

## City of Newton

# Rental Housing Inspection Program

## Administration Policy

The Newton City Council passed Resolution Number **2019-177** on the **3<sup>rd</sup>** day of September, 2019, thus establishing a Rental Housing Inspection Program to be in effect on the **3<sup>rd</sup>** day of September, 2019. The purpose of this program is to provide safe and sanitary housing conditions for the residents of Newton by establishing minimum standards and regular inspections for all rental housing units in Newton.

The authorization to carry out this program is founded in the Newton Code of Ordinances: Title XV, Chapter 151, which authorizes inspections of rental properties in order to enforce regulations.

This policy outlines the administrative guidelines to implement and organize the program, and its latest revision was approved by the Newton City Council as Resolution Number **2023-065** on the **20<sup>th</sup>** day of March, 2023. The Rental Housing Inspection Program is administered by the City of Newton Community Development Department with direction from the Community Development Director and City Planner.

### **DEFINITIONS:**

The following definitions are to be used as a reference when reviewing this administration policy:

1. **DWELLING:** Any building which is wholly or partially used or intended to be used for living or sleeping by human occupants.
2. **DWELLING UNIT:** Any habitable building, room or group of adjoining habitable rooms located within a dwelling and forming a single unit with facilities which are used or intended to be used for living, sleeping, cooking or eating meals. An efficiency unit falls under this definition.
3. **INSPECTOR:** The official who is charged with the administration and enforcement of this code, or any duly authorized representative.
4. **MAJOR VIOLATION:** A violation of the rental housing code that if left as is would constitute an immediate threat to the life and/or safety of those living in the home (Examples could include: lack of or damaged water heater, boiler, or furnace flue; smoke detectors are missing, inoperable, or are improperly placed; storage of flammable liquids in a dwelling; electrical cords, wiring, or equipment that has begun to fail due to being overloaded or damaged).
5. **NO SHOW:** When the **OWNER** of the structure or any other responsible representative designated by the **OWNER** do not attend the scheduled inspection.
6. **OWNER:** Any person who, alone or jointly or severally with others: shall have legal title to any dwelling unit, with or without accompanying actual possession thereof; or shall have charge care or control of any dwelling or dwelling unit, as owner or agent of the owner, or as executor, administrator, trustee or guardian of the estate of the owner. Any such person thus representing the actual **OWNER** shall be bound to comply with the provisions of this chapter to the same extent as if the representative were the **OWNER**.
7. **OWNER'S REPRESENTATIVE:** Person who is appointed by a rental property owner to provide access to the owner's rental property. The representative must have keys for all portions of the rental property, must be authorized to act on behalf of the owner concerning compliance with the requirements of the Rental Housing Inspection Program, and must be at least 18 years of age.
8. **RENT:** Any form of payment, including but not limited to cash, services, or other valuable considerations, provided as a condition of occupying a dwelling not owned by the occupant.
9. **RENTAL PERMIT:** Every owner shall apply for and pay a permit fee for each dwelling unit. It can also be referred to as being "registered with the City of Newton."
10. **RENTAL UNIT:** One dwelling entity within a rental property. If a common area and facilities are provided in a dwelling for the use of the occupants of units therein, such common area and facilities shall constitute a part of each rental unit for the purpose of inspection and compliance with this Rental Housing Inspection Program.
11. **TENANT:** Person(s) or family occupying a dwelling or rental unit for rent.

## **REGISTRATION OF RENTAL PROPERTIES**

All rental properties in the City of Newton shall be registered on an annual basis as outlined in the Newton Code of Ordinances: Title XV, Chapter 151. Annual registration shall be required to provide and ensure that the City has the most current contact information for the owner (and if applicable, management). At the time of registration, the owner or owner's designated representative shall be required to attest that the rental unit(s) meets building regulations identified in the Newton Code of Ordinances, as summarized in the Appendix B: Rental Housing Inspection Checklist. Rental permit renewals may be paid for 1, 2, or 3 years at a time. Additionally, by submitting a registration application with the City, the owner is granting consent to an inspection of the rental property by the inspector and/or the City for the purpose of determining compliance with this Rental Housing Inspection Program. Registration forms (Attached to this policy as Appendix A: Rental Housing Registration Form) shall be provided and records maintained by the City of Newton Community Development Department.

