the repair or replacement of air conditioning units within five days if needed between June and September, unless an extension is requested and granted. If a rental unit does not have air conditioning, the regulation requires property owners to install air conditioning units or a new central air condition system within 30 days from the notice of violation.

Like Bill 6-19, ER 4-21 lacks specific compliance requirements for DHCA, such as mandatory reporting or data collection provisions that would allow for an evaluation of the law's scope and effectiveness. While DHCA voluntarily included data on the number of air conditioning complaints in its Troubled Property Reports for FY21 and FY22, no such information was provided in the reports for FY23 or FY24. Without this information, it is difficult to monitor the implementation of the law or assess its impact on rental properties and tenants.

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<sup>77</sup> McMillan, Linda and Mihill, Amanda. June 12, 2019. [Bill 6-19, Landlord-Tenant Relations-Termination of Lease-Tenant and Safety](#). Memorandum.

## Chapter 6. Code Enforcement Data and Performance

This chapter describes data on performance measures tracked by DHCA to monitor its code enforcement efforts. This data comes from two sources: the County Executive's Recommended Annual Operating Budgets and DHCA's annual reports for Section 29-6(h). This chapter also describes some of the limitations of available performance data and additional metrics DHCA should track for accountability.

This chapter is presented in three parts:

- A. Operating Budget Code Enforcement Performance Metrics;**
- B. Performance Data from DHCA Annual Reports on Section 29-6(h); and**
- C. Additional Data Required to Assess DHCA's Code Enforcement Performance**

Several findings emerge from the data and information compiled and reviewed in this chapter.

- The number of DHCA housing inspections post-pandemic exceeded the pre-pandemic number, increasing by 37 percent from 30,217 to 41,142 inspections from FY19 to FY23. During this time frame, on average, mandated multifamily inspections accounted for about a third of all housing inspections, inspections in response to 311 complaints accounted for another fifth of housing inspections, and re-inspections potentially accounted for up to half of housing inspections.
- Between FY19 and FY24, most 311-housing complaints were for non-multifamily/single-family properties rather than multifamily properties. Yet, the number of 311 complaints for single-family properties declined by 65 percent while the number of 311 complaints for multifamily properties increased by 35 percent.
- Between FY18 and FY23, the share of code enforcement service requests resolved within 60 days increased by 6 percent. However, the average number of violations and severity of violations identified among multifamily properties via mandated inspections increased by 85 and 47 percent respectively.
- Between FY19 and FY24, the number of citations issued to multifamily properties increased more than two-fold from 307 to 754 citations with a peak of 2,783 citations for FY23. It remains unclear, however, whether this increase resulted from violations identified through 311-complaints or from mandated multifamily inspections.
- DHCA neither tracks nor reports trend data on violations by type. Nor does DHCA track data on several other key metrics essential to understanding and evaluating its code enforcement performance, including data on the following metrics:
  - 311-complaints that yield notices of violations (NOV's);
  - Mandated multifamily inspections that yield NOV's;
  - NOV's issued by inspection, location, and housing type;
  - Average time of NOV resolution by inspection, location, and housing type;
  - NOV's resolved within deadlines by inspection, location, and housing type;
  - Citations issued for uncorrected NOV's by inspection, location, and housing type;

- Citations resolved before court by inspection, location, and housing type; and
- Fees collected from citations by inspection, location, and housing type.

### A. Operating Budget Performance Metrics

For the FY21 to FY24 Recommended Operating Budgets, DHCA describes the performance of its code enforcement functions across the following measures:

- Number of housing code inspections;
- Number of 311 service requests for housing code enforcement;
- Percent of housing code enforcement service requests being resolved within 60 days;
- Average number of code violations per unit for mandatory multifamily inspections; and
- Average severity of violations per unit for mandatory multifamily inspections.

Table 6.1 describes trend data compiled from the DHCA's annual recommended budgets for each of these performance metrics from FY18 to FY23.<sup>78</sup>

**Table 6.1: Operating Budget Performance Metrics by Fiscal Year, FY18 – FY23**

Performance Metrics	FY18	FY19	FY20	FY21	FY22	FY23	% Change
Housing Code Inspections	30,217	38,789	28,253	27,031	28,185	41,142	36.9%
311 Service Requests	7,870	8,997	6,888	6,428	10,220	6,107	-22.4%
Service Requests Resolved in 60 Days	72.3%	69.6%	61.5%	74.3%	76.4%	76.3%	5.5%
Average Violations/Unit	1.21	1.16	1.64	1.67	2.12	2.24	85.1%
Average Severity of Violations/Unit	1.43	1.58	1.27	1.50	2.60	2.10	46.9%

Sources: Approved Operating Budget and Public Services Program, FY19 – FY25 Budget Books.

Several trends are evident from the code enforcement metrics tracked in the annual operating budget:

- While the number of code inspections declined during the pandemic, the number of inspections post-pandemic exceeded the number of inspections pre-pandemic. Between FY18 and FY23, the number of housing code inspections increased by 37 percent, from 30,217 to 41,142 inspections.
- The number of 311 service requests also declined during the pandemic, and bounced back up in FY22, but declined again in FY23. Overall, the number of 311 service requests diminished by 22 percent, from 7,870 to 6,107 service requests.
- The share of code enforcement service requests resolved within 60 days increased by 5.5 percent, suggesting DHCA increased in responsiveness to housing code complaints.

<sup>78</sup> Data referenced in Table 6.1 extrapolated from County Executive's Recommended Operating Budget. None of the information or data points presented independently verified by OLO.

- The average number of violations and severity of violations per unit identified among mandated inspections of multifamily properties increased by 85 and 47 percent respectively. This suggests living conditions in multifamily buildings have diminished and that DHCA's enforcement efforts have been insufficient for maintaining and advancing housing quality and safety.

## B. Performance Data from DHCA Annual Reports on Section 29-6(h).

Across most of DHCA's annual reports on Section 29-6(h) between FY19 and FY24, DHCA describes performance data across the following code enforcement measures:

- Mandated multifamily inspections – number of properties and units inspected;
- 311 housing complaints – number of calls for multifamily and non-multifamily properties;
- Notices of violations for multifamily properties;
- Code violations for multifamily properties; and
- Citations for multifamily properties.

Table 6.2 describes trend data compiled from DHCA's annual reports for Section 29-6(h) for each performance metric based on available data from FY19 to FY24.<sup>79</sup>

**Table 6.2: Section 29-6(h) Annual Report Performance Metrics, FY19 – FY24**

Performance Metrics	FY19	FY21	FY22	FY23	FY24	% Change
Mandated multifamily (MF) inspections, units	12,946		8,517	15,627	12,122	-6.4%
Mandated MF inspections, properties	283		176	309	209	-26.1%
Number of 311 housing complaints	12,333	5,476	6,377	6,157	5,789	-53.1%
• Multifamily housing complaints	1,441	1,555	1,871	1,742	1,942	34.8%
• Non-multifamily housing complaints	10,892	3,921	4,506	4,415	3,847	-64.7%
Notices of violations, MF				2,896	1,767	
Code violations, MF				30,998	34,486	
Citations, MF	307	151	205	2,783	754	145.6%
Properties with citations, MF	19	20	30	39	90	373.7%

Source: FY19 – FY24 Annual Reports on Section 29-6(h), DHCA

Several trends are evident from the code enforcement metrics tracked in Table 6.2 from FY19 to FY24:

- The overall number of mandated inspections for multifamily properties declined over the past five years, although such inspections peaked in FY23.

<sup>79</sup> Data referenced in Table 6.2 extrapolated from DHCA's annual reports on Section 29-6(h). None of the information or data points presented independently verified by OLO.

- Most 311-housing complaints were for non-multifamily properties (e.g., single-family homes) rather than multifamily properties. Yet, the number of 311 calls for multifamily properties increased by 35 percent while the number for single-family properties decreased by 65 percent. This suggests that multifamily residents are increasingly turning to DHCA to help address code enforcement violations as demand for code enforcement among single-family properties declines.
- The number of citations issued to multifamily properties increased more than two-fold between FY19 and FY24. It remains unclear, however, whether the increase in citations to multifamily properties resulted from violations identified through 311-complaints or from mandated multifamily inspections.

Additionally, DHCA issued approximately 1,800 NOVs in FY24 to multifamily properties for approximately 35,000 observed code violations compared to nearly 2,900 NOVs in FY23 for about 31,000 observed code violations. Data on the number of NOVs and code violations observed among single-family rentals, however, have not been reported by DHCA as required by Section 29-6(h), nor has data on the number of corrected violations for any rentals as required.

Table 6.3 compiles data points from Tables 6.1 and 6.2 to describe the shares of DHCA housing code inspections undertaken as mandated inspections of multifamily properties and in response to 311 housing complaints. OLO categorized the remaining inspections as potential re-inspections to follow up NOVs issued for mandated multifamily or complaint-based inspections.

A review of the data suggests the following:

- Mandated multifamily inspections accounted for about a third of DHCA's housing inspections between FY19 and FY23;
- Inspections in response to 311 housing complaints accounted for about a quarter of DHCA's annual housing inspection during this time frame; and
- Re-inspections in response to 311 complaints and mandated multifamily inspections potentially accounted for a third to nearly a half of DHCA's annual housing inspections from FY19 to FY23.

**Table 6.3: Estimated Housing Code Inspections by Function, FY19 – FY23**

<b>Performance Metrics</b>	<b>FY19</b>	<b>FY21</b>	<b>FY22</b>	<b>FY23</b>
Housing Code Inspections	38,789	27,031	28,185	41,142
Mandated multifamily (MF) inspections, units	12,946		8,517	15,627
<b>Mandated MF inspections as % of total inspections</b>	<b>33.3%</b>	--	<b>30.2%</b>	<b>38.0%</b>
Number of 311 housing complaints	12,333	5,476	6,377	6,157
<b>311 housing complaints as % of total inspections</b>	<b>31.8%</b>	<b>20.3%</b>	<b>22.6%</b>	<b>15.0%</b>
Number of potential re-inspections	13,510	--	13,291	19,358
<b>Potential re-inspections as % of total inspections</b>	<b>34.8%</b>	--	<b>47.2%</b>	<b>47.1%</b>

The share of DHCA re-inspections conducted in response to 311 complaints versus mandated multifamily inspections remains unknown since it is not publicly reported. Nevertheless, the potential share of housing code inspections undertaken as re-inspections is significant, as it signals that violations are possibly not corrected in a timely fashion and residents are being burdened by uncorrected violations for long periods of time. Moreover, DHCA's failure to charge re-inspection fees as required by County law also suggests that the County may be forgoing an opportunity to raise revenue to help improve its code enforcement work and to also redirect resources spent on re-inspections to more effective uses.

DHCA's annual reports on Section 29-6(h) also described the preferred language of code enforcement complainants. Table 6.4 describes trend data for code enforcement service requests by preferred language based on available data from FY19 to FY24.<sup>80</sup>

**Table 6.4: Code Enforcement Service Requests (Calls) by Preferred Language, FY19 – FY24**

	FY19	FY21	FY22	FY23	FY24	% Change
English preferred	7,155	4,169	6,562	6,001	5,960	-16.7%
Spanish preferred	479	491	584	660	759	58.5%
Other language preferred	719					
Unknown preference	3,980					
Other language/preference unknown	4,699	927	656	2,952	3,293	-30.0%
<b>Total service requests</b>	<b>12,222</b>	<b>5,587</b>	<b>7,802</b>	<b>9,613</b>	<b>10,012</b>	<b>-18.1%</b>

Source: FY19 – FY24 Annual Reports on Section 29-6(h), DHCA

The preferred language of callers who make code enforcement requests is tracked as English, Spanish, or Other Language/Preference Unknown. Although Section 29-6(h) requires DHCA to track housing complaints by preferred language, 311 operators are not required to enter the preferred language of housing complainants into the 311 system. As such, data on the preferred language of housing complainants is incomplete since the preferred language for many callers is not collected by 311. Further, if the preferred language is other than English or Spanish, it has been merged into the other category inclusive of unknown language preference since FY21.

Despite data limitations in how the preferred language of housing complainants are tracked, a few trends are evident from available data reported in Table 6.4:

- Among callers whose language preference was known, 86 to 92 percent of callers preferred English compared to 6 to 11 percent of callers who preferred Spanish;
- For the one year when other language preference was reported (FY19), nearly 9 percent of code enforcement callers' preferred language was other than English or Spanish;
- The overall number of code enforcement service requests are down since FY19 but have increased annually since the end of the pandemic;

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<sup>80</sup> OLO observes that 311-housing complaints described in Table 6.2 tracks with the number of service requests described in Table 6.4 for FY19 and FY21. However, the number of service requests for FY22 through FY24 exceeds the number of 311-housing complaints significantly. OLO cannot explain the difference but suspects that an increasing number of service request calls reflects questions from residents about open code enforcement cases.



- The decline in English preferred calls has driven the overall decline in code enforcement service requests since FY19; and
- The increase in Spanish preferred calls have helped to offset the overall decline in code enforcement service requests since FY19.

### C. Additional Data Required to Assess Code Enforcement Performance

Generally, OLO finds that the data reported from available sources are insufficient to assess DHCA's code enforcement performance. As observed in the prior chapter, DHCA does not fully comply with County law under Section 29-6(h) because it does not annually report:

- Among all rental properties, the number of code violations found, the number of violations corrected, the type of violations found, the number of citations issued to rental property owners, and the value of fines collected by each;
- Among all rental property complainants, the number of calls by the preferred language of the caller; and
- Among troubled rental properties, a list of violations found, violations corrected, and the status of their corrective action plans.

OLO further finds that assessing DHCA's code enforcement performance requires the compilation and review of additional metrics to describe key code enforcement processes and outcomes. At minimum, this would include data on the following code enforcement metrics:

- **Initial inspections** by code enforcement process (e.g. complaint-driven, mandated multifamily inspections) and housing type (e.g. single-family, multifamily);
- **First notices of violation (NOV1)** by inspection, violation, location, and housing type;
- **NOV1 corrected by required deadlines** by inspection, violation, location, and housing type;
- **NOV1 not corrected by deadlines** by inspection, violation, location, and housing type;
- **Second notices of violation (NOV2)** by inspection, violation, location, and housing type;
- **NOV2 corrected** by inspection, violation, location, and housing type;
- **NOV2 not corrected** by inspection, violation, location, and housing type;
- **Code enforcement tools used to address uncorrected violations** (e.g. clean and liens, condemnations, lease terminations) by inspection, violation, location, and housing type;
- **Citations issued for outstanding violations** by inspection, violation, location, and housing type;
- **Citations dismissed before court** by inspection, violation, location, and housing type; and
- **Court enforcement actions** by inspection, violation, location, and housing type.

## Chapter 7. Key Stakeholder Perspectives

To understand how varying stakeholders experience code enforcement in Montgomery County, OLO interviewed both tenants and representatives of community-based organizations (CBOs) in addition to DHCA staff and leaders. OLO also conducted an online survey of rental property license holders across the County to solicit their perspectives on code enforcement in the County. Both the interviews and surveys elicited open-ended responses to two key questions:

- From your vantage, what does Code Enforcement do well in the County?
- What does Code Enforcement not do well and should improve?

The interviews with tenants and representatives of CBOs also elicited recommendations for improving code enforcement processes and outcomes in the County.

This chapter is presented in two parts to describe key stakeholders' perceptions of code enforcement:

- A. Property Owner's Perspectives**, summarizes the results of OLO's survey of rental license holders for single-family and multifamily properties; and
- B. Other Stakeholder's Perspectives**, summarizes DHCA staff, tenants, and CBO's perceptions of code enforcement based on OLO interviews with each stakeholder group.

Four key findings emerge from the information compiled and reviewed in this chapter.

- Rental property owners generally have a favorable impression of code enforcement in the County and DHCA more broadly, whether they have been inspected by DHCA or not.
- Tenants participating in focus groups and representatives of CBOs, however, have a less favorable view of code enforcement in the County. Common concerns include a fear of retaliation among tenants from property owners for reporting code violations, an under-reporting of violations, and a lack of responsiveness by DHCA and property owners when formal complaints are made.
- DHCA staff recognize that they primarily rely on a reactive approach to enforcing the County's housing code and to engaging with tenants to develop code enforcement policies and practices. They also recognize that some tenants experience delays in code enforcement.
- Collectively, tenants and CBO representatives offered 11 recommendations for County and DHCA action to improve code enforcement operations and performance in Montgomery County.

### A. Property Owners Perspectives

In March and April 2024, OLO surveyed rental license holders regarding their experiences with DHCA and perceptions of code enforcement in Montgomery County. Using emails from DHCA's licensing databases, OLO sent online surveys to rental licensees for 12,656 single-family and 527 multifamily properties. A summary of results from each survey group follows.

**Summary of Survey Results from Single-Family Property Owners and Managers.** Summary statistics and key findings from the single-family rental properties survey follow.

- **The single-family rental property survey response rate was 17 percent:** OLO received 2,105 responses to the 12,656 surveys sent to single-family rental properties.

- **Most single-family rental respondents were property owners.** Among the 2,105 respondents indicating their roles, 92 percent were property owners and 6 percent were property managers.
- **Single-family rental property respondents represented every major area of the County.** Among the 1,971 respondents indicating the location(s) of their single property rentals:
  - 24 percent of single-family rentals were in Silver Spring;
  - 18 percent of single-family rentals were in Germantown;
  - 14 percent of single-family rentals were each in Bethesda and Gaithersburg; and
  - 13 percent of single-family rentals were in Rockville.
- **Most single-family rental property respondents were White or Asian.** Among the 1,412 single-family rental property respondents that provided information about their racial identity:
  - 46.4 percent were White;
  - 34.1 percent were Asian;
  - 11.2 percent were Black or African American;
  - 9.7 percent were some other race;
  - 0.8 percent were Native American or Alaskan; and
  - 0.4 percent were Native Hawaiian or other Pacific Islander.

Among the 1,405 single-family rental property respondents who shared their ethnicity, 8.6 percent were of Latinx or Hispanic origin and 91.4 percent were not.

- **Most single-family rental property respondents rated their experiences with DHCA favorably.** Among the 1,451 respondents rating their experience with DHCA's Code Enforcement Section:
  - 28 percent rated their experience as excellent;
  - 41 percent rated their experience as good;
  - 13 percent rated their experience as fair;
  - 3 percent rated their experience as poor; and
  - 2 percent rated their experience as very poor.

Among the single-family rental respondents who rated their experiences with DHCA as favorable, specific aspects of the code enforcement process recognized as working well included inspectors' fairness and impartiality, reliable communication, enhanced safety through inspections, a user-friendly website, and a straightforward inspection procedure.

