

MEMMO

To: City Council

From: Jim Tolbert, Assistant City Manager

Subject: Rental Registration and Inspection Program

Date: August 14, 2023

Background:

Safe and stable housing provides a foundation that allows individuals, families, and communities to thrive. Livable housing has a beneficial impact on health, economic security, educational attainment, and the overall stability of families and communities. In Commerce City, the best available data suggests that nearly 25% of all housing units are renter-occupied. The renter community in Commerce City makes up a sizable portion of the population, but the City does not currently conduct proactive interior rental property inspections for health, safety, and habitability standards.

Policy Recommendations:

The purpose of this proposed program is to protect the health and safety of tenants, improve the quality of rental housing within Commerce City, and ensure that landlords are meeting their responsibilities as property owners. This proposed program features two primary components – property registration and proactive rental inspections. The proposed program would require landlords/property owners to enroll their properties into the program, update contact information on an annual basis, and submit their rental unit(s) to property inspections once every four (4) years to ensure compliance with minimum life, health, and safety standards. Initially, the program will only apply to properties containing three or more dwelling units. Eighteen (18) months after the adoption of this ordinance, single- and two-family dwellings will be evaluated for inclusion in the program.

Rental Property Registration:

To maintain complete and timely information about rental properties in Commerce City, all property owners who rent to tenants would be required to enroll their rental properties into the program, including both owner-occupied rental properties and fully renter-occupied properties.



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The information collected at this phase would include:

- Name and contact information of the property owner(s), whether LLC or natural person;
- Contact information for the property manager, if the property owner does not reside within a 50-mile radius;
- A complete list of additional rental properties owned by the property manager, if applicable;
- Types of units at the property;
- Age of units at the property;
- Disclosure of how many rental units within each rental property, if any, constitute qualified income restricted property and proof of such status; and
- An affirmation that the application is complete to the best of the property owner's knowledge.

Property owners will be encouraged to update their contact information on an annual basis; this will help facilitate a streamlined rental property inspection process. Upon registration and completion of inspection, property owners will then be able to lease their unit(s) to tenants and will be issued a rental license that is valid for four (4) years and is non-transferrable.

Exemptions:

A newly constructed rental property shall be exempt from an initial rental inspection if a complete application is accepted by the City within four (4) years after the date of issuance of the Certificate of Occupancy or Temporary Certificate of Occupancy. This exemption shall not apply to existing structures that receive a new Certificate of Occupancy or Temporary Certificate of Occupancy or any existing structure that has been converted to be used as a rental property.

Proactive Rental Inspections:

The second component of the Rental Registration and Inspection Program is a proactive inspection approach for all renter-occupied properties in Commerce City. Inspectors would



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evaluate the health and safety of units based upon a comprehensive list of minimum habitability standards. All rental units will have to meet the same minimum requirements during inspections to be approved for a rental license. The minimum requirements list includes up to 49 items that must be satisfied; these requirements include the inspection of the exterior, general interior, lighting, ventilation, occupancy, plumbing, mechanical, electrical, and fire safety requirements. Failure to fulfill even a single item on the minimum requirements list will cause the need for a reinspection. If the unit passes inspection, the owner will be issued a four-year license to operate.

If a violation is found during the initial inspection, the property owner would be given a notice of noncompliance that would provide a reasonable time for correction, to be no less than 7 days and no more than 60 days. If the property owner fails to correct violations, they could be penalized through fines, and may have their rental license revoked.

License Renewal:

License renewals will be required to be submitted to the City no more than 90 days prior and no less than 30 days prior to the expiration. Upon renewal, all rental units will need to pass an inspection to be operable. A landlord whose license renewal application has been timely filed may continue to operate beyond the expiration date of the license while approval is pending. A landlord whose license renewal application is not timely filed may not continue to operate beyond the expiration date of the license.

Inspectors:

Staff recommends that inspections be conducted with in-house staff. By conducting inspections with City staff as opposed to third-party inspectors, the City can ensure thorough and consistent standards across all types of rental properties and units. Additionally, using City staff to conduct inspections will not be cost prohibitive for property owners, as third-party inspections are typically more expensive than inspections conducted by municipalities, as evident by research conducted by Staff and speaking to accredited inspectors. If the City were to pursue a program based on third-party inspections, additional staff would still need to be hired



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to approve inspectors and issue rental licenses, and Staff would have little control over the quality or thoroughness of inspections. Staff anticipates having to conduct 3,200 total inspections, or 800 inspections per year; this figure is based on a 60% reinspection rate that was suggested by the City's Chief Building Official and research conducted by Staff.

Inspection Frequency:

All units that reside on properties that have three (3) or more units will be required to be inspected upon registration. Roughly 2,000 rental units within the City meet this definition. Upon renewal of the rental license, a minimum of 10% of units at each property will be inspected at random. If there is a change in ownership of the rental property, a new registration is required to be completed, along with inspections for every rental unit, regardless of the time one was previously completed. A change in tenants does not require a new inspection.

Implementation:

Implementation of this program would require a combination of staff resources and budgetary considerations. The City would need to hire additional staff to conduct inspections, issue rental licenses, and enforce compliance. The City would also need to establish a fee structure that would cover all administrative costs of the program. Beginning six months after adoption, Staff will need one year to complete licensing and inspections for all rental properties in the City; rental properties must be compliant by March 1, 2025.