- **Since most single-family rentals have not been inspected over the past two years, single-family rental property owners' favorable ratings of DHCA likely reflect their overall experiences with DHCA rather than their experiences with code enforcement.** Among the 1,882 responses to the question of whether their single-family rental had been inspected over the past two years, only 25 percent indicated they had been inspected compared to 75 percent that had not.
- **Among single-family rentals, smoke and carbon monoxide detectors accounted for a third of code violations.** Among the 183 single-family rental responses to what alleged code violations were found during the most recent code enforcement inspection:
  - 20 percent reported broken or missing smoke detectors;
  - 11 percent reported broken or missing carbon monoxide alarms;
  - 8 percent reported broken appliances;
  - 6 percent reported leaking pipes;
  - 5 percent reported tall grass violations; and
  - 4 percent each reported mold and water damage.<sup>81</sup>
- **Communication and fewer requirements were cited as opportunities for improving DHCA operations among a subset of single-family respondents.** Among the 303 single-family surveys with responses to the question of what aspects of DHCA's code enforcement process have not worked well and could be improved:
  - 40 percent cited deficient communication with code inspectors;
  - 19 percent cited too many requirements and regulations;
  - 12 percent cited inconsistent enforcement of the laws;
  - 7 percent cited inconsistent webpage content and functionality; and
  - 6 percent cited insufficient support for rental property owners.

**Summary of Survey Results from Multifamily Property Owners and Managers.** Summary statistics and key findings from the multifamily properties survey follow with comparisons to results from the single-family rental property survey when relevant.

- **At 15 percent, the multifamily rental property survey response rate was similar to the response rate for the single-family rental survey:** OLO received 79 responses to the 527 surveys sent to multifamily rental properties.
- **A larger share of multifamily rental respondents were property managers compared to single-family respondents.** Among the 79 multifamily respondents indicating their roles, 41 percent were property managers and 54 percent were property owners.

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<sup>81</sup> Broken appliance, broken door locks, broken mailboxes, unsafe trees, and other violations each accounted for less than four percent of total violations.

- **Multifamily rental property respondents were concentrated in Silver Spring and Takoma Park.** Among the 72 respondents indicating the location(s) of their multifamily properties:<sup>82</sup>
  - 43 percent were in Silver Spring;
  - 35 percent were in Takoma Park;
  - 14 percent were in Gaithersburg;
  - 11 percent were in Rockville;
  - 10 percent were in Kensington; and
  - 8 percent were in Bethesda.
- **Most multifamily rental property respondents were White.** Among the 53 multifamily rental property respondents that provided information about their racial identity:
  - 62.3 percent were White;
  - 20.8 percent were Black or African American;
  - 13.2 percent were some other race;
  - 7.6 percent were Asian; and
  - 0.0 percent were Native American, Alaskan, Hawaiian, or other Pacific Islander.

Among the 55 multifamily rental property respondents who shared their ethnicity, 14.6 percent were of Latinx or Hispanic origin and 85.5 percent were not.

- **Like single-family rental property respondents, most multifamily property respondents rated their experiences with DHCA favorably.** Among the 64 multifamily respondents rating their experience with DHCA's code enforcement section:
  - 33 percent rated their experience as excellent;
  - 23 percent rated their experience as good;
  - 28 percent rated their experience as fair;
  - 5 percent rated their experience as poor; and
  - 11 percent rated their experience as very poor.

Among the multifamily property respondents who rated their experiences with DHCA as favorable, specific aspects of the code enforcement process recognized as working well were like those recognized by single-family property respondents: reliable communication with inspectors, their professionalism, and improved safety through inspections.

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<sup>82</sup> Locations exceed 100 percent as some property owners and managers have rental properties in multiple locations across the County.

- **Unlike single-family property respondents, multifamily property respondents' favorable ratings of DHCA likely reflect their experiences with code enforcement because most of their properties were inspected over the past two years.** Among the 73 responses to the question of whether their multifamily properties had been inspected over the past two years, 93 percent indicated that they had been inspected compared to 7 percent that had not.
- **Like single-family rentals, smoke and carbon monoxide detectors accounted for a third of violations among multifamily properties. However, unlike single-family rentals, pest infestations accounted for nearly another quarter of violations.** Among the 48 multifamily property responses to what alleged code violations were found during the most recent code enforcement inspection:
  - 23 percent reported pest infestations;
  - 19 percent reported broken or missing smoke detectors;
  - 17 percent reported broken or missing carbon monoxide alarms;
  - 17 percent reported broken appliances;
  - 15 percent reported overcrowded conditions; and
  - 15 percent reported electrical problems.
- **Like single-family respondents, communication and fewer requirements were cited as opportunities for improving DHCA operations among multifamily property respondents.** Among the 33 multifamily surveys with responses to the question of what aspects of DHCA's code enforcement process have not worked well and could be improved:
  - 33 percent cited deficient communication with code inspectors;
  - 18 percent cited too many requirements and regulations;
  - 18 percent cited insufficient support for rental property owners;
  - 15 percent cited the need to prioritize violations; and
  - 9 percent cited difficulty in scheduling inspections and reinspections.

## **B. Other Stakeholders Perspectives**

OLO interviewed dozens of individuals between December 2023 and May 2024 regarding their perceptions of code enforcement in Montgomery County across the following three groupings:

- **DHCA staff members** that include its director and assistant director, the directors of Code Enforcement and Office of Tenant and Landlord Affairs, and the community engagement liaison. These interviews were convened virtually. OLO also rode along with four code inspectors to understand their day-to-day responsibilities and to solicit their perspectives on DHCA's code enforcement policies and practices.
- **Tenants** from five focus groups co-convened with Everyday Canvassing with 40 participants. Four focus groups were convened in person with one in Spanish and another in English with translation in Amharic. A fifth focus group was convened online primarily with tenants from the Enclave in Silver Spring. Among the 29 in-person participants that provided demographic data:

- 55.2 percent were Black or African American;
- 37.9 percent were Latinx or Hispanic;
- 6.9 percent were White;
- 3.4 percent were Asian; and
- 75.9 percent were foreign-born.
- **Community-Based Organizations (CBOs)** that assist residents with housing. OLO interviewed representatives from four CBOs for this project: NAACP, CASA, Renter’s Alliance, and Everyday Canvassing. Three interviews were convened virtually, and the fourth was convened in person.

This section is presented to describe the common themes that respondents raised regarding:

- The status of code enforcement in Montgomery County
- What works well in local code enforcement?
- What does not work well in local code enforcement?
- Recommendations for improving local code enforcement

Chart 7.1 summarizes the responses to these four prompts by stakeholder group.

**Chart 7.1: Overview of Stakeholder Perspectives on DHCA Code Enforcement**

	DHCA Staff	Tenant Focus Groups	Community Organizations
Status of Code Enforcement in Montgomery County	<ul style="list-style-type: none"> <li>● DHCA code enforcement activities reactive</li> <li>● Standard operating procedures in development</li> <li>● Delays in code enforcement</li> </ul>	<ul style="list-style-type: none"> <li>● Unresponsive property managers and owners</li> <li>● Tenants unfamiliar with County laws</li> <li>● DHCA focus on exterior v. interior violations</li> <li>● Pandemic’s impact</li> <li>● Tenants harmed by uncorrected violations</li> </ul>	<ul style="list-style-type: none"> <li>● Poor living conditions in East County rentals</li> <li>● Fear of retaliation</li> <li>● Property manager turnover</li> <li>● Self-evictions</li> <li>● Lack of standards</li> <li>● Potential weaponization of code enforcement</li> </ul>
What Works Well?	<ul style="list-style-type: none"> <li>● Perception most code complaints resolved in a timely fashion</li> <li>● DHCA inspections can be effective at encouraging managers to correct violations</li> <li>● Perception DHCA code enforcement better than Prince George’s &amp; Baltimore City</li> <li>● DHCA inspection reports useful for tenants as evidence in OLTA and legal cases</li> </ul>		
What Does <u>Not</u> Work Well?	<ul style="list-style-type: none"> <li>● Data dashboard</li> <li>● Community engagement</li> <li>● DHCA staffing for strategic planning</li> <li>● Staff turnover among inspectors</li> </ul>	<ul style="list-style-type: none"> <li>● Delays and lack of responsiveness</li> <li>● Code enforcement process burdens tenants</li> <li>● Complaints can lead to displacement</li> <li>● Code enforcement does not address public safety</li> </ul>	<ul style="list-style-type: none"> <li>● Violations under-reported</li> <li>● Root causes unaddressed</li> <li>● Inspections for subset of rental units</li> <li>● DHCA communications with tenants</li> <li>● Citations insufficient to induce compliance</li> </ul>

Recommendations for Improving Code Enforcement	<p>Tenants' and CBOs' recommendations for County action:</p> <ul style="list-style-type: none"> <li>• Provide resources to abate public health code violations</li> <li>• Adopt fees to sanction code non-compliance</li> <li>• Create an ombudsman position for code enforcement</li> <li>• Adopt just cause evictions law</li> </ul> <p>Tenants' and CBOs' recommendations for DHCA action:</p> <ul style="list-style-type: none"> <li>• Adopt a more proactive approach to code enforcement</li> <li>• Increase training for code inspectors</li> <li>• Solicit renters' perspectives in code enforcement policy development &amp; operations</li> <li>• Improve communications with tenants</li> <li>• Require inspectors to privately communicate with tenants</li> <li>• Use technology to improve code enforcement processes and outcomes</li> </ul>
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## 1. Status of Code Enforcement in the County

OLO interviewed DHCA staff, tenant focus group members, and representatives of several CBOs regarding their perceptions of code enforcement in Montgomery County. This subsection is presented in three parts to describe the common themes that respondents raised regarding their perceptions across each stakeholder group.

**DHCA Staff Perceptions.** Three themes emerged from OLO's interviews with DHCA staff.

- **DHCA code enforcement efforts are reactive and often exclusive.** DHCA's day-to-day operations often respond to immediate needs rather than achieving strategic goals. For example, DHCA's recent code enforcement efforts have centered on implementing several new laws rather than understanding and improving code enforcement outcomes. Further, the development and implementation of new laws often reflect community feedback that was not inclusive. For example, DHCA received feedback on proposed legislation and executive regulations via comments and testimony from property owners and associations rather than from renters. Conversely, renters often offer DHCA feedback on policy after it's enacted. For example, DHCA heard from tenants after the window guard law was implemented, complaining the property's compliance disabled their ability to open windows in their units.
- **Standard operating procedures are in development.** DHCA is currently developing SOPs to inform its day-to-day operations. Draft SOPs have been developed for code inspectors to conduct complaint-driven inspections and mandated inspections for multifamily housing. SOPs for court appearances and accessory dwelling units have also been drafted. The timeline for completing these SOPs is unknown. Once finalized, DHCA will use their SOPs to train new and existing code enforcement personnel.
- **Code enforcement has experienced delays since the pandemic.** DHCA acknowledged an increased delay in the resolution of some code enforcement cases. Before COVID, the time frame from citations to their adjudication in court was two to three months. Post-pandemic, the timeframe from citation to court has increased to six to eight months. Because some property owners wait until right before their court date to correct code violations, this has extended the length of time some residents experience uncorrected violations. According to DHCA, approximately 70 percent of citations are resolved before their court date.

**Tenant Perceptions.** Five themes emerged from the tenant focus groups.



- **Some property managers are unresponsive to tenants' complaints of code violations.** The first line of defense recommended by DHCA for addressing code violations in rentals is for a tenant to contact their landlord. Yet, many tenants interviewed in focus groups shared that their property managers were often unresponsive to their requests for repairs and maintenance and, at best, only responded to complaints if they were made to DHCA. Others indicated that some rental property owners, motivated by corporate interests, flagrantly break the law by not abiding by the County's housing code and correcting violations cited by DHCA.
- **Many tenants are unfamiliar with County laws and code enforcement functions.** More than half of the tenants interviewed were unfamiliar with the County's housing code and code enforcement responsibilities. Most tenants were unaware they could use 311 to make code violation complaints. There were also tenants who suffered uncorrected code violations for extended periods of time that were never reported to DHCA. This appears to be a part of a broader confusion that tenants have regarding rental policies in the County, their rights, and the distinction between Code Enforcement and OLTA. For example, some tenants questioned whether it was legal for landlords to require tenants to purchase renters' insurance or to raise rents at rates that outpaced inflation.
- **Code enforcement is focused on exterior rather than interior violations.** Several tenants shared their belief that DHCA was more focused on and more responsive to tall grass and vehicle violations than to interior violations that often reflect public health concerns. Some long-term tenants who had resided in the same unit for more than ten years also indicated their units had never been inspected by DHCA despite residing in a troubled property that requires annual DHCA inspections.
- **Code violations worsened during the pandemic.** Several tenants reported code violations in multifamily housing worsened during the pandemic. DHCA was prohibited from conducting interior code enforcement inspections during the pandemic from 2020 until 2022.
- **Tenants suffer the consequences of uncorrected violations.** Tenants in communities with uncorrected code violations reported experiencing housing post-traumatic stress as a result. For example, residents of the Enclave observed the injustice of placing households in non-livable conditions but requiring them to pay their rent on time every month.

**Community-Based Organizations Perceptions.** Six themes emerged from these interviews.

- **Poor living standards exist in many East County apartment buildings.** CBO representatives indicated that they see a lot of code violations and enforcement issues in East County apartment buildings built in the 1960's and 1970's. They and the predominantly BIPOC tenants they have worked with have observed mold, infestations, broken elevators, and poor living conditions that compromise residents' health.
- **Tenants fear retaliation for making complaints.** CBO representatives indicated that many renters fear retaliation from reporting code violations to DHCA. Because interior code violation complaints cannot be made anonymously, residents understand that property owners will know which tenants have complained to DHCA based on the location of the complaint. Some tenants also fear that they cannot be truthful with inspectors when property managers to accompany them during inspections which is standard DHCA practice. Specific forms of retaliation feared among tenants include being forced to move to lesser quality units, having their rent increase, or not having their lease renewed.

- **There is high property manager turnover among multifamily properties.** Several CBO representatives indicated that high turnover of property manager companies and staff among rental properties is often a sign of poor responsiveness to renters' complaints and the persistence of uncorrected violations. They reported this is a scenario they increasingly see in the County. One CBO representative also observed that high property manager turnover can also put the financial information of residents at risk.
- **Self-evictions often occur due to code violations.** CBO representatives also indicated that many tenants frustrated with nonresponsive property managers and uncorrected violations self-evict and move out of their rentals because the formal code enforcement process is not worth the hassle. They further observe that self-evictions usually increase tenants' housing costs as they must pay more to reside in properties that abide by the housing code. This choice to self-evict, however, is often not viable for housing-burdened households and undocumented lease holders.
- **A lack of standards characterizes code enforcement inspections and processes.** Some CBO representatives observed that DHCA does not utilize a common rubric or inspection form when conducting mandated inspections of multifamily properties. Thus, they are unclear how DHCA captures information about inspections. Through the course of shadowing multifamily inspections, they observed that inspection results varied by inspector among units with common code violations.
- **Some fear that code enforcement has been weaponized against renters in single-family communities.** CBO representatives shared their fear that in communities with single-family rentals (such as Wheaton), code enforcement has been weaponized by neighbors who make anonymous calls to 311 with complaints about tall grass violations or too many vehicles with an aim of reducing the number of renters in their communities.

## 2. What is Working Well?

In interviews with DHCA staff, tenants, and CBO representatives, OLO posed the question of what is working well in the County relative to code enforcement. Four positive attributes of DHCA's Code Enforcement operations emerged from these interviews.

- **Complaints received by DHCA tend to be resolved in a timely fashion.** CBO representatives remarked that complaints of code violations appear to be resolved by DHCA in a timely fashion when complaints are made.
- **Complaints to code enforcement encourage property managers to correct code violations initially reported to them by tenants.** Several tenants in focus groups shared that their property managers only responded to their housing complaints after being contacted by DHCA in response to 311 complaints. They relayed that their property managers did not respond to complaints made directly by tenants, especially if the complaints were made in-person or over the phone.
- **Code enforcement in Montgomery County is better than in Baltimore City and Prince George's County.** DHCA staff and CBO representatives familiar with code enforcement in other jurisdictions observed that code enforcement in the County works better than in Baltimore City and Prince George's County. They observed DHCA can make a difference and assist tenants, unlike in Baltimore City. They also observed that Montgomery County does a better job of tracking 311 calls for housing complaints than Prince George's County.

- **Code enforcement inspection reports are useful in legal cases and OLTA investigations.** CBO representatives remarked that tenants often rely on code enforcement inspection reports to help document defective tenancies investigated by OLTA. They also noted they are useful in legal cases when courts adjudicate citations for code violations.

### 3. What is Not Working Well?

In interviews with DHCA staff, tenants, and CBO representatives, OLO posed the question of what is not working well in the County relative to code enforcement. This section is presented in three parts to describe responses to this question for each stakeholder group.

**DHCA Staff Perceptions.** Four themes emerged from OLO's interviews with DHCA staff regarding what is not working well with code enforcement in the County and potential opportunities for improvement.

- **DHCA data dashboards.** DHCA staff reported that it does not have a data dashboard for code enforcement that is useful to the community. They observed that the community cannot interact with Socrata, which is subpar and not user-friendly. Current data available via dataMontgomery is not useful for analyzing or understanding DHCA's code enforcement outcomes or performance.
- **Proactive community engagement, particularly with renters and BIPOC residents.** DHCA staff observed that they need more proactive community engagement with renters and BIPOC residents to better inform and improve its code enforcement policies and practices.
- **Staffing to support strategic improvements.** In addition to the loss of information technology staff who developed and helped maintain its code enforcement App, DHCA leadership observed that they also do not have any staff with GPS skills that could help support strategic planning and improvements in code enforcement.
- **Staff turnover among veteran code inspectors.** DHCA staff noted that their veteran code inspectors are often recruited to the Department of Permitting Services, which offers higher pay grades than DHCA. Staff turnover among experienced inspectors has been an ongoing challenge for DHCA.

**Tenant Perceptions.** Four themes emerged from OLO's interviews with tenant focus groups regarding what is not working well with code enforcement and potential opportunities for improvement.

- **Delays and lack of responsiveness in code enforcement.** In focus groups, some tenants shared they have called 311 to request inspections but received no response. Others have observed that apartments described as inhabitable by code inspectors during mandated inspections were nevertheless inhabited post inspections. Some tenants also expressed dissatisfaction with code enforcement responses when issues were not resolved, and tenants were not updated. Other tenants noted the inconsistency in standards applied to inspections and some inspectors' unwillingness to abide by requests to take off shoes before conducting inspections. Others observed that despite repeated complaints to 311, their living conditions and the quality of their rental housing have not improved.

- **The code enforcement process over burdens tenants.** Tenants observed when they call 311, it can take weeks for code enforcement to inspect the problem. By the time initially reported violations are addressed, new, more significant violations may arise. Further, when an inspection in response to a complaint or a mandated inspection occurs, the tenant must make themselves available for the inspection and often must take off work to do so. Similarly, if a citation goes to court, the tenant must take off additional time. Thus, the code enforcement process places both time and financial burdens on tenants, many of whom are already housing cost burdened given the limited supply of affordable housing across the County.
- **Complaints to code enforcement can lead to displacement.** Tenants observed code enforcement complaints for rental properties can lead to condemnations that displace them. Tenants also observed that advocacy for code enforcement can increase their risk for displacement if building renovations to correct code violations lead to condominium conversions or increased rents.
- **Code enforcement does not address public safety.** Tenants also observed code enforcement does not address public safety concerns within multifamily properties. Tenants noted that property managers are not always responsive to public safety concerns shared by residents.

**CBO Perceptions.** Five themes emerged from OLO's interviews with CBO representatives regarding what was not working well with code enforcement and opportunities for improvement.

- **Violations are likely underreported among tenants.** Representatives of CBOs believe that code violations among rental properties are underreported across the County for at least two reasons. First, many tenants are unfamiliar with the County's housing laws and code enforcement functions. So, when they experience code violations, they do not know they can contact 311 to request an inspection. Second, many tenants who are familiar with code enforcement in the County do not initiate inspections because they fear retaliation from their landlords.
- **The underlying causes of code violations are often not addressed.** Several CBO representatives observed that the underlying drivers of code violations were often not addressed during the code enforcement process, so code violations often continue despite their DHCA-sanctioned resolution. They observed that cursory inspections by DHCA and superficial corrections by landlords can leave underlying causes of code violations unaddressed. For example, cursory unit inspections during daylight hours can fail to cite roach infestations. Mandated inspections of large complexes that allocate only a few minutes per unit can also miss code violations. Moreover, many older buildings with persistent code violations may require renovations to correct the root causes of code violations rather than cosmetic upgrades often endorsed by code inspectors.
- **DHCA only inspects a subset of County apartments.** Several CBO representatives contend that DHCA should inspect every unit in every apartment building across the County to ensure their compliance with the County Code. They observe that a complaint-driven process is insufficient because some tenants will not complain about code violations due to fear of retaliation, especially elderly tenants. They also observe that the mandated multifamily inspection process is insufficient because it only requires the inspection of every unit in troubled properties as compared to a subset of units in at-risk and compliant properties. As such, there are some units in that have never been inspected by DHCA, and thus their compliance with the County's housing laws remains unknown.

- **Communication with DHCA about code enforcement is often inadequate.** Several CBO representatives shared that the tenants they work with often have a difficult time reaching code enforcement inspectors to address questions. They also observed many requests for information about housing complaints routed through 311 are left unaddressed.
- **Citations alone may be insufficient to encourage code compliance.** CBO representatives observed that citations for code violations issued by DHCA may be insufficient to compel or encourage code compliance. One representative shared they thought \$500 citations were likely too low to motivate compliance among larger property owners and that the minimum citation for such properties should be set at \$1,000. Conversely, another representative thought that \$500 citations may be too high to encourage compliance among small property owners. Both representatives encouraged the use of other code enforcement tools, such as abatements or credits, to increase rental property owners' compliance with the County's housing code.

### C. Stakeholders' Recommendations

In interviews with tenants and CBO representatives, OLO asked respondents what actions they would recommend that the County and/or DHCA adopt to improve code enforcement. This section is presented in two parts to describe four recommendations for County action and six recommendations for DHCA action offered by tenants and CBO representatives.

#### 1. For County Action

- **Provide sufficient resources to DHCA to abate uncorrected code violations.** Specific actions toward this end include funding DHCA to repair interior code violations that compromise public health, analogous to how they respond to tall grass violations, and having the County purchase the Enclave and abate all its code violations to help safeguard the County's supply of affordable housing.
- **Adopt fees to sanction non-compliance for uncorrected violations.** Over and above citations, DHCA should issue fines and fees for not correcting code violations within established timelines. This could include adding fees for non-compliance to the existing fee schedules for re-inspections for multifamily buildings and vacant properties.
- **Create an ombudsman position for code enforcement** analogous to the ombudsman at the Housing Opportunities Commission to address residents' questions and help resolve code enforcement issues.
- **Adopt just cause eviction law** that limits evictions to violations of leases or housing for relatives or the property owner to reduce the risk of retaliation and displacement resulting from code enforcement. Adopting this recommendation requires a change in state law.

#### 2. For DHCA Action

- **Adopt a more proactive approach to code enforcement.** Specific actions recommended include requiring code enforcement to inspect units before renewing rental licenses and in between leases, providing tenants and would-be new lease holders inspection reports, requiring property owners to correct violations before beginning new leases and renewing rental licenses, and using random inspections to identify and correct code violations that adversely impact public health, especially in multifamily properties.

- **Increase training for code inspectors**, particularly on construction and building standards, to identify and require property owners to address the root causes of code violations.
- **Solicit renters' perspectives on code enforcement** policy development, operations, and performance. Specific actions recommended include creating listening sessions and other opportunities for tenants and other residents to share their code enforcement experiences and concerns in facilitated forums.
- **Improve communications with tenants and access to information on tenants' rights.** Specific actions recommended include requiring property owners and managers to provide tenants with resource lists of who they can contact when something goes wrong in their unit as part of their leases (including contacting DHCA through 311) and requiring DHCA to provide post-inspection reports to tenants after each code enforcement inspection and re-inspection.
- **Require code inspectors to privately communicate with tenants** during inspections. A related recommendation is to require code inspectors to discuss findings with tenants before communicating those issues to rental property owners and managers.
- **Use technology to improve code enforcement processes and outcomes.**<sup>83</sup> Specific actions recommended include DHCA enabling complainants to submit pictures to document code violations and developing accessible, user-friendly dashboards to update residents on enforcement efforts.

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<sup>83</sup> DHCA staff shared during technical review that tenants and complainants can currently submit complaints online and include pictures.

## Chapter 8. Code Enforcement, Racial Equity, and Best Practices

Based on an understanding of how code enforcement operates in Montgomery County and a review of the research regarding racial inequity in code enforcement, this section is presented in three parts:

- A. Understanding how racism fosters racial inequity** describes key terms and a framework for understanding how racism and disparate racial impact within “race neutral” policies, programs, and practices can foster racial disparities in outcomes often without racial animus or intent.
- B. Racial inequity in code enforcement** describes how racial inequities in code enforcement via over-enforcement and under-enforcement have reinforced residential segregation and the exploitation and disproportionate punishment of BIPOC residents and communities.
- C. Best practices for advancing RESJ in code enforcement** describes the recommended process for developing racially equitable code enforcement policies and practices and specific strategies for advancing racial equity and social justice.

Three key findings emerge from the information reviewed in this chapter:

- Racial inequity has been central to the development of the County’s housing codes and code enforcement processes in two ways:
  - The historic over-enforcement of the housing code where condemnations were used to displace Black communities and dispossess Black property owners of their land for the benefit of White residents via the development of White-only enclaves and commuter routes during the 20<sup>th</sup> Century; and
  - The contemporary under-enforcement of the housing code among BIPOC residents and communities relative to the more aggressive enforcement of the housing code for White residents and/or predominantly White communities.
- Promoting public health and safety, particularly in multifamily buildings, is a stated priority for the County. However, in practice, code enforcement often reinforces a racial hierarchy of residential segregation by focusing on correcting minor exterior violations in single-family communities while leaving more serious interior violations in multifamily buildings uncorrected.
- The County’s housing code and DHCA’s policies and practices to enforce them generally do not align with best practices for improving equity and outcomes in code enforcement. Among ten best practices for code enforcement recommended by subject matter experts, DHCA does not align with two best practices and partially aligns with the remaining eight.

## A. Understanding How Racism Fosters Racial Inequity<sup>84</sup>

As observed in Chapter 6, DHCA neither collects nor reports data describing racial disparities in the demand or delivery of code enforcement services in the County. However, available information on housing complaints and the geographic concentration of “troubled properties” in disproportionately BIPOC communities (e.g. Silver Spring) suggests BIPOC residents are under-served by code enforcement. As such, the constituents most in need of code enforcement services often do not receive them, fostering racial disparities in access to housing that complies with the County’s housing codes.

Those concerned about racial disparities in outcomes often look to drivers other than race as the underlying culprit of such disparities. They often cite ignorance, lack of knowledge on how systems work, poverty, and “a culture of poverty” as the root causes of disparities by race. In turn, they advance strategies that target these “root causes” rather than strategies that target race as solutions for ameliorating racial disparities.

Conversely, the Government Alliance on Race and Equity (GARE) finds those seeking to eliminate racial disparities must explicitly focus on race, normalizing conversations about race, and operationalizing new behaviors that diminish racial disparities. To focus explicitly on race to eliminate racial disparities requires understanding the different dimensions of racism as follows:

### 1. The Facets of Racism

Powell, Heller, and Bundalli compare race and racism to a diamond.<sup>85</sup> They contend that it has many facets and shining a light on it reveals its complexity. Race is a social construct rather than a biological one, yet the assignment of value and meaning to race directly impacts lives. Racism manifests in at least four forms:<sup>86</sup>

- **Internalized racism** refers to our private beliefs and biases about race and racism that are influenced by our culture. Internalized racism can manifest as prejudice toward others, internalized sense of inferiority experienced by BIPOC (e.g., stereotype threat) and beliefs about superiority or entitlement by White people (i.e., White privilege).
- **Interpersonal racism** occurs between individuals and happens when our private racial beliefs affect our interactions with others. For example, a high-performing Latina is discouraged from pursuing AP-level STEM courses that are “too hard,” but her White peers are not. Most people think about this level of racism, a problem between two or more individuals, when they consider racism and its impact. Together, internalized and interpersonal racism constitute individual racism, which GARE describes as “the room we are all sitting in, our immediate context.”

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<sup>84</sup> Excerpted from OLO Report 2023-6, June 27, 2023 [Addressing Racial Inequity in the School to Prison Pipeline](#); and OLO Report 2018-8, September 2018, [Racial Equity in Government Decision-Making: Lessons from the Field](#)

<sup>85</sup> John A. Powell, Connie Cagampang Heller, and Fayza Bundalli, [Systems Thinking and Race: Workshop Summary](#) (The California Endowment, 2011);

<sup>86</sup> Julie Nelson, Lauren Spokane, Lauren Ross, and Nan Deng, [Advancing Racial Equity and Transforming Government: A Resource Guide to Put Ideas Into Action](#) (Haas Institute and Center for Social Inclusion, 2016) (pp.16-17);



- **Institutional racism** refers to biases in policies and practices occurring within institutions and organizations – such as schools, businesses, and government agencies – that work better for White people than for people of color. For example, institutional racism can exist within a school system when Black and Latinx students are concentrated in the highest-poverty schools and least-challenging classes while White and Asian students are concentrated in the lowest-poverty schools and most-challenging classes, resulting in higher dropout and disciplinary rates for Black and Latinx students and in higher college readiness rates for White and Asian students. GARE describes institutional racism as “the building this room is in, the policies and practices that dictate how we live our lives.”
- **Structural racism** is racial bias among institutions and across society, causing cumulative and compounding effects that systematically advantage White people and disadvantage BIPOC.<sup>87</sup> Structural racism encompasses a history and current reality of institutional racism across all institutions, combining to create a system that negatively impacts BIPOC. For example, the legacy of housing segregation impacts present-day housing opportunities by race, which in turn impact current schooling and employment opportunities and future outcomes for Black and Indigenous people specifically and people of color more broadly. GARE describes institutional racism as “the skyline of buildings around us, all of which interact to dictate our outcomes.”

Understanding the four types of racism is key to understanding how racism fosters individual and institutional racial inequities that lead to racial disparities. According to John A. Powell et al., “from a systems perspective, different facets of racism work interactively to reinforce a system that racializes outcomes.”<sup>88</sup> More specifically, interactions between individuals are shaped by and reflect underlying and often hidden structures that shape biases and create disparate outcomes even in the absence of racist actors or racist intentions. They note that consistent differences in outcomes by race across systems demonstrate the presence of structural racism.

## 2. Implicit and Explicit Bias

Implicit bias among individuals and institutions also undergirds all facets of racism. Implicit bias refers to biased thoughts and feelings that exist outside of our conscious awareness or conscious control. Implicit bias differs from explicit bias that is expressed directly and consciously. Implicit biases are pervasive: people differ in their level of implicit bias and are often unaware of their implicit bias or how they use it to predict behavior by others.<sup>89</sup> Specific examples of implicit bias noted by researchers include the following:<sup>90</sup>

- Doctors are less likely to prescribe life-saving care to African Americans;
- Managers are less likely to call back or hire members of a different ethnic group;
- NBA referees are more likely to subtly favor players with whom they share a racial identity; and
- Teachers call on boys more often than girls.

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<sup>87</sup> The Urban Institute in its “[Structural Racism Explainer](#)” provides another useful definition of structural racism describing it as “the historical and contemporary policies, practices and norms that create and maintain White supremacy and result in the exclusion of People of Color from access to opportunity and upward mobility.”

<sup>88</sup> Powell, Heller, and Bundalli

<sup>89</sup> See [Project Implicit](#)

<sup>90</sup> From [Implicit Bias](#)

Implicit bias helps to explain how racial disparities often occur without intention or malice. As described by Terry Keleher, with implicit bias, racism can be subtle in appearance but significant in impact. In institutions, the bias of individuals is routinely replicated through collective decisions and actions. Moreover, Keleher contends that the impact of implicit bias becomes compounded unless it is counteracted. Chart 8.1 describes the differences between explicit and implicit bias.<sup>91</sup>

**Chart 8.1: Differences between Explicit and Implicit Bias**

Explicit Bias	Implicit Bias
Expressed directly	Expressed indirectly
Aware of bias	Unaware of bias
Operates consciously	Operates unconsciously
E.g., Sign in the window of an apartment building “We don’t rent to _____”	E.g., A property manager doing more criminal background checks on African Americans than on Whites.

Source: Government Alliance for Race and Equity

Both individuals and institutions can manifest implicit and explicit bias. GARE’s matrix (Chart 8.2) offers a reference for considering the distinction between implicit and explicit racism among individuals and institutions. It also offers context for why GARE focuses its efforts on institutional implicit bias – “the hidden forces at work in our institutions ... where structural transformation must happen.”<sup>92</sup>

**Chart 8.2: Matrix of Explicit and Implicit Bias and Individual and Institutional Racism**

	Individual Racism/Bias	Institutional Racism/Bias
Explicit Bias	When people think of racism, they often think of individual, explicit racism.	After instituting explicitly racist laws and policies, since the Civil Rights era, government has focused on fixing explicitly racist laws and policies.
Implicit Bias	When many people think about how to fix racism, they think we need to change minds, one by one, getting rid of implicit bias.	Hidden forces at work in our institutions – this is where structural transformation is necessary to end racial disparities.

Source: Government Alliance on Race and Equity

<sup>91</sup> The Local and Regional Government Alliance on Race and Equity. September 2015. [Advancing Racial Equity and Transforming Government](#).

<sup>92</sup> GARE. May 2018. [Communications Guide](#), p. 39

## B. Racial Inequities in Code Enforcement

A complete history of how race and racism have shaped code enforcement in Montgomery County is beyond the scope of this report. However, understanding how racial inequity has been central to the development of the County's housing and building codes and code enforcement processes is essential to understanding the role of racial inequity in code enforcement, particularly in the absence of local data on racial disparities in code enforcement.

Generally, racial inequities in code enforcement emerge in one of two ways:<sup>93</sup>

- **Over-enforcement** where BIPOC residents and/or communities are targeted for inspections and cited for property code violations that are often ignored among White residents and/or White communities, particularly if the violators are White. The historical use of condemnations to dispossess and displace Black residents exemplifies how over-enforcement has been used to foster racial inequity in code enforcement.<sup>94</sup>
- **Under-enforcement** where the housing code is not enforced for BIPOC residents and/or communities or is not as aggressively enforced as it is for White residents and/or in predominantly White communities.<sup>95</sup> Under-enforcement can foster racial inequities in code enforcement by disproportionately exposing BIPOC renters to uncorrected housing code violations that compromise their health and safety. This is particularly true when minor code violations in predominantly White communities are quickly corrected. Some contend that under-enforcement is racially equitable because over-enforcement can diminish the supply of affordable housing. This perspective, however, ignores the potentially more appropriate role that code enforcement can play to prevent and help remediate code violations by pairing enforcement with supplementary supports and publicly subsidized abatement programs.

### 1. Historic Racial Inequities in Code Enforcement.

Code enforcement policies and practices in the County, like elsewhere, are rooted in a history of racial oppression. As observed in OLO's RESJ Policy Handbook: Land Use, Housing, and Economic Development, code enforcement is one of many historical tactics of racialized housing and land use that have been used to advance the economic well-being of White people at the expense of BIPOC.<sup>96</sup> For example, during the 20<sup>th</sup> Century, over-enforcement of the housing code via condemnations was used as a tool to displace Black residents as the County transitioned from a rural community to a White suburb.

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<sup>93</sup> Change Lab Solutions, Webinar: Equitable Implementation of Housing Policies, June 20, 2014

<sup>94</sup> See historical drivers of racial inequity in housing and land use cited in Racial Equity and Social Justice Handbook: Land Use, Housing, and Economic Development, Office of Legislative Oversight Report 2024-11, June 18, 2024

<sup>95</sup> For an example of under-enforcement cited by researchers in Memphis, see Strategic Housing Code Enforcement and Public Health: A Health Impact Assessment in Memphis, Tennessee, Urban Institute and Neighborhood Preservation, Inc., October 2018 by Christina Stacy, Joseph Schilling, Steve Barlow. They found "that the vast majority of city housing code enforcement service requests are targeted at conditions outside the home (81 percent of all cases in 2016) and that there is little prioritization of service requests based on the severity of violation ... (W)e find that code service requests are overconcentrated among single-family units and duplexes and they are not targeting large apartments and other multifamily housing as much as they could be." (Page 1)

<sup>96</sup> Racial Equity and Social Justice Policy Handbook: Land Use, Housing, and Economic Development, Office of Legislative Oversight Report 2024-11

During the 1700's and 1800's, Black people accounted for a third of the County's population.<sup>97</sup> By 1900, Black people had established 40 settlements around the County where they successfully built independent lives for themselves and their heirs. Yet, as the County exponentially increased its White population between 1900 and 1960 through suburbanization, it denied basic infrastructure to Black settlements. This caused them to become "rural ghettos" that lacked running water and paved streets. In conjunction with urban renewal policies such as eminent domain, code enforcement spurred the disintegration of many rural Black communities, the loss of Black-owned land, and the displacement of many Black residents. By 1960, Black people accounted for 3 percent of the County's population.<sup>98</sup>

The historic racially inequitable use of code enforcement to displace Black residents through condemnations reflects the three key consequences of "metaracism" observed by Tricia Rose: containment, extraction and punishment.<sup>99</sup> More specifically, racially inequitable systems and policies usually promote containment through racial segregation, extract BIPOC resources for White benefit, and use punishment to control BIPOC communities. A description of how the County's historical use of condemnations to displace Black residents reflects these racially inequitable consequences follows.

- **Containment.** The County's housing and building codes, historically used to justify the condemnations of BIPOC-owned properties during the 20<sup>th</sup> century, were developed as part of a larger system of White supremacy, racial exclusion, and residential segregation. As researchers observe elsewhere, code enforcement laws and processes were generally designed by unequal systems, reflecting implicit biases, viewpoints, and limitations of how they were designed and the systems in which they operate.<sup>100</sup> Moreover, in the context of institutional and systemic racism, code enforcement processes and policies reproduced these norms in ways that disparately impacted the most vulnerable.<sup>101</sup> Similarly, the County's housing codes and enforcement practices perpetuate racial exclusion because they are based on subjective concepts initially designed to promote the value of White-only communities rather than on objective standards that promote safe and structurally sound buildings.<sup>102</sup> In being designed to promote White supremacy and wealth rather than public health or safety, the County's housing codes reinforced the norms of residential segregation emblematic of when the County's current housing codes were developed and codified.
- **Extraction.** Condemnations have also been used as a tool to clear Black neighborhoods and make way for urban renewal, extracting Black-owned land for the benefit of White households and commuters.<sup>103</sup> Locally, the expansion of White-only subdivisions was dependent on the transfer of public and private land to developers, including Black-owned land. The undervaluing of Black-owned land for the benefit of White development – coupled with condemnations, the threat of condemnations, and eminent domain – led to loss of Black-owned land and displacement that decimated Black wealth and the opportunity to build new wealth.