Staffing Budget:

If the City decides to pursue a Rental Registration and Inspection Program with in-house staff, the program will consist of one (1) Program Supervisor, two (2) Code Inspectors, and one (1) Administrative Specialist. The total cost of these four staff members would be \$434,073 per year; this number accounts for salary, benefits, operating supplies, and necessary equipment. For this program to be fully self-funded, the City would need to collect \$217.04 annually from each applicable rental unit.

Fee Structure:

To avoid having registration and inspection fees passed onto tenants, the City must make every effort to design an equitable fee structure that keeps fees to a minimum. Ideally, these fees would be nominal enough for property owners to absorb as an ongoing business expense. If



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this is not possible, or if property owners choose to pass on even nominal fees to their tenants, the City should seek to keep the fees low enough to be manageable for tenants.

Rental registration programs are often designed to be full cost recovery programs, though some programs are “subsidized” through General Fund Allocations for program administration. Registration and inspection fees can be structured by unit, by building, or by property; some programs separate registration and inspection fees, whereas others assess a single all-encompassing fee.

For the proposed Rental Registration and Inspection program, Staff recommends a per-unit fee structure. Each rental unit would require a \$600 licensing fee and a \$167.59 inspection fee. This \$767.59 over a four-year period equates to \$192/year for a rental unit that passes its inspection the first time, or \$16/month. Property owners will have the ability to pay this figure over four (4) years if desired. This proposed fee structure is based on 100% cost recovery and an anticipated reinspection rate of 60%.

Should Council wish to require all 4,500 rental units within the City register for this program, the annual cost per unit would be \$96.46/year. Each rental unit would require a \$200 licensing fee and a \$116.15 inspection fee. Under this structure, a unit that passes its inspection the first time would pay \$316.15 over four years, or \$6.59/month.

Cost Recovery:

Should Council wish to ‘subsidize’ this program through the use of the General Fund, the following amounts would have to be contributed on an annual basis:

- 75% cost recovery: \$434,073.
 - o This would require the City to collect \$162.78/unit annually; in turn, licensing fees would be \$400 per unit and \$156.94 per inspection.
- 50% cost recovery: \$868,146.
 - o This would require the City to collect \$108.52/unit annually; in turn, licensing fees would be \$200 per unit and \$146.30 per inspection.
- 25% cost recovery: \$1,302,219.
 - o This would require the City to collect \$54.26/unit annually; in turn, licensing fees would be \$100 per unit and \$73.15 per inspection.



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Subsidizing this program with City funds would carry several benefits, including lessening the financial burden on property owners and potentially increasing program buy-in.

Enforcement:

Staff intends to partner with property owners to achieve voluntary compliance with the program requirements whenever possible. If implemented, a critical aspect of this program will be education and outreach to landlords, property owners, and tenants to increase awareness of and compliance with the proposed program.

Staff has proposed a range of penalties for failure to comply with the requirements of the program that includes fines, civil penalties, and, upon several repeated instances of noncompliance, suspension and/or revocation of all rental licenses. If property violations are found upon inspection, property owners will receive a notice of violation with a specified amount of time to remedy the violation(s) that is dependent on the severity and implications for renter life, health, and safety. This allotted time is to be no less than 7 and no more than 60 days. Under no circumstances shall a landlord or landlord's agent retaliate against a renter for reporting a suspected violation.

Penalties:

Upon reinspection, if violations are still found, the property owner will be subject to fines that are consistent with other code violations. These penalties range from \$100 to \$999, depending on the frequency of violations. If a property owner continues to rent their unit(s) while still noncompliant, they would have their rental license revoked for all properties.

Warranty of Habitability:

If a rental property falls out of compliance with the list of rental property requirements developed by the City, or if conditions that affect whether a unit is habitable and were not caused by the renter, then the renter, City, or associated agency has the right to provide written notice to the landlord of the problem that needs to be remedied.



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If a unit is deemed uninhabitable, the landlord must provide the tenant, a hotel room, as selected by the landlord and of comparable quality to the tenant's dwelling unit, at no expense or cost to the tenant; or a comparable dwelling unit, as selected by the landlord, at no expense or cost to the tenant.

The landlord shall either provide the tenant moving services or reimburse the tenant for reasonable moving expenses up to the value of one-month's rent within 30 days of the tenant's relocation to a hotel room, a comparable dwelling unit, and, if applicable, the tenant's return to the original dwelling unit. A tenant continues to be responsible for payment of rent under the lease during the relocation period and for the remainder of the term of the lease following remediation or until the tenant is released from the tenant's obligations under the lease.

Conclusion:

Establishing a rental registration and inspection program is something that will benefit all residents of Commerce City, whether it's through the reduction of housing inequities, or preserving property values through early diagnosis of maintenance related issues. By ensuring that rental properties are safe and habitable, we can improve the quality of life for tenants and enhance the reputation of our City as a great place to live, work, and raise a family.

Recommendation:

Staff recommends adopting the associated Ordinance and amending the budget to hire additional staff and allocate necessary equipment. Additional expenditures to the budget:

- Supervisor (\$108,762)
- Rental Inspector (\$77,467)
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- Administrative Specialist (\$63,610)
- Vehicles, operating equipment, and supplies (\$106,767)
- Total: \$434,073

Staff recommends beginning this program on March 1, 2024, to allow for time to hire staff to set up administrative procedures and to publicize this new program.