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<sup>97</sup> Heritage Montgomery

<sup>98</sup> See Policy Handbook for specific reference

<sup>99</sup> Tricia Rose, *Metaracism*

<sup>100</sup> Hester Street. March 17, 2021. News: Reimagining Code Enforcement and Equity.

<sup>101</sup> Ibid

<sup>102</sup> Portland City Auditor, Ombudsman – City's reliance on complaints for property management enforcement disproportionately affects diverse and gentrifying neighborhoods, November 2021

<sup>103</sup> Change Labs Solutions. January 31, 2023. Policymaking for Housing Justice: Unpacking the equity challenges of housing code enforcement

- **Punishment.** Condemnations and eminent domain were especially weaponized against Black communities to displace them and make way for public infrastructure and private developments that benefited White residents and commuters. This includes the displacement of the Gibson Road community to make way for interstate 495 and the forced sale of Black-owned land in the Scotland community to develop Cabin John Park.<sup>104</sup> Historically, few rural White communities were adversely impacted by condemnations or the use of eminent domain in the County. Moreover, with the adoption of the Agriculture Reserve in 1980, White rural communities in the County have been increasingly protected by local policies and practices.<sup>105</sup>

## 2. Contemporary Racial Inequities in Code Enforcement.

While historic racial inequity in code enforcement is marked by the over-enforcement of the housing code in BIPOC communities, contemporary racial inequity in code enforcement is marked by the under-enforcement of the housing code in BIPOC communities. The under-enforcement of the housing code for BIPOC residents in Montgomery County is driven by at least four factors:

- **A complaint-driven code enforcement process** that disproportionately directs housing inspections and enforcement to single-family and predominantly White communities;<sup>106</sup>
- **A housing code that prioritizes exterior violations to prevent neighborhood blight** rather than interior violations that compromise public health and safety;<sup>107</sup>
- **The inconsistent or non-use of existing code enforcement tools** to encourage rental property owners to abate uncorrected code violations; and
- **A lack of County resources to abate uncorrected code violations** except for tall grass and solid waste violations.

A description of how each of these factors collectively reinforce racial inequity in local code enforcement through the containment, exploitation, and disproportionate punishment of BIPOC in the County follows.

- **Containment.** The County's housing and building codes were enacted in 1965 when racial discrimination in housing was legal and the community norm. The codes were developed to minimize neighborhood blight and enhance property values in affluent and predominantly White single-family neighborhoods. While the County's current code includes provisions aimed at addressing health and safety violations in rental housing, the code has not been re-written to consistently prioritize these violations over minor exterior code violations. For example, the 10-day deadline to remediate tall grass and weed violations is more stringent than most deadlines for remediating more significant health and safety hazards in rental housing.<sup>108</sup>

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<sup>104</sup> See [Gibson Grove \(Cabin John\), Maryland \(U.S. National Park Service\)](#) and [OLO Report 2024-11.pdf](#)

<sup>105</sup> See Racial Equity and Social Justice Policy Handbook: Land Use, Housing, and Economic Development, Office of Legislative Oversight Report 2024-11 and [Racial Equity and Social Justice Impact Statement for Zoning Text Amendment 23-08](#)

<sup>106</sup> Similar pattern observed in Strategic Housing Code Enforcement and Public Health: A Health Impact Assessment in Memphis, Tennessee, Urban Institute and Neighborhood Preservation, Inc. (Christina Stacy, Joseph Schilling, Steve Barlow), October 2018

<sup>107</sup> Ibid.

<sup>108</sup> DHCA staff strongly disagree with OLO's assessment that tall grass and weed violations are not health and safety violations. They note that tall grass violations can foster pests like rodents and mosquitos, fire hazards, and

The persistence of residential segregation in the County makes differential code enforcement by place and property type possible. Code enforcement's focus on correcting exterior code violations rather than interior hazards and reliance on complaints to identify code violations has created a two-tiered code enforcement system that is more responsive to owner-occupied single-family communities than to renters. DHCA's two-tiered system also reinforces residential segregation and racial inequity, where homeowners, who are more likely to be White, receive more effective code enforcement than renters, who are more likely to be BIPOC.

- **Extraction.** Except for tall grass, weed, and solid waste violations, DHCA does not budget to abate uncorrected code violations. As such, while interior health and safety violations in multifamily rentals can remain uncorrected, County funding is expended to abate minor exterior code violations in predominantly White single-family communities. Yet, the County primarily relies on fees indirectly paid by renters to deliver code enforcement services that disproportionately benefit non-renters.

As described in Chapter 2, most of the County's code inspectors are assigned to teams that primarily serve single-family home communities rather than multifamily rental buildings. This extraction of code enforcement revenue from renters to fund services for single-family communities is racially inequitable, as BIPOC residents account for most renters in the County while White residents are over-represented among property owners.<sup>109</sup> This extraction is also regressive since the renters that indirectly pay Landlord-Tenant fees through higher rents have lower incomes and levels of wealth and higher housing cost burdens, on average, than property owners who do not pay the fee.

- **Punishment.** Research from other jurisdictions suggests that BIPOC residents experience more harmful effects of complaint-driven code enforcement than their White peers. Researchers in other jurisdictions have found that complaint-based systems can be weaponized by White neighbors who complain against BIPOC neighbors. Conversely, even if warranted, BIPOC neighbors often do not make similar complaints against White neighbors. Fear of eviction or detention may also prevent BIPOC renters living in unsafe conditions from making code violation complaints.<sup>110</sup> More specifically, BIPOC tenants with the greatest needs and the least resources may be unaware of how to access the system, may fear retaliation and be less likely to make complaints, and may speak up only after problems have reached an advanced state.<sup>111</sup>

Complaint driven code enforcement systems that focus on issuing citations rather than cooperatively bringing properties into compliance can also disproportionately harm low-income property owners who lack resources to correct code violations and their tenants. Of note, the process of responding to housing code violations under punitive approaches often allows landlords to put off remediation through extensions and delayed re-inspection.<sup>112</sup> Further, fines

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visibility obstructions for drivers, pedestrians, and cyclists. While OLO does not disagree that tall grass violations can foster public health concerns, the consequences of tall grass violations are far less perilous than the consequences of severe health and safety violations articulated in ER 5-17AM described on pages 26-27. Yet, DHCA applies a more stringent deadline for correcting tall grass violations than severe health and safety violations.

<sup>109</sup> See Table in 3 in [Racial Equity and Social Justice Impact Statement for Zoning Text Amendment 25-03](#)

<sup>110</sup> Hester Street

<sup>111</sup> Change Lab Solutions

<sup>112</sup> Ibid.

may not be sufficient to deter landlords from allowing conditions in their units to deteriorate.<sup>113</sup> Alternatively, cooperative code enforcement models that provide property owners and renters financial assistance to correct violations when needed can improve code compliance, racial equity, and social justice.<sup>114</sup>

### C. Best Practices for Advancing RESJ in Code Enforcement

Experts advise that without an awareness of the continuing impacts of structural racism on code enforcement outcomes and a willingness to redesign and implement policies and practices that advance racial equity and social justice, code enforcement will continue to perpetuate racial and social inequities and disparities in outcomes.<sup>115</sup> This subsection describes best practices for advancing racial equity and social justice in code enforcement in two parts:

- **Racial equity principles** describes a recommended process for developing policies and practices that advance racial equity in code enforcement; and
- **Best practices in code enforcement** describes recommended strategies for improving code enforcement operations and outcomes.

Combining the recommended process for developing equitable code enforcement policies with best practices for improving code enforcement operations and outcomes offers the best opportunity for advancing racial equity and social justice in code enforcement. Central to advancing RESJ in code enforcement is centering the experience, needs, and expertise of BIPOC residents who have been adversely impacted by the current code enforcement system.

#### 1. Racial Equity Principles.

Racial equity expert Marlysa Gamblin offers a guiding set of five principles for developing policy solutions to advance racial equity and diminish racial disparities.<sup>116</sup> Collectively, these principles offer a recommended roadmap for policymakers to work with BIPOC stakeholders to reduce racial inequities and disparities in code enforcement.

- **Principle 1: Center the needs and leadership of BIPOC communities first.** Applying this principle requires considering the impact of a policy or program proposal on BIPOC when the idea is first raised and before it is complete. BIPOC experts – including scholars, practitioners, and advocates in relevant subject areas and individuals with lived experience relevant to the proposed policy options – should be consulted. People from BIPOC communities should be included as full partners in the policy design, implementation, and evaluation. Moreover, with respect to advancing equitable code enforcement, the Center for Community Progress observes that centering the needs of BIPOC communities requires consulting with BIPOC tenants and owners of troubled properties to ensure that efforts to “revitalize” neighborhoods via code enforcement do not compound existing racial inequities through displacement.<sup>117</sup>

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<sup>113</sup> Ibid.

<sup>114</sup> NYU Furman Center, *Cracking Code Enforcement: How Cities Approach Housing Standards*, August 2021

<sup>115</sup> Center for Community Progress, *Equitable, Efficient, and Effective Code Enforcement: A Roadmap for Decatur, Illinois*, June 2022

<sup>116</sup> Gamblin, Marlyssa. [Using a Racial Equity Scorecard for Policy and Programs](#). Bread for the World Institute

<sup>117</sup> Center for Community Progress

- **Principle 2: Name and consider each BIPOC community individually, avoiding terms such as “minority.”** Each community has its own history, experiences, and challenges. It is essential to recognize that circumstances are often very different – both between various communities and within them. Name Black, Indigenous, Latinx, and other communities separately and identify how the policy or program proposal would impact members of each community.
- **Principle 3: Analyze the specific outcomes for each racial and ethnic group.** Because of Principle 2, there are different “whys” behind the varying outcomes that different communities experience. There are four questions to consider:
  - How does each racial and ethnic group fare with each outcome that is being measured?
  - What are the reasons for the outcomes experienced by each racial and ethnic group?
  - What is the disaggregated racial and ethnic makeup of the population this policy serves?
  - What is the expected impact of this policy on each racial and ethnic population?
- **Principle 4: Set up policies and programs that are responsive in a way that is proportionate to the disparate impacts.** Not understanding why and how to do this is a common reason for why well-intentioned initiatives fail to promote greater racial equity. Most policies and programs treat all communities the same, regardless of the different starting points or barriers faced by specific racial and ethnic communities. Instead, responses should be community- and circumstance-driven. A broad-based approach will provide everyone the same level of support while a racially equitable approach would provide targeted support based on specific needs. The support should be proportionate to the disparate impacts and be rooted in each community’s history of discrimination.
- **Principle 5: Create a robust implementation and monitoring plan that is reflective of and accountable to BIPOC staff, institutions, and communities.** While policy design is important, it is equally important to evaluate that targeted support is provided in a thoughtful, racially equitable way. Inviting experts of color in from the beginning, as discussed in Principle 1, will help inform how the implementation stage is formulated. Policies and programs must be sufficiently resourced for effective implementation and for enforcement of policies and program rules. BIPOC organizations that directly serve their communities, and other experts of color with lived and/or scholarly experience, should be assigned to co-lead the implementation process. Lastly, legislation, policies, or programs should outline a racially equitable implementation plan.

Overall, Gamblin’s racial equity principles incorporate many of the key features and recommendations offered by other experts for developing policy options that diminish racial inequities. These include:

- Encouraging policymakers to recognize the history of racial inequity;
- Matching problems with the appropriate level of intervention;
- Recognizing that one-size-fits-all approaches are rarely effective at promoting racial equity; and
- Partnering with BIPOC stakeholders to co-develop, implement, and evaluate policy efforts.



## **2. Best Practices in Code Enforcement.**

ChangeLab Solutions<sup>118</sup> describes ten best practices for improving outcomes in code enforcement. Similarly, Hester Street, Cities RISE and the Ford Foundation<sup>119</sup> describe principles for advancing equity in code enforcement. This subsection summarizes the best practices endorsed by ChangeLab Solutions and their overlap with equitable code enforcement principles endorsed by Hester Street et al. This subsection also describes how the County's current policies and practices align with code enforcement best practices.

As policymakers work with BIPOC stakeholders to develop policies and practices aimed at advancing RESJ in code enforcement, as recommended by Racial Equity Principle 4, they can consider this list of best practices as a reference or start point for their collaborative work.

### **a) Adopt a Strong Housing Code**

ChangeLab Solutions recommends that local jurisdictions adopt housing codes based on science-based standards such as the National Healthy Housing Standard (NHHS) developed by the American Public Health Association and the National Center for Health Housing. The NHHS was written to complement International Property Maintenance Code. The central focus of the NHHS is to ensure that housing and building codes promote health and safety. In turn, the NHHS describes recommended standards for:

- Duties of Owners and Occupants;
- Structures, Facilities, Plumbing, and Space Requirements;
- Safety and Personal Security;
- Lighting and Electrical Systems;
- Thermal Comfort, Ventilation, and Energy Efficiency;
- Moisture Control, Solid Waste, and Pest Management; and
- Chemical and Radiological Agents.

As observed in Chapter 3, the County's housing and building codes generally align with the NHHS. However, the County's Code has several deficits relative to the NHHS, including not requiring fire extinguishers in dwellings, the use of integrated pest management approaches, or the abatement of many chemical and radiological agents in dwellings, including lead and asbestos.

### **b) Fund the Code Enforcement Program Sufficiently**

ChangeLab Solutions recommends that code enforcement agencies rely on a variety of revenue sources to fund its programming sufficiently. Recommended sources include the general fund, Community Development Block Grant funding, and revenue from permits, licenses, regulatory fees, fines, and penalties paid by property owners.

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<sup>118</sup> ChangeLab Solutions, Up to Code: Code Enforcement Strategies for Healthy Housing, 2015

<sup>119</sup> Hester Street, Cities RISE, and Ford Foundation, The Power and Proximity of Code Enforcement: A Tool for Equitable Neighborhoods, June 2019

As observed in Chapter 5, DHCA does not rely on penalties from property owners to help fund code enforcement as required by the County Code because it neither charges nor collects reinspection fees. Instead, as observed in Chapter 2, DHCA solely relies on revenue from Landlord-Tenant Fees to fund its code enforcement program. These fees are paid indirectly by renters in the County via higher rents charged by their landlords to pay these fees. Yet, the primary beneficiaries of code enforcement in the County are perhaps owner-occupied households, particularly in single-family communities, who do not pay Landlord-Tenant Fees.

### **c) Train Officers Comprehensively**

As a best practice, ChangeLab Solutions recommends training code enforcement officers comprehensively by requiring training on a variety of topics including:

- All applicable federal, state, and local laws addressing building safety;
- Healthy homes best practices and standards;
- Soft skills, including customer service, communication techniques, and ethics; and
- Technical assistance and resources offered by partner agencies, community organizations and other service providers.

They further recommend that experienced code enforcement officers conduct joint inspections with new code enforcement officers as part of their training. To promote equity in code enforcement, Hester Street et al. recommends that agencies train staff to minimize implicit bias in code enforcement.<sup>120</sup> More specifically, they recommend agencies adopt:

- Standardized operating procedures that include scenario planning for equity pain points (e.g. displacement, harassment, absentee landlords, social service referrals);
- Strategies for recruiting code enforcement officers from non-traditional backgrounds such as social work, education, and customer service;
- Strategies for ensuring that the code enforcement workforce reflects the diversity of the jurisdiction via the proactive recruitment of BIPOC, women, and recent immigrants;
- Implicit bias and racial justice trainings; and
- Mentorship opportunities for newer staff by more seasoned code enforcement officers.

As observed in Chapter 2, DHCA partners experienced code enforcement officers with new hires as part of their training. DHCA has also developed draft SOPs for inspections of multifamily housing, single family housing, and accessory dwelling units, and for other key functions. DHCA, however, does not require training for code enforcement officers regarding resources offered by partner agencies and other service providers. They also do not require training on implicit bias nor on how racial inequities can foster racial disparities in code enforcement and other housing outcomes.

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<sup>120</sup> Ibid.

#### d) Partner with Community Organizations

ChangeLab Solutions recommends code enforcement agencies partner with community organizations as a best practice. Similarly, Hester Street et al. recommend that code enforcement agencies adopt policies and practices that are community-centric to help develop and foster close relationships with service providers, CBOs, neighborhood associations, and residents. They observe that working together with communities enables code enforcement agencies to achieve shared ownership and democratic legitimacy in decision-making, and better outcomes that advance justice and equity.

Specific strategies recommended for promoting community engagement include:

- The use of community engagement tools;
- The creation of user-friendly educational materials for homeowners and tenants;
- The development of training materials for community members and code officers;
- Partnerships with trusted local organizations;
- Going to where people reside to connect;
- Leveraging events to provide information and resources;
- Creating inclusive spaces through translation, food, childcare and trusted leaders; and
- Establishing a feedback loop to build trust and communication.

Hester Street also advises that making code enforcement more equitable requires both a **restorative and community-centric approach**.<sup>121</sup> They observe engaging with BIPOC communities that have been adversely affected by code enforcement to understand the legacy and continuing impact of racial inequities in code enforcement is essential to developing restorative code enforcement policies and practices that advance equity. Prompts they recommend for officials and community members to co-develop restorative code enforcement policies and practices that minimize over-enforcement among lower-income homeowners include:<sup>122</sup>

- Whether there is a role for government in the regulation of owner-occupied dwellings beyond public health and safety.
- Equity-driven revisions to the property maintenance and condition standards for owner-occupied properties, including maintenance, nuisance, and zoning standards.
- How to equitably enforce property maintenance standards for owner-occupied properties.
- How to equitably fund enforcement of property maintenance standards for owner-occupied properties.

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<sup>121</sup> Hester Street, News: Reimagining Code Enforcement and Equity, March 17, 2021

<sup>122</sup> Portland City Auditor, Ombudsman – City’s reliance on complaints for property management enforcement disproportionately affects diverse and gentrifying neighborhoods, November 2021

In compliance with Bill 19-15, DHCA employs a Community Engagement Manager and has developed and published a Code Enforcement Handbook that is available in two languages.<sup>123</sup> However, OLO's interviews with representatives of CBOs and residents of multifamily housing across the County suggest that DHCA does not employ most of the community-centric best practices recommended by experts. Further, there is no evidence DHCA has employed a restorative approach that seeks to counter historical or contemporary racial inequities in code enforcement that have and continue to foster racial disparities in housing outcomes.

#### **e) Promote Cross-Agency Coordination**

ChangeLab Solutions observes that “because responsibility for health and safety is usually divided among various city agencies or departments, intragovernmental communication and collaboration can help make code enforcement more efficient and effective, and less likely a series of disjointed, isolated efforts.”<sup>124</sup> To promote cross-agency coordination to advance equity in code enforcement, Hester Street recommends that agencies adopt policies and practices that connect them to broader policy initiatives and other agencies focused on community development, economic development, social services, public health, and racial equity.<sup>125</sup>

- Specific strategies recommended by Hester Street for deepening partnerships among local agencies and non-government entities include:
- Establishing official channels for sharing data and information about properties and cases;
- Identifying persistent problems that are touched by different agencies and other non-government entities;
- Brainstorming solutions instead of just dealing with issues on a case-by-case basis; and
- Institutionalizing collaboration, particularly for community organizations and service providers.

DHCA's code enforcement leaders report having collaborative relationships among DHCA divisions (e.g. OLTA and Registration and Licensing) as well as with the Department of Environmental Protection (DEP), which enforces some of the County's housing and building codes with respect to solid waste. DHCA leaders, however, also report that DEP often recruits its staff from DHCA, making the maintenance of a full complement of code enforcement staff a persistent challenge.

#### **f) Develop a Cooperative Compliance Model**

As a best practice, ChangeLab Solutions recommends that code enforcement agencies rely more heavily on cooperative compliance models to enforce the housing code. Under the traditional code enforcement model, property owners are responsible for correcting code violations on their own. This sometimes incentivizes property owners to make the fewest possible improvements to comply with the violation and avoid being fined.

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<sup>123</sup> For English see [Housing & Building Code Enforcement Handbook \(English\)](#); for Spanish, see [Manual de Cumplimiento de Codigos para Viviendas y Edificios](#)

<sup>124</sup> ChangeLab Solutions, p. 14

<sup>125</sup> Hester Street, Reimaging Code Enforcement Presentation

Under a cooperative compliance model, mutual cooperation is used to achieve the best outcome for property owners and residents. Rather than just inspecting housing and citing violations, code enforcement officers “work cooperatively with property owners to help them understand the elements of healthy housing, the importance of code compliance, and how to bring the property into compliance. The code enforcement officer is armed with cooperative tools – information, education, resources – along with traditional enforcement sanctions. Cooperative compliance allows property owners and officers to work together to improve housing conditions.”<sup>126</sup>

As observed in Chapter 4, DHCA relies on a traditional enforcement model where code inspectors issue notices of violations and citations if property owners do not comply. DHCA generally does not provide resources to property owners who lack the means to correct code violations. Currently, DHCA code enforcement officers do not possess the resources necessary to implement a cooperative compliance model.

### **g) Enforce the Local Housing Code**

ChangeLab Solutions also recommends that code enforcement rely on administrative enforcement to enforce the housing code rather than civil or criminal enforcement through the courts because it is less costly and time-consuming. With administrative enforcement, code enforcement agencies are authorized to issue penalties for housing code violations, order that properties be brought up to code, or suspend a license or permit. Administrative enforcement also authorizes localities to place a lien on a property to offset the public cost of abating code violations. Property owners can challenge administrative enforcement decisions in administrative hearings and appeal the outcome to an appellate board or the superior court.

Conversely, civil and criminal enforcement occurs through the court system. To resolve uncorrected violations with civil enforcement, a local jurisdiction files a lawsuit to get a court order requiring the property owner to take an action, such as remedying the violation or paying civil penalties to the jurisdiction for violating the law. To resolve uncorrected violations with criminal enforcement, the jurisdiction’s district attorney must file charges in criminal court to prove violations of a local housing law/ordinance. Because litigation is expensive and time-consuming, localities usually pursue civil remedies or criminal enforcement as a last resort when property owners have evaded other forms of enforcement or when housing is in a dangerous condition.

As observed in Chapter 5, while DHCA is authorized to use several administrative tools to compel property owners to correct housing violations, including rescinding rental licenses for non-compliance, it relies on civil enforcement via the courts when property owners fail to correct code violations. Except for abating tall grass and solid waste violations, DHCA does not typically utilize its administrative powers to enforce the housing code when there is non-compliance but instead defers to the courts for civil enforcement.

DHCA’s limited use of its administrative powers and reliance on the court to enforce the housing code often belabors the resolution of code violations for the constituents who are harmed by them, especially lower-income tenants who reside in affordable housing. Currently, it takes six to nine months for citations to be considered in District Court.

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<sup>126</sup> ChangeLab Solutions, p. 16

#### **h) Adopt Proactive Code Enforcement Approaches.**

As a best practice, ChangeLab Solutions recommends that code enforcement agencies adopt a proactive rental inspection program to complement their traditional complaint-based inspection program. They observe that proactive inspection programs:<sup>127</sup>

“(B)enefit renters, especially those that are most vulnerable. When it comes to housing codes, many renters don’t know their rights, don’t understand the process, and/or don’t feel they can file a complaint. Renters are often unfamiliar with existing protections and programs, and those with language barriers or disabilities may have trouble navigating the system. In addition, many residents avoid notifying their property owners of problems for fear of increased rent, retaliation, or eviction. This can be particularly daunting for undocumented residents who are not financially equipped to move homes. As a result of these barriers, the housing inhabited by the most vulnerable populations, which is frequently the worst housing, is most likely to fall through the cracks of complaint-based code enforcement systems.”

ChangeLab Solutions further observes that proactive inspection programs:<sup>128</sup>

“(A)lso benefit property owners and the larger community. Routine inspections inform property owners of poor conditions before they worsen, helping them maintain their properties and cut maintenance costs. Systematic code enforcement also encourages preventative maintenance, which is more cost effective than deferred maintenance. PRI programs help maintain a locality’s rental housing stock, preserve property values and the local tax base, and ensure community residents live in safe and healthy environments.”

Hester Street et al. also advises that making code enforcement more equitable requires a proactive approach more broadly, where code enforcement policies and practices address systemic issues prior to a complaint or the issuance of a violation.<sup>129</sup> They recommend code enforcement agencies anticipate needs that will mitigate complaints and support healthy living conditions by implementing the following strategies:

- Action planning for landlords;
- Formalized housing referral and information-sharing relationships with social service providers and community-based organizations;
- Resources and education for homeowners and tenants;
- Good responsible landlord checklists and support; and
- Tenants’ rights trainings.

As observed in Chapter 4, DHCA administers a mandated code enforcement process for multifamily properties. The frequency of DHCA’s mandated inspections varies according to a property’s history of violations. DHCA annually inspects every unit among troubled properties. It inspects units in at-risk properties less frequently, and a sample of units in compliant properties every three years.

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<sup>127</sup> ChangeLab Solutions, p. 22

<sup>128</sup> Ibid.

<sup>129</sup> Hester Street, Cities RISE, and Ford Foundation

Yet, DHCA does not effectively enforce its mandated multifamily inspection program. There are no meaningful consequences for properties that fail to correct violations identified during mandated inspections. Moreover, it remains unclear whether DHCA complies with County law in correctly classifying multifamily properties as compliant, at-risk, or troubled. Regarding proactive measures to mitigate complaints and support healthy living conditions, DHCA publishes a Code Enforcement Handbook that offers basic information for residents and property owners on complying with the County's housing code. DHCA also publishes a Landlord-Tenant Handbook whose link property owners must share with renters via their leases.

#### **i) Establish Supplementary Programs**

ChangeLab Solutions recommends that code enforcement agencies establish supplementary programs to enforce the housing code. They specifically cite three types of supplementary programs used in other jurisdictions as best practices:

- Educational materials for residents and property owners in Boston and Los Angeles that offer written materials and checklists that cover applicable housing provisions;
- Financial mechanisms to facilitate and subsidize repairs such as the Los Angeles Rent Escrow Account Program;<sup>130</sup> and
- Local relocation assistance to tenants when code violations cannot be fixed such as Los Angeles' relocation assistance for "no fault" evictions.<sup>131</sup>

As already noted, DHCA publishes a Code Enforcement Handbook that offers basic information for residents and property owners and a Landlord-Tenant Handbook whose link property owners must share with renters via their leases. DHCA, however, does not subsidize repairs for low-income property owners nor do they offer relocation assistance to tenants when code violations cannot be fixed. Bill 18-19, Landlord-Tenant Relations – Relocation Expenses, however, "requires a landlord to pay to a tenant a relocation payment if the tenant's housing is condemned as unfit for human habitation under certain circumstances."<sup>132</sup>

#### **j) Evaluate the Code Enforcement Program**

Finally, ChangeLab Solutions recommends the evaluation of code enforcement programs as a best practice. To ensure a program is effective, they advise that a jurisdiction must collect and evaluate data from the field. More specifically, they observe that effective code enforcement programs usually report the following data on an annual basis:<sup>133</sup>

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<sup>130</sup> Page 28 of ChangeLab Solutions' Model Ordinance on Proactive Rental Inspection (2023) states "(t)o incentivize owner compliance, some jurisdictions, such as Los Angeles and Detroit, have created rental escrow account programs that provide a mechanism for tenants to withhold rent from landlords who do not address housing code violations. Tenants pay rent into a city-managed escrow account, and cities can hold this money until landlords meet necessary requirements. In Los Angeles, landlords may apply to request funds from the escrow account to cover repair costs, and funds are also available to tenants for relocation assistance as necessary."

<sup>131</sup> Ibid

<sup>132</sup> Bill 18-19 Landlord-Tenant Relations, [Relocation Expenses](#)

<sup>133</sup> List merges information from pages 26-27, ChangeLab Solutions, Up to Code: Code Enforcement Strategies for Healthy Housing, 2015 and page 29, ChangeLab Solutions, Model Ordinance on Proactive Rental Inspection, 2023

- The number of rental housing units registered (including units that have been discovered);
- The number of inspections by housing type that have resulted from complaints;
- The number of rental housing units inspected by inspection type (complaint or proactive);
- The number and types of complaints received by housing type (single-family, multifamily, owner-occupied, rental);
- The number of inspections that found violations by housing type;
- The number and types of violations found by housing type;
- Owners' compliance with proactive rental inspections within required timeframes;
- The number of units by housing type brought into compliance within required timeframes;
- The number of units by housing type not brought into compliance within required timeframes;
- The number of cases by housing type requiring enforcement, the enforcement measures used, and the outcome of any enforcement activities (including any fines collected);
- A comparison of this year's activities to activities in prior years;
- An evaluation of whether the program fees are adequate to cover program costs and any recommendations to change fee structure;
- The number and types of referrals to other agencies (e.g. Adult Productive Services); and
- Any recommendations for modifications to the code enforcement program.

To advance equity, Hester Street et al. further advises that effective code enforcement program evaluations also depend on community partners to gather relevant on-the-ground information.<sup>134</sup> They cite Kansas City (MO) as one of very few jurisdictions that conducts an annual performance audit of its code enforcement operations, noting that their audit:<sup>135</sup>

“(C)ompiles and analyzes performance data across a variety of indicators – from numbers of violations and site visits to types of violations and neighborhood trends, including the code enforcement timeline from complaint to resolution. ... The city can build on these important innovations by incorporating feedback from residents in the process. They can provide multiple avenues for input such as surveys, workshops, and focus groups. An equitable code enforcement evaluation would involve city officials and residents collaboratively developing the metrics of success, as well as increasing user-friendly, jargon-free ‘report-backs’ in multiple languages to increase transparency and accountability to residents.”

As observed in Chapter 6, DHCA does not systematically collect comprehensive data on the performance of its code enforcement program. Additionally, it does not systematically collect data on its mandated multifamily rental inspection program as required by County law. In turn, DHCA also does not evaluate its code enforcement program regularly, with or without input from community members most impacted by code enforcement in Montgomery County.

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<sup>134</sup> Hester Street, Cities RISE, and Ford Foundation

<sup>135</sup> Ibid, page 25



### 3. Summary

Overall, the County's housing code and DHCA's policies and practices to enforce them partially align with best practices for improving code enforcement processes and outcomes identified by ChangeLab. DHCA partially aligns with eight best practices but does not align with two as summarized in Chart 8.3.

**Chart 8.3. Alignment Between ChangeLab Best Practices and County Code Enforcement Practices**

ChangeLab Best Practices	County Alignment with Best Practices
a) Adopt Strong Housing Code that Prioritizes Health and Safety	<b>Partial.</b> Montgomery County Code mostly aligns with National Healthy Housing Standards.
b) Fund Code Enforcement Programs Sufficiently with Multiple Sources	<b>Partial.</b> DHCA relies on Landlord-Tenant fees to fund Code Enforcement; does not rely on reinspection fees to fund enforcement.
c) Train Officers Comprehensively to Develop a Cross-Section of Skills	<b>Partial.</b> DHCA uses experienced inspectors to train new ones. More training needed to regarding County resources and inequities.
d) Partner with Community Organizations for Code Enforcement	<b>Partial.</b> DHCA employs Community Engagement Manager but does not use community-centric practices with renters and BIPOC residents.
e) Promote Cross-Agency Coordination to Address Residents' Housing Needs	<b>Partial.</b> Code Enforcement collaborates with other DHCA offices and with Department of Environmental Protection. But DHCA also competes with other County agencies for staff.
f) Develop Cooperative Compliance Model to Incentivize Code Compliance	<b>No.</b> Code Enforcement officers do not have the resources necessary to implement this model.
g) Enforce the Local Housing Code with Administrative Enforcement	<b>Partial.</b> Code Enforcement Section has administrative enforcement tools but not used to correct interior code violations.
h) Adopt Proactive Approach to Code Enforcement to Prevent Violations	<b>Partial.</b> DHCA requires mandated inspections for multifamily properties, but policy not implemented correctly.
i) Establish Supplemental Programs for Education, Assistance, and Relocations	<b>Partial.</b> DHCA provides Landlord-Tenant handbook but does not offer aid to correct code violations nor financial assistance for relocations.
j) Evaluate Code Enforcement Program	<b>No.</b> DHCA does not routinely evaluate its Code Enforcement Program nor collect the data required.

## Chapter 9. Key Findings and Recommendations

The Montgomery County Code requires building owners to comply with local housing and building maintenance standards. Specifically, the Code requires building owners to maintain their structures in good repair and comply with a variety of other requirements related to maintenance and repair. The Department of Housing and Community Affairs (DHCA) is the primary entity in the County responsible for enforcing the County's housing code.

While DHCA is the local entity charged with enforcing the County's housing code, it is not the only entity responsible for doing so. Given the overlap between the County's housing and building standards with industry standards enforced by common ownership communities (COCs), home inspectors, and property managers, DHCA often only addresses a code violation complaint if these other entities have not resolved a problem or are unavailable to do so. As such, DHCA in many ways serves as the housing code enforcer of "last resort" for residents who can neither rely on a homeowner's association nor a property manager to address their code violation concerns.

This report responds to the County Council's request for the Office of Legislative Oversight to improve their understanding of DHCA's code enforcement processes, procedures, and outcomes. Members of the Council especially wanted to understand how code violations were addressed in the County, the process that residents went through to report violations, and the responsiveness of DHCA and property owners to residents' complaints of code violations. To complete this study, OLO interviewed key stakeholders, reviewed published and unpublished documents, compiled and analyzed available data, and compared the County's code enforcement practices to best practices in code enforcement.

This chapter describes **ten key findings** that emerged from the information reviewed and analyzed in this report. Based on this project's findings, OLO offers two sets of recommendations for County action. Descriptions of this report's key findings and two sets of recommendations for County action follows.

### A. Summary of Key Findings

**Finding 1. The County uses renters to fund Code Enforcement but allocates more Code Enforcement inspectors to serve single-family communities rather than multifamily properties.**

Tables 9.1 and 9.2 compare operating budgets and general revenue sources for DHCA's Code Enforcement, Landlord-Tenant affairs, and Licensing and Registration functions from FY19 to FY25. It shows Code Enforcement accounts for two-thirds of the costs of these three DHCA functions. It also shows Landlord-Tenant fees paid by rental property owners in rental license fees that are typically passed along to tenants through higher rents, covers 96 percent the of the total cost of these three functions.

While DHCA's Office of Landlord-Tenant Affairs and Licensing and Registration section primarily serve renters and rental property owners, the largest function, Code Enforcement, also serves owner-occupied residential buildings that do not pay rental license fees. Thus, there is some regressivity in the funding of Code Enforcement, where revenue exclusively generated from renting households, who tend to have lower incomes and levels of wealth than owner-occupied households, funds code enforcement services that benefit owner-occupied households and communities.

**Table 9.1: Code Enforcement, Landlord-Tenant Affairs, and Licensing and Registration Operating Budget, FY19-FY25**

	FY19	FY20	FY21	FY22	FY23	FY24	FY25	Change
Code Enforcement	\$3,679.6	\$4,340.5	\$4,538.4	\$4,595.4	\$4,768.2	\$5,454.2	\$6,179.7	67.9%
Landlord-Tenant Affairs	\$1,063.5	\$1,426.4	\$1,417.0	\$1,412.0	\$1,487.9	\$2,010.3	\$2,509.2	135.9%
Licensing and Registration	\$442.8	\$455.8	\$423.1	\$456.3	\$470.9	\$486.9	\$811.9	87.3%
Total Budget	\$5,185.9	\$6,222.7	\$6,378.5	\$6,463.7	\$6,727.0	\$7,951.4	\$9,500.8	83.2%

Sources: Approved Operating Budget and Public Services Program, FY19 – FY25 Budget Books

**Table 9.2: Code Enforcement, Landlord-Tenant Affairs, and Licensing and Registration General Fund Revenue, FY19-FY25**

	FY19	FY20	FY21	FY22	FY23	FY24	FY25	Change
Landlord-Tenant Fees	\$6,418.3	\$6,278.2	\$6,998.0	\$7,119.8	\$7,592.5	\$7,487.4	\$9,092.3	46.6%
COC Fees	\$685.1	\$715.0	\$717.5	\$722.5	\$792.5	\$1,024.7	\$998.4	45.7%
Other Charges/Fees	\$104.3	\$75.6	\$74.3	\$74.4	\$74.4	\$9.0	\$96.0	-8.0%
Other Fines/Forfeiture	\$40.0	\$40.0	\$40.0	\$40.0	\$40.0	\$41.5	\$76.6	91.4%
Other Licenses/Permit	-	\$813.4	\$492.0	\$492.0	\$492.0	\$3.0	\$657.5	-
Total Revenue	\$7,276.7	\$7,934.7	\$8,336.9	\$8,463.1	\$9,065.9	\$8,572.1	\$10,960.0	50.6%

Sources: Approved Operating Budget and Public Services Program, FY19 – FY25 Budget Books

Table 9.3 describes the Code Enforcement Section's staffing trends from FY19-FY25 to demonstrate how Code Enforcement assigns more code inspectors to Zone Teams serving single-family communities rather than the Multifamily Team. During this time frame, the number of inspectors assigned to Zone Teams increased by 28 percent while the number assigned to the Multifamily Team remained unchanged. As such, the share of Code Enforcement assigned to the Multifamily Team diminished by 15 percent, accounting for 36 percent of Code Enforcement FTEs in FY25 compared to 42 percent in FY19.

**Table 9.3: Code Enforcement Full Time Equivalent (FTE) Positions by Function, FY19-FY25**

Positions	FY19	FY20	FY21	FY22	FY23	FY24	FY25	Change
Total Positions (FTEs)	35.5	38.5	38.5	38.5	38.5	39.5	41.5	16.9%
Administration	3.5	3.5	3.5	3.5	3.5	4.5	4.5	28.6%
Zone Teams	18.0	21.0	21.0	21.0	21.0	21.0	23.0	27.8%
Multifamily (MF) Team	15.0	15.0	15.0	15.0	15.0	15.0	15.0	0.0%
MF Team as % of FTEs	42.3%	39.0%	39.0%	39.0%	39.0%	38.0%	36.1%	-14.7%

Sources: Approved Operating Budget and Public Services Program, FY19 – FY25 Budget Books

**Finding 2. The County Code's partial alignment with the National Healthy Housing Standards (NHHS) reflects DHCA's tension between prioritizing public health v. visual blight in code enforcement.**

Generally, the County's housing and building codes mostly align with the NHHS designed to advance public health. However, there are a few exceptions. For example, unlike the NHHS, the County Code does not require property owners to have fire extinguishers in each dwelling, to use integrated pest management methods, or to change deadbolt locks between single-family leases. Nor does the County Code specify requirements for abating lead or asbestos in buildings or use of pesticides.

Yet, the most significant distinction between the County Code and the NHHS is the County's inclusion of exterior building standards designed to minimize visual blight and promote property values that are excluded from the NHHS. For example, the County Code requires that property owners:

- Trim grass, weeds, and other vegetation;
- Maintain hardscapes (e.g. aprons, driveways, sidewalks);
- Maintain building exteriors to prevent flaking, peeling, or loose paint; and
- Prohibit unused vehicles on residential property for more than 30 days.

The inclusion of these requirements in the County Code overlaps with the requirements of many common ownership communities (COCs), which prioritize minimizing visual blight to promote property values. In fact, COCs are often the first responders to complaints of exterior code violations in the communities where they operate, making DHCA a redundant function.

Despite the redundancy of DHCA enforcing exterior standards that are also often enforced by COCs, the County Code and DHCA's enforcement often seeks to enforce its interior and exterior code requirements with equal priority. This practice suggests that correcting violations that compromise public health should not be prioritized over those that threaten property values. Moreover, in some instances, DHCA prioritizes correcting violations that can foster visual blight over correcting those that can harm public health. For example, as described in Chapter 4, DHCA requires inspectors to issue 10-day notices of violations to correct high grass and weed violations. Yet, inspectors are required to issue 15-day notices of violations to correct the most severe health and safety violations found in multifamily properties.

**Finding 3. DHCA primarily relies on a complaint-based process to enforce the housing code that places the onus of code enforcement on residents rather than DHCA or property owners.**

DHCA relies on three code enforcement processes to enforce the County's housing and building codes:

- **The complaint-driven code enforcement process** that relies on residents to initiate code enforcement inspections for suspected code violations usually by contacting 311. DHCA responds to complaints of exterior violations for any building and to complaints of interior violations for any rental. Since residents initiate code enforcement inspections under this approach, the onus for code enforcement resides with them. In turn, the effectiveness of this approach to enforce the housing code depends on residents having a common understanding of, trust in, and willingness to make complaints to address violations. The effectiveness of this approach also depends on DHCA's and property owners' responsiveness to complaints.

- **The mandated multifamily properties code enforcement process** that relies on DHCA to initiate code enforcement inspections rather than tenants. The goal of the mandated multifamily code enforcement process is to have DHCA identify code violations for investigation and the multifamily properties in need of greater DHCA oversight to promote code compliance. The intent of this process is to identify and correct code enforcement violations in multifamily properties not identified through the complaint-driven process. Since DHCA initiates these inspections, the onus of code enforcement resides with them under this approach. The effectiveness of this approach, however, also depends on DHCA's comprehensiveness in noticing and citing code violations and property owners' responsiveness in correcting them.
- **The proactive inspection and code enforcement process** for accessory dwelling units (ADUs) and federally subsidized rental units that requires property owners to demonstrate their compliance with the County code or federal standards as a condition of occupancy. Since property owners must pass a housing inspection to receive and maintain their rental licenses and/or certificates of occupancy, the onus for code enforcement with proactive inspections resides with property owners rather than with residents or DHCA. Whereas Montgomery County only requires proactive inspections for ADUs and federally subsidized units, Howard and Baltimore Counties require proactive inspections for all rental properties as a condition for receiving and renewing rental licenses.

Chart 9.1. illustrates which code enforcement processes DHCA applies by dwelling type. The complaint - driven code enforcement process is the only code enforcement process available to every dwelling type in the County. As such, OLO posits that the code enforcement process most utilized by DHCA is the complaint-driven process. While available data suggests that DHCA conducts more mandated inspections than complaint-driven inspections, the greater numbers of code inspectors assigned to Zone Teams rather than the Multifamily Team suggests that DHCA allocates more code enforcement resources to complaint-driven inspections than to either mandated or proactive inspections.

**Chart 9.1: DHCA Housing Code Enforcement Processes by Dwelling Type**

Dwelling Types	Complaint-Driven Inspections	Mandated Multifamily Building Inspections	Proactive Inspections Required for Occupancy
Multifamily Buildings	X	X	
Single-Family Homes	X		
Short-Term Rentals	X		
Accessory Dwelling Units	X		X
Federally Subsidized Rentals	X		X

**Finding 4. DHCA's approach to conducting code enforcement inspections and communicating with complainants and tenants is not standardized.**

DHCA code inspectors demonstrate considerable discretion in conducting code enforcement inspections for complaint-based and mandated multifamily inspections. They also do not follow a standardized approach for communicating with complainants and tenants as part of these inspections. The perception of inconsistency in inspections and communication could undermine the public's confidence in DHCA's Code Enforcement efforts, particularly among complainants and residents of multifamily buildings.

As described in Chapter 4, code inspectors do not use a standardized checklist when conducting inspections for complaints or mandated multifamily inspections. When inspecting the interior of dwelling units, inspectors are instructed to survey the unit moving from the right to the left to document code violations and track them on their App. Inspectors conducting indoor inspections are also expected to check smoke and carbon monoxide alarms and to check if GFCI outlets are operating properly. When inspecting the exterior of dwellings, there is also no standardized guidance of what the inspection process should entail. Generally, the scope of inspections is at the discretion of the code inspector.

Communications with complainants and tenants following inspections is also at the discretion of code inspectors. Following each inspection, inspectors routinely leave post cards sharing information about the eProperty website where DHCA posts information.<sup>136</sup> According to the eProperty website, information about observed violations are posted on the site within 48 hours of the initial inspection.<sup>137</sup> Data posted includes case number, date of complaint, case type, address, unit, complaint made, inspector assigned, inspection date, and disposition (e.g., violations corrected).

OLO observes that the eProperty website serves as the primary mode of communication between DHCA and complainants regarding the status of code enforcement investigations. It is not a standard practice in DHCA to issue correspondence to complainants to verify when an enforcement case is opened or closed or to confirm a disposition. Instead, DHCA inspectors may connect with complainants via phone calls, emails, and inspections at their discretion. Interviews with 311 staff and community members, as well as OLO reviews of 311 data, also confirm that complainants often rely on 311 to solicit updates about code complaints and the status of DHCA investigations.

**Finding 5. DHCA uses code enforcement tools to abate exterior violations in single-family communities but not to abate interior violations in multifamily properties.**

Beyond issuing citations, DHCA has several tools it can use to promote adherence to the County's housing code when property owners are not compliant with correcting code violations. DHCA's use of these tools, however, seems vary by violation and housing type. For example,

- **DHCA can authorize a "Clean and Lien"** to abate tall grass and weeds (Section 58-4), inoperable vehicles, and debris violations (Section 48-24(6)) at the property owner's expense. DHCA regularly uses this enforcement tool. DHCA can also authorize "clean and liens" to demolish condemned properties (Section 26-14). DHCA, however, reports they have insufficient funding to do so and that they have only used this authority to abate tall grass, weeds, and solid waste violations.<sup>138</sup>
- **DHCA can order and administer abatements for severe conditions.** Section 26-15 grants DHCA the power to abate uncorrected violations for severe conditions if immediate action is needed to protect public health and safety. DHCA can order a property owner to correct or abate the violation and if the owner does not, it "may take any action reasonably necessary to abate or correct the condition or may contract to have the necessary action taken." If DHCA abates violations, the costs are charged to the owner and can be placed on the tax bill as a lien. There is no evidence, however, that DHCA has ever used this authority to correct severe condition violations.

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<sup>136</sup> [eProperty - Data Discovery for Properties](#)

<sup>137</sup> Ibid

<sup>138</sup> Interview with Scott Bruton, Nathan Bovel, Tamela Robinson, and Nicole Katrivanos, August 26, 2024

For uncorrected code violations in residential rental properties, DHCA can also:

- **Authorize a “Repair and Deduct.”** Executive Regulation 3-18 authorizes the DHCA Director to allow tenants to use a certified contractor to repair a violation and deduct up to one month’s rent for repair costs. DHCA can authorize “Repair and Deduct” for life and safety violations that have not been corrected within 24 to 48 hours. For lesser violations that do not threaten immediate life and safety, DHCA can authorize “Repair and Deduct” for violations that have not been corrected within 15 to 30 days of their initial Notice of Violation. However, according to DHCA, the Director has never authorized a “Repair and Deduct” because until recently no tenant had ever requested it.
- **Revoke rental licenses** for rental properties that fail to correct severe code violations. Bill 19-15 enables DHCA to revoke a rental license for properties with uncorrected violations that directly affect the health and safety of the tenant. Section 29-25 also enables DHCA to “revoke a rental license if the landlord after 10 days’ written notice, does not eliminate or initiate bona fide efforts to eliminate violations of applicable laws.” During an interview, DHCA staff could not recall the department revoking a rental license due to uncorrected code violations.<sup>139</sup>
- **Allow tenants to terminate their leases for uncorrected violations.**<sup>140</sup> Bill 6-19 allows tenants to terminate their leases if their property owner has not corrected severe health and safety violations within 30 days if ordered by DHCA. Uncorrected public health and safety violations where this protection applies include:
  - Rodent or insect infestation affecting 20 percent or more units in a building;
  - Extensive, visible mold growth on interior walls/surfaces exposed to occupied space;
  - Windows that do not permit a safe means of egress;
  - Pervasive and recurring water leaks that result in chronic dampness or mold growth;
  - Personal property damage in more than one unit; and
  - Lack of one or more working utilities, provided the shutdown is not due to tenant non-payment.

In sum, while DHCA regularly uses “Clean and Liens” to correct code violations that can contribute to visual blight in single-family communities, at best, it seldom uses available code enforcement tools to abate uncorrected violations in multifamily properties, including those that undermine public health.

**Finding 6. DHCA does not fully comply with the County’s code enforcement laws and regulations for multifamily properties.**

With the enactment of Bill 19-15, the County committed to increasing the rights of tenants and improving the quality of rental housing. With Executive Regulation (ER) 5-17AM, the County further committed to a process of increasing inspections of multifamily properties aimed at improving their quality and reducing the incidence of code violations that harm public health and safety.

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<sup>139</sup> Ibid.

<sup>140</sup> Press Releases: Montgomery Council Passes Bill to Allow Tenants to Terminate Lease in Case of Uncorrected Violation, June 25, 2019

A comparison of DHCA's practices to Bill 19-15 and ER 5-17AM requirements, however, demonstrates that DHCA has not fully complied with either in at least three ways:

- First, DHCA does charge rental property owners reinspection fees as required by Bill 19-15 and ER 2-17. DHCA reports they do not yet have the infrastructure to charge and collect reinspection fees from rental property owners.
- Second, DHCA only partially complies with Bill 19-15's annual reporting requirements as their Annual Reports on Section 29-6(h) do not include data on the following metrics required by County law:
  - Violations among non-multifamily rentals;
  - Corrected violations for all rental housing;
  - Corrected violations among multifamily rentals;
  - Status of corrective action plans;
  - Citations issued to non-multifamily rentals;
  - Fines collected from rental properties; and
  - Housing complainants' preferred languages in languages other than English or Spanish.
- Third, DHCA does not follow the methodology for classifying multifamily properties as required by ER 5-17AM. The regulations require assigning multifamily properties into quadrants based on the number and severity of violations observed during mandated inspections. Based on this methodology, generally half of multifamily properties should be classified as at-risk, a quarter as complaint, and the remaining quarter as troubled. Yet DHCA classifies most multifamily properties as compliant, and less than a quarter as at-risk or troubled.

Additionally, OLO finds that DHCA does not comply with the **quality-of-life outreach provisions** of the County Code. This requires the Executive or their designee to conduct outreach to communities adversely impacted by uncorrected code violations. As referenced in Section 26-18A, in instances where "an aggregation of (code enforcement) problems have led to diminished quality of life for affected residents in affected communities," the Executive or their designee must:

- Submit quarterly reports to the Council that describe activities, plans, and objectives of Executive branch departments to address quality of life issues;
- Consider issuing annual reports that can "include recommendations to increase enforcement of violations in the County laws related to housing maintenance standards ..." and
- Hold semiannual meetings with County residents to discuss these problems.

This requirement was not mentioned during OLO's interviews with DHCA. Nor did OLO find or receive any reports describing the Executive's efforts to address uncorrected violations at the Enclave or other properties. Nevertheless, DHCA contests OLO's finding, stating it has participated in numerous forums as outreach to communities adversely impacted by uncorrected violations.<sup>141</sup>

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<sup>141</sup> Bovellev, Natham, January 25, 2025



### **Finding 7. DHCA collects insufficient data to evaluate its code enforcement performance.**

As part of its Operating Budget and Annual Reports on Section 29-6(h), DHCA reports data on the inspections it conducts and the number of complaints it receives. DHCA also collects data on code enforcement service requests resolved in 60 days, and among multifamily properties, the number of violations, severity of violations, and number of citations issued. A review of this data shows that:

- Inspections increased by 37 percent from FY19 to FY23 with mandated multifamily inspections accounting for a third of inspections; inspections for 311 complaints accounting for a fifth of inspections; and re-inspections accounting for up to half of total inspections.
- Most 311 complaints were for single-family properties. Yet, from FY19 to FY24, complaints for single-family properties declined by 65 percent but increased by 25 percent for multifamily properties.
- The share of code enforcement service requests resolved within 60 days increased by 6 percent from FY18 to FY23. Yet, the average number of violations and severity of violations identified among multifamily properties increased by 85 and 47 percent respectively.
- The number of citations issued to multifamily properties increased from 307 in FY19 to 754 in FY24 with a peak of 2,783 citations in FY23.

These data points are informative, but insufficient for assessing program performance. ChangeLab recommends code enforcement programs also collect data on the following metrics annually:<sup>142</sup>

- The number and types of complaints received by housing type (single-family, multifamily, owner-occupied, rental);
- The number of inspections that found violations by housing type;
- The number and types of violations found by housing type;
- Owners' compliance with proactive rental inspections within required timeframes;
- The number of units by housing type brought into compliance within required timeframes compared to those not brought into compliance within required timeframes;
- The number of cases by housing type requiring enforcement, the enforcement measures used, and the outcome of any enforcement activities (including any fines collected);
- A comparison of this year's activities to activities in prior years;
- An evaluation of whether the program fees are adequate to cover program costs and any recommendations to change fee structure; and
- The number and types of referrals to other agencies (e.g. Adult Productive Services).

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<sup>142</sup> List merges information from ChangeLab Solutions, Up to Code: Code Enforcement Strategies for Healthy Housing, 2015 and ChangeLab Solutions, Model Ordinance on Proactive Rental Inspection, 2023

DHCA neither collects nor reports data on these recommended metrics regularly. Nor does it partner with community members most impacted by code enforcement in their data collection and program evaluation efforts as recommended by ChangeLab and Hester Street<sup>143</sup> as best practices.

**Finding 8. Rental property owners have a more favorable impression of DHCA than tenants and representatives of community-based organizations.**

Chart 9.2. summarizes stakeholders' perspectives on DHCA and recommendations for local action to improve code enforcement in the County.

**Chart 9.2: Summary of Stakeholders Perspectives on DHCA Code Enforcement**

	DHCA Staff	Tenant Focus Groups	Community Organizations
Status of Code Enforcement in Montgomery County	<ul style="list-style-type: none"> <li>Reactive code enforcement</li> <li>Draft standard operating procedures</li> <li>Delays in code enforcement</li> </ul>	<ul style="list-style-type: none"> <li>Unresponsive owners</li> <li>Tenants unfamiliar with County laws</li> <li>Focus on exterior v. interior violations</li> <li>Tenants harmed by uncorrected violations</li> </ul>	<ul style="list-style-type: none"> <li>Poor living conditions</li> <li>Fear of retaliation</li> <li>Property manager turnover</li> <li>Self-evictions</li> <li>Lack of standards</li> <li>Potential weaponization of code enforcement</li> </ul>
What Works Well?	<ul style="list-style-type: none"> <li>Perception most code complaints resolved in a timely fashion</li> <li>DHCA inspections can be effective at encouraging managers to correct violations</li> <li>Perception DHCA code enforcement better than Prince George's &amp; Baltimore City</li> <li>DHCA inspection reports useful for tenants as evidence in OLTA and legal cases</li> </ul>		
What Does <u>Not</u> Work Well?	<ul style="list-style-type: none"> <li>Data dashboard</li> <li>Community engagement</li> <li>DHCA staffing for inspections and strategic planning</li> </ul>	<ul style="list-style-type: none"> <li>Code enforcement process burdens tenants</li> <li>Complaints can lead to displacement</li> <li>Code enforcement does not address public safety</li> </ul>	<ul style="list-style-type: none"> <li>Violations under-reported</li> <li>Root causes unaddressed</li> <li>DHCA communications with tenants</li> <li>Citations insufficient to induce compliance</li> </ul>
Recommendations for Improving Code Enforcement	<p>Tenants' and CBOs' recommendations for County action:</p> <ul style="list-style-type: none"> <li>Provide resources to abate public health code violations</li> <li>Adopt fees to sanction code non-compliance</li> <li>Create an ombudsman position for code enforcement and just cause evictions law</li> </ul> <p>Tenants' and CBOs' recommendations for DHCA action:</p> <ul style="list-style-type: none"> <li>Adopt a more proactive approach to code enforcement</li> <li>Increase training for code inspectors</li> <li>Solicit renters' perspectives in code enforcement policy development &amp; operations</li> <li>Improve communications with tenants</li> <li>Require inspectors to privately communicate with tenants</li> <li>Use technology to improve code enforcement processes and outcomes</li> </ul>		

<sup>143</sup> Hester Street, Cities RISE, and Ford Foundation

Based on surveys, interviews, and focus groups, OLO finds that rental property owners have a more favorable impression of DHCA than tenants or CBO representatives. While rental property owner and manager respondents rated their experiences with DHCA as excellent or good, most tenants and CBOs that worked with code enforcement in the County rated their experiences as poor.

**Finding 9. Code enforcement policies and practices in Montgomery County are rooted in a history of racial inequity.**

Code enforcement policies and practices in County, like elsewhere, are rooted in a history of racial oppression. As observed in OLO's RESJ Policy Handbook: Land Use, Housing, and Economic Development, code enforcement is one of many historical tactics of racialized housing and land use that have been used to advance the economic well-being of White people at the expense of BIPOC.<sup>144</sup>

Historically, code enforcement in Montgomery County has been used to target Black residents and communities for displacement. More specifically, during the 20<sup>th</sup> Century, over-enforcement of the housing code via condemnations was used as a tool to displace Black residents as the County transitioned from a rural community to a White suburb.

The development of the County's current housing and building standards, with an emphasis on preventing urban blight to "assure the continued economic and social stability of structures and neighborhoods"<sup>145</sup> reflects the community norms and priorities of when the County's codes were enacted. Maximizing wealth for White property owners resulting from the suburbanization of the County through residential segregation were undoubtedly significant drivers in developing the County's housing codes. Of note, civic associations reflecting White property owner interests informed the development of the County's housing codes while input from Black residents and renters were excluded.

While over-enforcement in Black communities characterizes historic racial inequity in code enforcement, contemporary racial inequity in code enforcement often manifests as an under-enforcement of the housing code in BIPOC communities. The perceived under-enforcement of the housing code for BIPOC residents in the County is likely driven by four factors:

- **A complaint-driven code enforcement process** that disproportionately directs housing inspections and enforcement to single-family and predominantly White communities;<sup>146</sup>
- **A housing code that prioritizes correcting exterior violations** to prevent neighborhood blight rather than interior violations that compromise public health and safety;<sup>147</sup>
- **The inconsistent or non-use of existing code enforcement tools** to encourage rental property owners to abate uncorrected code violations; and
- **A lack of sufficient County resources to abate uncorrected code violations** except for tall grass and solid waste violations.

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<sup>144</sup> Racial Equity and Social Justice Policy Handbook: Land Use, Housing, and Economic Development, OLO Report 2024-11

<sup>145</sup> Section 26-1 of Montgomery County Code.

<sup>146</sup> Similar patterns observed in Memphis, Tennessee (Christina Stacy, Joseph Schilling and Steve Barlow, Strategic Housing Code Enforcement and Public Health: Urban Institute and Neighborhood Preservation, Inc., October 2018)

<sup>147</sup> Ibid

Since DHCA does not collect code enforcement data by race or ethnicity, the magnitude of racial disparities in code enforcement resulting from racial inequities remains unknown. However, the County's use of renter paid Landlord-Tenant fees to fund code enforcement services that perhaps benefit and work better for single-family property owners than for renters suggests that the funding of code enforcement is also racially inequitable.

**Finding 10. DHCA's code enforcement practices at best partially align with best practices for equitable and effective code enforcement.**

ChangeLab Solutions describes ten best practices for improving code enforcement processes and outcomes. Overall, the County's housing code and DHCA's policies and practices to enforce them partially align with their best practices. Among ChangeLab's ten best practices for code enforcement, DHCA partially aligns with eight best practices, but does not align with two best practices as summarized in Chart 9.3.

**Chart 9.3. Alignment Between ChangeLab Best Practices and County Code Enforcement Practices**

ChangeLab Best Practices	County Alignment with Best Practices
a) Adopt Strong Housing Code that Prioritizes Health and Safety	<b>Partial.</b> Montgomery County Code mostly aligns with National Healthy Housing Standards.
b) Fund Code Enforcement Programs Sufficiently with Multiple Sources	<b>Partial.</b> DHCA relies on Landlord-Tenant fees to fund Code Enforcement; does not rely on reinspection fees to fund enforcement.
c) Train Officers Comprehensively to Develop a Cross-Section of Skills	<b>Partial.</b> DHCA uses experienced inspectors to train new ones. More training needed to regarding County resources and inequities.
d) Partner with Community Organizations for Code Enforcement	<b>Partial.</b> DHCA employs Community Engagement Manager but does not use community-centric practices with renters and BIPOC residents.
e) Promote Cross-Agency Coordination to Address Residents' Housing Needs	<b>Partial.</b> Code Enforcement collaborates with other DHCA offices and with Department of Environmental Protection. But DHCA also competes with other County agencies for staff.
f) Develop Cooperative Compliance Model to Incentivize Code Compliance	<b>No.</b> Code Enforcement officers do not have the resources necessary to implement this model.
g) Enforce the Local Housing Code with Administrative Enforcement	<b>Partial.</b> Code Enforcement Section has administrative enforcement tools but not used to correct interior code violations.
h) Adopt Proactive Approach to Code Enforcement to Prevent Violations	<b>Partial.</b> DHCA requires mandated inspections for multifamily properties, but policy not implemented correctly.
i) Establish Supplemental Programs for Education, Assistance, and Relocations	<b>Partial.</b> DHCA provides Landlord-Tenant handbook but does not offer aid to correct code violations nor financial assistance for relocations.
j) Evaluate Code Enforcement Program	<b>No.</b> DHCA does not routinely evaluate its Code Enforcement Program nor collect the data required.

## B. Project Recommendations

Ten key findings emerge from the information reviewed and analyzed for this report describing the County's code enforcement program. Taken together, these ten findings reflect a narrative of racial and social inequity where the County's code enforcement system works best for White residents of single-family communities because the County's code enforcement framework was designed to benefit them. Specifically, the County's housing code and enforcement policies were developed to maximize the wealth of White homeowners. Conversely, the County's code enforcement system does not work well for many renters and BIPOC residents, especially if they reside in multifamily properties with code violations.

Given this project's ten key findings that reflect racial and social inequities shaping code enforcement in Montgomery County, OLO offers two sets of recommendations for County action.

### 1. Primary Recommendations

#### a) Create taskforce to develop a strategic plan to advance RESJ in code enforcement

OLO's first primary recommendation is for DHCA to co-develop a strategic plan to advance RESJ in code enforcement with community-based stakeholders representing renters and BIPOC residents. Community-based organizations to consider as co-partners in the development of the proposed strategic plan include Everyday Canvassing, CASA, the NAACP, and the Renter's Alliance.

This recommendation aligns with the County's Racial Equity and Social Justice Act, which tasks each County department and office to develop a RESJ action plan.<sup>148</sup> OLO further recommends that the development of the strategic plan rely on the five racial equity principles described in Chapter 8 as an organizing framework:<sup>149</sup>

- **Principle 1: Center the needs and leadership of BIPOC communities first** by including BIPOC communities as full partners in the policy design, implementation, and evaluation.
- **Principle 2: Name and consider each BIPOC community individually**, recognizing that each community has its own history, experiences, and challenges.
- **Principle 3: Analyze the specific outcomes for each racial and ethnic group.** Since not all BIPOC communities have the same outcomes, consider how policy proposals would impact members of each community before enacting them.
- **Principle 4: Set up policies and programs that are responsive in a way that is proportionate to the disparate impacts.** Policy and program responses should be community- and circumstance-driven to provide targeted support based on specific needs of each community.
- **Principle 5: Create a robust implementation and monitoring plan that is reflective of and accountable to BIPOC staff**, institutions, and communities. While policy design is important, it is also important to evaluate that targeted support is provided in a racially equitable way.

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<sup>148</sup> See RESJ Act (Bill 27-19) at [Bill template](#) and RESJ Action Plan [Executive Regulation 15-21](#)

<sup>149</sup> Gamblin, Marlyssa. Using a Racial Equity Scorecard for Policy and Programs

**b) Improve data collection and reporting to better understand code enforcement practices, trends, and outcomes overall and by race, ethnicity, and location.**

OLO's second primary recommendation is for DHCA to improve its data collection and reporting on key metrics to improve the public's understanding of code enforcement practices, trends, and outcomes. OLO also recommends the collection and reporting of code enforcement data by race, ethnicity, and location to improve the public's understanding of racial and social inequities in code enforcement.

To improve its data collection and reporting practices, OLO recommends that DHCA develop its infrastructure to collect and report key code enforcement data across a variety of dimensions that include inspection, violation, and housing types. Such data could be used to evaluate code enforcement in the County. OLO also recommends that DHCA partner with CBOs representing renters and BIPOC residents to develop a data collection plan inclusive of quantitative and qualitative measures.

## **2. Secondary Recommendations**

OLO offers nine specific policy and program options as secondary recommendations aimed at making housing code enforcement more responsive to renters and BIPOC residents in the County. As the taskforce proposed in Recommendation 1a considers policy and program options to advance RESJ in code enforcement, OLO recommends the consideration of each of these secondary recommendations for inclusion in the County's RESJ Action Plan for Code Enforcement.

**a) Increase staffing for Multifamily Team**

In response to Finding #1 indicating that DHCA allocates most of its code inspectors to Zone Teams despite a greater need for code enforcement among multifamily properties that unlike owner-occupied properties funds code enforcement, OLO recommends that DHCA increase its staffing for the Multifamily Team. This could be achieved by reallocating existing resources, collecting new revenue from reinspection fees, and/or charging property owners additional fees for non-compliance with the housing code if violations are not corrected in a timely fashion.

**b) Update the County Code and DHCA code enforcement policies and practices**

In response to Finding #2 indicating that the County Code's partial alignment with the National Healthy Housing Standards (NHHS) reflects a tension between prioritizing between public health and property values, OLO recommends an updating of the Code to prioritize public health in code enforcement. This could be achieved by reviewing the Code and DHCA code enforcement policies and practices to identify gaps and then amending the Code and DHCA policies and practices to improve their alignment with the NHHS.

**c) Expand the use of proactive inspections**

In response to Finding #3 indicating that DHCA primarily relies on the complaint-based process that places the onus of enforcement on residents to enforce the housing code, OLO recommends that DHCA expand the use of proactive inspections for rental properties as part of their license renewals and between lease changes. Implementation of this recommendation would scale up the proactive code inspections that DHCA already administers for accessory dwelling units and federally subsidized housing to ensure that all rental properties proactively comply with the County's housing and building codes as conditions of occupancy and continued tenancy.

**d) Require DHCA to use standardized checklist and approach to communicating with tenants**

In response to Finding #4 indicating that code inspectors demonstrate considerable discretion in conducting inspections and communicating that at times leaves tenants confused about the status of their cases, OLO recommends that DHCA utilize a standardized checklist to conduct inspections and update tenants about the status of their cases in writing. This could be achieved by DHCA adopting the checklist used to inspect federally subsidized properties and blind copying tenants on communications with rental property owners, including formally sharing inspection reports with tenants. To minimize tenants' risk for retaliation, OLO also recommends that DHCA require code inspectors to privately communicate with tenants during inspections rather than invite property managers/owners to join tenants when conducting inspections.

**e) Increase "Clean and Lien" budget to abate interior code violations in multifamily properties**

In response to Finding #5 indicating that DHCA solely uses "Clean and Liens" to abate exterior code violations in single-family communities, OLO recommends that DHCA increase its "Clean and Lien" budget to abate interior code violations in multifamily properties that compromise public health and safety. This could be achieved by DHCA reallocating existing revenue, collecting new revenue from reinspection fees, and/or charging property owners additional fees for non-compliance with the housing code if violations are not corrected in a timely fashion.

**f) Revise methodology for classifying multifamily properties with CBO partners**

In response to Finding #6 indicating that DHCA does not follow the methodology for classifying multifamily properties as required by ER 5-17AM, OLO recommends that DHCA revise its methodology to better identify multifamily properties in need of intervention. As currently written, ER 5-17AM requires classifying most multifamily properties as non-compliant (i.e. at-risk or troubled). ER 5-17AM also establishes too high a benchmark for troubled properties to become compliant by requiring previously complaint properties to demonstrate diminishing conditions via total violation (TV) and severity of violation (SV) scores that push them into non-compliance.

OLO recommends that DHCA develop an objective standard for classifying multifamily properties based on standardized approach to classifying properties rather than a relative approach. OLO further recommends that DHCA partner with CBOs to develop a meaningful approach to classifying properties that establishes standardized cut scores for TV and SV scores that do not identify more than a half of multifamily properties as non-compliant. OLO also recommends that the County Council require DHCA to publicly report the process and data points utilized to classify multifamily properties annually in its Annual Report on Section 29-6(h).

**g) Fully comply with annual data reporting requirements for Bill 19-15 under Section 29-6(h)**

In response to Finding #6 indicating that DHCA only partially complies with Bill 19-15's annual reporting requirements, OLO recommends that DHCA collect and report data on the following metrics that are not included in their Annual Reports on 29-6(h), but nevertheless required under County law:

- Violations among non-multifamily rentals;
- Corrected violations for all rental housing;
- Corrected violations among multifamily rentals;

- Status of corrective action plans;
- Citations issued to non-multifamily rentals;
- Fines collected from rental properties; and
- Housing complainants' preferred languages in languages other than English or Spanish.

**h) Enhance two-way communication and engagement with renters and BIPOC residents**

In response to Finding #8 indicating that tenants and the community-based groups that represent them have a less favorable view of DHCA than rental property owners, OLO recommends that DHCA enhance its two-way communication and engagement with renters and BIPOC residents. This could be achieved by DHCA co-developing and implementing a community engagement plan with renters and BIPOC residents to ensure they are aware of their code enforcement rights and responsibilities while increasing DHCA's accountability to them in their decision-making and operations.

**i) Increase awareness and responsiveness to racial inequities that shape code enforcement**

In response to Finding #9 indicating that the County's code enforcement policies and practices are rooted in a history of racial inequity, OLO recommends that DHCA increase its staffs and the public's awareness of the racial and social inequities that have shaped its code enforcement practices. This could be achieved by developing trainings for DHCA staff and community stakeholders on how racial and social inequities can foster racial and social disparities in code enforcement. Increased awareness resulting from these trainings could also enable the County and DHCA to develop and implement policies and practices with the power to diminish inequities and disparities in code enforcement.



## **Chapter 10. Agency Comments**

OLO recognizes and appreciates the technical comments offered by staff leaders of the Montgomery County Department of Health and Community Affairs to draft versions of this report. This final report was updated based on this feedback.

The Chief Administrative Officer's comments on the final draft of this report are provided in a separate document, available alongside this report on the OLO Report website.

## Appendix A. Summary of Housing and Building Maintenance Requirements per County Code and Regulations

### A. Chapter 26 Housing and Building Maintenance Standards

Chapter 26 outlines basic requirements for residential and non-residential properties related to occupancy, equipment, lighting, ventilation, heating, safety, and cleanliness. Chapter 26 of the County Code allows DHCA to inspect and enforce housing maintenance standards in all rental multiple dwellings and dwelling units.

#### 1. Section 26-5 Space, Use and Location

	Requirements
<b>Basement use</b>	<ul style="list-style-type: none"><li>• Basements can only be used as a living space if they are dry, insulated against dampness, and have the required window area above ground level.</li></ul>
<b>Cellar use</b>	<ul style="list-style-type: none"><li>• Cellars cannot be living spaces without specific permission from authorities.</li></ul>
<b>Ceiling height</b>	<ul style="list-style-type: none"><li>• Half the area of living spaces must have ceilings at least 6 feet 8 inches high, though beams, girders, ducts, or other obstructions may lower the ceiling height to 6 feet 4 inches.</li></ul>
<b>Living space</b>	<ul style="list-style-type: none"><li>• A dwelling unit needs at least 150 square feet for the first person and at least 100 square feet for each additional person.</li></ul>
<b>Privacy</b>	<ul style="list-style-type: none"><li>• Dwelling units and individual living units must be designed to provide privacy, with proper doors and walls extending from floor to ceiling.</li></ul>
<b>Sleeping space</b>	<ul style="list-style-type: none"><li>• In dwelling units with 2 or more rooms, single-occupancy bedrooms need at least 70 square feet, while rooms with multiple occupants need 50 square feet per person.</li></ul>

#### 2. Section 26-6 Standards for Basic Equipment and Facilities

	Requirements
<b>Bathroom</b>	<ul style="list-style-type: none"><li>• Must have a flushing toilet, sink, and bathtub or shower in working condition, connected to sewage and water systems.</li></ul>
<b>Electricity</b>	<ul style="list-style-type: none"><li>• Each dwelling and dwelling unit must have safe, up-to-code electric service, outlets, and fixtures.</li><li>• Bathrooms, laundry rooms, and public halls must have at least one ceiling or wall light fixture.</li><li>• At least one outlet for every 60 square feet of floor space in habitable rooms, with a minimum of two outlets.</li><li>• Habitable rooms need a minimum lighting power of 3 watts per square foot.</li><li>• Cooking areas need a 20-amp circuit.</li><li>• Room air conditioners must have a dedicated 20-amp circuit.</li></ul>
<b>Kitchen</b>	<ul style="list-style-type: none"><li>• Must have facilities for food storage, preparation, and cooking, including cooking and baking appliances, cabinets, a fridge and freezer, and a sink with hot and cold water.</li></ul>

### 3. Section 26-7 Standards for Light, Ventilation, and Heating

	Requirements
<b>Artificial light</b>	<ul style="list-style-type: none"> <li>Common hallways and stairways in a multiple dwelling building need adequate lighting.</li> <li>Common hallway and stairway must have enough lighting to always maintain a minimum of 3 foot-candles of light at floor or stair levels.</li> <li>Common hallway and stairway in buildings with four or fewer units may use conveniently located light switches to turn on and off lights when needed.</li> </ul>
<b>Air Conditioning</b> <i>(Rental Housing)</i>	<ul style="list-style-type: none"> <li>From June 1 to September 30, rental units must be able to maintain a temperature no higher than 80°F.</li> <li>Comply with requirements established under Executive Regulation 4-21.</li> </ul>
<b>Central heating</b>	<ul style="list-style-type: none"> <li>Properties must have safe and functioning heating systems.</li> </ul>
<b>Natural light</b>	<ul style="list-style-type: none"> <li>Each habitable room must feature different sources of natural light such as windows, skylights, and glazed doors.</li> </ul>
<b>Space heating</b>	<ul style="list-style-type: none"> <li>Space heaters must not use gasoline as a fuel.</li> <li>If they use solid, liquid, or gaseous fuel, they must not be designed to be portable.</li> <li>Units with a flame must be connected to a flue or vent.</li> <li>Those using gaseous fuel must be connected with non-flexible metal tubing.</li> <li>Units using solid or liquid fuels must have a fire-resistant panel beneath them.</li> <li>They should be positioned at least 2 feet away from any wall or be insulated to prevent overheating.</li> <li>If electric, they must be connected to an appropriate electric circuit.</li> <li>For units where tenants don't control the heat, owners must ensure a minimum of 68°F in habitable rooms.</li> </ul>
<b>Ventilation</b>	<ul style="list-style-type: none"> <li>Openable windows or doors must constitute at least 45% of the minimum window area or 4% of the room's floor area.</li> </ul>
<b>Water heating</b>	<ul style="list-style-type: none"> <li>Properties must have safe and functioning water heating systems.</li> <li>Hot water systems must provide water between 120°F and 140°F at all necessary fixtures.</li> <li>Meet the same requirements for central and heating units.</li> </ul>

### 4. Section 26-8 Fire Safety and Security

	Requirements
<b>Address number</b>	<ul style="list-style-type: none"> <li>Each dwelling must have clearly marked address numbers.</li> </ul>
<b>Doors off common areas</b> <i>(Multi-family dwellings)</i>	<ul style="list-style-type: none"> <li>Doors opening to an exit corridor must be self-closing and self-latching.</li> </ul>
<b>Exterior sliding doors</b>	<ul style="list-style-type: none"> <li>Exterior sliding, double and French doors less than three stories above the ground must be installed and maintained to protect the door from sliding or being pried out of its track or forced open when locked.</li> </ul>

<b>Locks</b> <i>(Owners- multiple dwelling units and personal living quarters buildings)</i>	<ul style="list-style-type: none"> <li>• Must provide, install, and maintain locks and other security measures for doors and windows.</li> <li>• Must restrict access to any master key, or any other key which operates more than one key cylinder. Every master key must be always accounted for.</li> <li>• Must also supply, install, and maintain a lock for every door to the outside, and each door must close securely.</li> <li>• Must supply the tenant with a key which will operate the lock from the outside, and the lock must operate by a thumb turn from the inside.</li> <li>• Must lock any access panel to a roof, attic, crawl space, storage area, and any other area which is not used daily.</li> </ul>
<b>Locks</b> <i>(Tenants- multiple dwelling units and personal living quarters buildings)</i>	<ul style="list-style-type: none"> <li>• Need written permission from the landlord to install new locks and may not replace them without providing the landlord or owner with a working key for the new locks.</li> </ul>
<b>Means of escape</b>	<ul style="list-style-type: none"> <li>• Each dwelling unit, individual living unit, and rooming unit must have a safe, unobstructed means of escape leading to safe and open space at ground level.</li> </ul>
<b>Smoke detectors</b>	<ul style="list-style-type: none"> <li>• Owners must provide working smoke detectors in each dwelling unit.</li> </ul>
<b>Viewers</b>	<ul style="list-style-type: none"> <li>• Doors must have peepholes or a clear view to the outside unless there's an alternative way to see who's at the door.</li> </ul>
<b>Windows</b>	<ul style="list-style-type: none"> <li>• Windows that can be reached from the ground must be secured against opening from the outside.</li> </ul>

## 5. Section 26-8A Carbon Monoxide Alarm or Detector Required

	Requirements
<b>Carbon monoxide alarms or detectors</b>	<ul style="list-style-type: none"> <li>• Applies to single-unit, two-unit, and townhouse unit that is currently inhabited with a building permit granted prior to January 1, 2008.</li> <li>• Required for single homes, duplexes and townhomes that have a fuel burning appliance.</li> <li>• Must be installed outside of each sleeping area and in the immediate vicinity of the bedrooms. Detectors should also be installed on every level of the dwelling including basements but excluding attics and crawl spaces.</li> </ul>
<b>Combination smoke detector/carbon monoxide alarms</b>	<ul style="list-style-type: none"> <li>• Can serve both functions if they meet local and state requirements.</li> </ul>
<b>Single station carbon monoxide alarms</b>	<ul style="list-style-type: none"> <li>• Can be battery-operated or connected to the building's wiring.</li> <li>• Plug-in devices are allowed if securely attached to the building and installed according to the manufacturer's instructions.</li> <li>• Hard-wired or plug-in models must have a battery backup.</li> </ul>

## 6. Section 26-9 Maintenance of Dwelling Units

	Requirements
<b>Bathroom floors</b>	<ul style="list-style-type: none"> <li>Bathroom floors and water closet compartment floors should be made and kept water-resistant and easy to clean.</li> </ul>
<b>Common area maintenance</b> <i>(Multi-family dwellings)</i>	<ul style="list-style-type: none"> <li>Owner is responsible for keeping the shared areas and buildings clean and hygienic. All equipment and facilities in communal areas like laundry rooms must be kept clean and operational.</li> </ul>
<b>Discontinuation of services</b>	<ul style="list-style-type: none"> <li>An owner or occupant can't stop any necessary services, like utilities, from an occupied home, unless it's for a short period for repairs, alterations, or an approved emergency.</li> </ul>
<b>Driveways</b>	<ul style="list-style-type: none"> <li>Aprons, driveways, sidewalks and walkways, parking lots, and patios must be maintained in good, serviceable, and safe condition.</li> </ul>
<b>Erosion or gulying</b>	<ul style="list-style-type: none"> <li>Lawn and other land not covered by a structure must be reasonably free of erosion or gulying.</li> </ul>
<b>Exterior lighting</b>	<ul style="list-style-type: none"> <li>Must be directed away from the windows of any adjacent dwelling unit or individual living unit.</li> </ul>
<b>Flaking, peeling, or loose paint</b>	<ul style="list-style-type: none"> <li>Exterior and interior surfaces must be adequately protected from water damage and free from flaking, peeling, or loose paint.</li> </ul>
<b>Graffiti</b> <i>(Multi-family dwellings)</i>	<ul style="list-style-type: none"> <li>Exterior surfaces of buildings and common areas in multi-family homes should be graffiti-free.</li> </ul>
<b>Grass or weeds</b>	<ul style="list-style-type: none"> <li>Must not be allowed to grow more than 12 inches high.</li> </ul>
<b>Pest extermination by occupant</b>	<ul style="list-style-type: none"> <li>Occupants of a single unit must exterminate insects, rodents, or other vermin in the unit.</li> <li>If the occupant lives in a multiple dwelling building, he/she must exterminate if his/her unit is the only one infested.</li> </ul>
<b>Pest extermination by owner</b>	<ul style="list-style-type: none"> <li>It's the owner's responsibility to exterminate if the infestation is happening in more than one unit or in shared common areas.</li> <li>The owner must also exterminate if the infestation was caused by his/her failure to maintain the dwelling.</li> </ul>
<b>Plumbing fixtures and pipes</b>	<ul style="list-style-type: none"> <li>Must be correctly installed and kept in good, clean working order, without leaks or blockages.</li> </ul>
<b>Public nuisance</b>	<ul style="list-style-type: none"> <li>Owners must fix any conditions causing public nuisances after being notified, ensuring they don't happen again.</li> </ul>
<b>Renovations, additions, or new construction</b>	<ul style="list-style-type: none"> <li>The owner must finish all outside parts of the building, like windows, walls, and roof, within a year of getting the building permit, or within a year of starting construction if no permit was needed.</li> </ul>
<b>Repainting of interior surfaces</b>	<ul style="list-style-type: none"> <li>The owner of a rental unit must repaint the interior surfaces at least every five years or every three years if the paint is stained, damaged, or uncleanable provided it's not due to tenant abuse.</li> </ul>
<b>Rubbish and garbage</b>	<ul style="list-style-type: none"> <li>Owners must provide enough garbage containers to prevent overflow.</li> </ul>
<b>Shrubbery</b>	<ul style="list-style-type: none"> <li>Shrubbery, trees, vines, hedges, and other vegetation, including dead trees and branches, must be maintained so they do not pose a danger to health or safety.</li> </ul>

<b>Units in safe and sanitary conditions</b>	<ul style="list-style-type: none"> <li>Occupants of a dwelling, dwelling unit, or individual living unit must maintain it in safe and sanitary condition.</li> </ul>
<b>Unused vehicle storage</b>	<ul style="list-style-type: none"> <li>A person can't store an unused vehicle on a residential property for more than 30 days.</li> </ul>
<b>Water drainage</b>	<ul style="list-style-type: none"> <li>Water from roofs and paved areas must be properly drained away to prevent dampness in walls, ceilings, or floors.</li> </ul>
<b>Weatherproofing</b>	<ul style="list-style-type: none"> <li>Foundations, floor, wall, ceiling, and roof must be weather tight, watertight, rodent-proof, free from foreign matter, and capable of affording privacy.</li> </ul>
<b>Windows, doors, and hatchways</b>	<ul style="list-style-type: none"> <li>Must be maintained in working condition and must be reasonably weather-tight, water-tight, and rodent-proof.</li> </ul>

## 7. Article III Unmaintained Vacant Property

	Requirements
<b>Designation</b>	<ul style="list-style-type: none"> <li>DHCA must identify unmaintained vacant dwellings throughout the County and notify the owner in writing that the owner's dwelling has been designated as an unmaintained vacant dwelling.</li> </ul>
<b>Inspections</b>	<ul style="list-style-type: none"> <li>DHCA must inspect every unmaintained vacant dwelling at least annually to ensure that dwelling is not a public nuisance, detrimental to health, safety and welfare, and a hazard to police officers or firefighters entering the dwelling in an emergency.</li> </ul>

## 8. Section 26-10 Maintenance of Nonresidential Property

	Requirements
<b>Exterior Surfaces</b>	<ul style="list-style-type: none"> <li>Exterior surfaces, including walls, windows, doors, roofs, canopies, steps, walkways, planter boxes, and signs, must be kept in good condition.</li> </ul>
<b>Grounds maintenance</b>	<ul style="list-style-type: none"> <li>All open land must be kept in good condition to prevent erosion, gullyng, and lack of ground cover.</li> </ul>
<b>Rubbish and garbage</b>	<ul style="list-style-type: none"> <li>All rubbish and garbage must be stored in vermin and waterproof, noncorrodible metal or similar material containers with tight-fitting lids.</li> </ul>
<b>Structure maintenance</b>	<ul style="list-style-type: none"> <li>Every building must be structurally sturdy and kept in proper condition.</li> </ul>
<b>Paved surfaces</b>	<ul style="list-style-type: none"> <li>The paved and gravel surfaces of every entry apron, driveway, sidewalk, and parking lot should be kept in safe and functional condition.</li> </ul>
<b>Public nuisance</b>	<ul style="list-style-type: none"> <li>Upon receiving notice, every owner must rectify any condition causing a public nuisance in a manner that prevents its recurrence.</li> </ul>

## B. Chapter 29 Landlord-Tenant Relations

Chapter 29 ensures fair housing standards by outlining minimum obligations, prohibitions, and remedies that landlords and tenants must abide by when renting a property in Montgomery County. Sections 29-35D and 29-35E establish requirements for landlords related to window guards and radon testing.

### 1. Section 29-35D Window Guards

	Requirements
<b>Window guards</b> (Multi-family dwellings)	<ul style="list-style-type: none"><li>Landlord must install and maintain in each window of a habitable room if the dwelling is occupied by children under the age of 10 or when a tenant makes a written request.</li><li>Must comply with requirements specified under Executive Regulation 11-21.</li></ul>

### 2. Section 29-35E Radon Testing

	Requirements
<b>Radon testing</b>	<ul style="list-style-type: none"><li>Landlords of ground-contact or basement units in single-family homes or multifamily dwelling buildings must conduct radon tests before leasing to tenants, with results valid within three years of the lease date.</li><li>Landlords bear the cost of radon testing and mitigation.</li><li>At lease signing, landlords must provide tenants with radon test results, information about radon, and a copy of the EPA's radon guide for tenants.</li><li>Existing tenants may conduct radon tests and must notify landlords if radon levels exceed 4 pCi/L.</li><li>Landlords must disclose elevated radon levels to tenants and tenants have the right to terminate the lease without penalty if radon mitigation isn't carried out.</li></ul>

## C. Chapter 48 Solid Wastes

Chapter 48 regulates proper waste management and disposal in Montgomery County. Section 48-24 establishes requirements for solid waste storage and removal for commercial, single-family and multi-family properties.

### 1. Section 48-24 Solid Waste Storage and Removal

	Requirements
<b>Containers</b> (Commercial)	<ul style="list-style-type: none"><li>Owners and occupants of commercial and industrial land or buildings must provide enough approved containers to prevent overflow between collections and prevent overflow.</li><li>Each owner and all occupants of any shopping center and commercial establishment must install and maintain trash receptacles on the edge of each pedestrian walkway.</li><li>Owner and occupant must screen from view solid waste containers or storage areas if the storage area can be seen from the street level of any residential property.</li><li>All containers or local disposal systems shall be accessible to the users at all times.</li><li>All doors to solid waste storage rooms, chute doors, lids to hoist containers, and lids to all other solid waste containers must be properly installed and kept closed when not actively in use.</li></ul>

	<ul style="list-style-type: none"> <li>Containers and storage area surfaces shall be washed periodically.</li> <li>Garbage must be collected at least weekly, or more often, if necessary, to maintain proper containment and prevent overflow or odors.</li> <li>Highly putrescible waste must be removed from commercial premises daily, unless stored in refrigerated storage.</li> <li>Medical or pathological wastes should not be placed out for regular collection. Instead, it must be incinerated or transported to an approved facility that handles these materials.</li> </ul>
<b>Containers</b> <i>(Multi-family dwellings)</i>	<ul style="list-style-type: none"> <li>Property owners or managers must provide enough approved containers to store solid waste and prevent overflow between collections.</li> <li>Property owners or managers must maintain property free of solid waste and debris.</li> <li>Owners must screen from view solid waste containers or storage areas if the storage area can be seen from the street level of any residential property.</li> <li>All containers or local disposal systems shall be accessible to the users at all times.</li> <li>All doors to solid waste storage rooms, chute doors, lids to hoist containers, and lids to all other solid waste containers must be properly installed and kept closed when not actively in use.</li> <li>Containers and storage area surfaces shall be washed periodically.</li> <li>Garbage must be collected at least weekly, or more often, if necessary, to maintain proper containment and prevent overflow or odors.</li> </ul>
<b>Containers</b> <i>(Single-family)</i>	<ul style="list-style-type: none"> <li>Occupants of single-family and duplex properties must provide enough approved containers to store solid waste between collections.</li> <li>Occupants must also maintain the premises free of solid waste and debris.</li> <li>Containers and storage area surfaces shall be washed periodically.</li> </ul>
<b>Container standards</b>	<ul style="list-style-type: none"> <li>All solid waste containers must be vermin-proof, waterproof, made of noncorrodible metal or similar material with tight-fitting lids.</li> </ul>
<b>Vacant Properties</b>	<ul style="list-style-type: none"> <li>Owners of vacant land must keep their properties free of solid waste.</li> </ul>

## D. Chapter 49 Streets and Roads

This chapter governs the standards for public streets and roads. While most of its provisions fall under the jurisdiction of the Montgomery County Department of Transportation, DHCA is responsible for supervising and enforcing Section 49-17 concerning the accumulation of snow and ice on sidewalks, side paths, and parking areas.

### 1. Section 49-17 Accumulation of Snow and Ice on Property Prohibited

	<b>Requirements</b>
<b>Snow removal</b>	<ul style="list-style-type: none"> <li>Property owners, tenants, or managers are responsible for clearing snow and ice from sidewalks, side paths, and parking areas on or adjacent to their property within 24 hours after the end of the precipitation.</li> <li>If ice or hardpacked snow is impossible or unreasonably difficult to remove, the person is responsible for applying sufficient sand, other abrasives, or salt to provide safe pedestrian use.</li> </ul>



## E. Chapter 58 Weeds

Chapter 58 delineates the duties of property owners and their representatives concerning the growth of plants and weeds. Section 58-3 establishes height limits for overgrown weeds and plant growth and Section 58-5 authorizes DHCA to remove the overgrown weeds and plant growth at the owner's expense.

### 2. Section 58-3 Duty of Landowners and Persons in Charge of Land

	Requirements
<b>Weeds</b>	<ul style="list-style-type: none"><li>• An owner, lessee, agent, and any other person in charge of land in a subdivision or within 100 feet of a subdivision must not allow overgrown weeds and any generalized plant growth more than 12 inches high within 15 feet of any property boundary.</li><li>• Generalized plant growth does not include trees, ornamental shrubs, flowers, or garden vegetables.</li><li>• If the owner, lessee, agent fails to comply, DHCA may issue a written notice, allowing 10 days for compliance.</li></ul>

### 3. Section 58-5 Removal by County

	Requirements
<b>Removal by County</b>	<ul style="list-style-type: none"><li>• If not rectified, DHCA may remove the weeds or trim the plant growth at the owner's expense, recoverable through property tax liens or other legal means.</li></ul>

## F. Executive Regulation 5-17AM Troubled Properties

This regulation establishes a methodology to designate troubled properties based on the severity and quantity of violations to the minimum maintenance standards for rental housing. Per this regulation, properties designated as "troubled" are subject to annual inspections and the requirement to implement a corrective action plan.

According to the regulation, DHCA needs to maintain and publicize a list of violations with an assigned level of severity based on the following categories:

Type of Violation	Requirements
<b>Health and Safety Violations</b>	<p>Present an imminent or immediate risk to tenants such as:</p> <ul style="list-style-type: none"><li>• Rodent or insect infestation affecting 20% or more units in a building.</li><li>• Extensive and visible mold growth on interior walls or surfaces exposed to the occupied space.</li><li>• Windows that do not permit a safe means of egress.</li><li>• Pervasive and recurring water leaks that result in chronic dampness, mold growth, or personal property damage in more than one unit.</li><li>• Lack of one or more working utilities that is not shut off due to tenant non-payment.</li></ul>

	<ul style="list-style-type: none"> <li>• Is entirely or partly so damaged, decayed, dilapidated, unsanitary, unsafe, or vermin-infested that it creates a serious hazard to the health or safety of the occupants or the public.</li> <li>• lacks, entirely or partly, illumination, ventilation, heating, water supply, or sanitation facilities, as required by the law.</li> <li>• Is, because of its general condition, unsanitary or otherwise dangerous to the health or safety of the occupants or the public.</li> <li>• Contains unsafe equipment which is in disrepair.</li> <li>• Is vacant and unoccupied, has remained in such state for at least one year and has been cited for 5 or more guilty violations.</li> <li>• Missing, disabled, or non-functioning smoke detectors.</li> <li>• Broken entrance doors and/or missing broken locks.</li> <li>• HVAC system not maintaining a temperature of 68 degrees in heating months.</li> <li>• Any other violation designated on the violations list maintained by DHCA.</li> </ul>
<b>Higher Priority Violations</b>	<p>Do not present an imminent or immediate risk to tenants' health or safety, but require more substantial and expensive repairs:</p> <ul style="list-style-type: none"> <li>• Damage to interior doors and/or locks.</li> <li>• Major wall damage.</li> <li>• Limited presence of mold.</li> <li>• Overcrowding.</li> <li>• Moderate infestation.</li> <li>• Non-functioning or inadequately functioning major appliance.</li> <li>• Other damage to windows not related to egress.</li> <li>• Missing address indicators;</li> </ul>
<b>Medium Priority Violations</b>	<p>Violations related to ongoing maintenance issues:</p> <ul style="list-style-type: none"> <li>• Poor housekeeping conditions that lead to infestation or accidents.</li> <li>• Faucet leaks and other non-emergency plumbing repairs.</li> <li>• Minor wall and/or tile repairs.</li> <li>• Carpet damage.</li> <li>• Deteriorated refrigerator gaskets.</li> <li>• HVAC system requiring general maintenance.</li> </ul>
<b>Lower Priority Violations</b>	<ul style="list-style-type: none"> <li>• Interior wall and ceilings requiring general painting, scraping and preparations.</li> <li>• Lights and light covers in need of repairing or replacing.</li> <li>• Window blinds in need of repairing or replacing.</li> <li>• Broken or damaged toilet seat.</li> <li>• Broken or damaged bathroom towel rack and/or toothbrush holder.</li> <li>• Bathtub in need of reglazing and/or repairing grout and caulking;</li> </ul>