An annual per-rental-unit fee shall be paid by the owner or owner's representative at the time of registration. The fee shall be established according to the City-adopted fee schedule. All rental properties were divided into four "quadrants" of the City: Northwest, Northeast, Southeast, and Southwest. These quadrants were identified using 1<sup>st</sup> St as the North-to-South axis and 1<sup>st</sup> Ave as the East-to-West axis. The table below highlights the registration renewal deadlines for rentals throughout the City of Newton:

<b>Quadrant:</b>	<b>Annual Registration Renewal Deadline:</b>
Northwest	March 31
Northeast	June 30
Southeast	September 30
Southwest	December 31

The Community Development Department staff will monitor utility billing signups for rental properties and compare their known rental units and/or properties with those registered rental properties to ensure that accurate records are maintained in both areas. The owners of rental properties that are determined to be not registered with the City shall be contacted by certified letter, which will include instructions for registering their rental property. Property owners will have thirty (30) calendar days to register their rental property. Failure to do so shall be considered non-compliant with this Rental Housing Inspection Program and may be subject to penalties described in the Failure to Comply section.

The property owner shall be responsible for renewing rental registration annually. A Rental Housing Permit will be provided to the property owner or owner's representative at the time of registration. At which time, those properties may be subject to penalties described in the Failure to Comply section. Registration of any new and/or converted property or properties which change ownership shall be completed within thirty (30) days of such activity.

If a property's registration is not renewed, the City of Newton shall send a past due notice and reminder to the property owner by certified mail. Any rental unit or any property that is not yet paid within thirty (30) days of that notice will be considered non-compliant with this rental inspection program. A non-compliant property may have its rental permit revoked, have its occupancy discontinued pursuant to the Newton Code of Ordinances, and/or the owner may be prosecuted for municipal infractions, as described in the Newton Code of Ordinances and in the Failure to Comply section.

## **TRANSFER OF OWNERSHIP**

Rental property that is transferred from one owner to another owner shall have thirty (30) calendar days in which to re-register the rental unit(s) or property under the new owner's name. No refund(s) shall be given to property owner(s) for a partial year's registration. A new owner of a rental property will not be required

to pay a second registration fee if the rental property is registered within thirty (30) calendar days of the transfer of ownership and the rental property is registered in their name.

## **RENTAL UNITS OUT OF SERVICE**

When and if an owner has a desire to remove a rental unit or property from registration for a minimum of sixty (60) days, they may file with the City a written notice of the rental unit or property being taken out of service. While the unit remains out of service, the owner shall not rent or allow anyone to reside within the rental unit or property until such time as the unit is re-registered with the City of Newton. The written notice submitted to the City shall contain the following information:

- Property information: address, # of units vacant, etc.
- Reason for the request – e.g., vacated for renovation, intent to sell, now owner-occupied, etc.
- Date by which the property will be vacant, if not already (to be confirmed with Newton Utilities)
- Signature of owner and date of notice

If and when the rental unit or property is re-registered with the City, the owner shall pay a new rental registration fee and the property shall be inspected within sixty (60) calendar days of being re-registered. If the dwelling remains vacant for a period of more than 180 days, it must be registered as a vacant building with the City.

## **INSPECTIONS**

The standard schedule for the inspection of all rental properties shall be once every three (3) years\*. As an incentive for compliant owners, defined as properties that pass the first inspection – with no noted concerns from the inspector – will require inspection in four years in lieu of three. For properties that fail the initial inspection but pass the first re-inspection, those properties will move to the standard inspection schedule (one inspection every three years). Rental properties that require more than two re-inspections before passing will need to be inspected every year until they pass on their first inspection at which time they will move to the standard inspection schedule.

\*Any property that has never been inspected or is newly registered with the City will require inspection within sixty (60) days of the property being registered with the City. Subsequent inspection shall be in accordance with the standard scheduling process previously outlined.

On a rotating basis, a random group of rental properties will be selected and inspections will be required. Community Development Department staff will be responsible for notifying property owners of the timeframe in which they are required to schedule an inspection. Staff shall initiate an inspection by sending written notices notifying the owner that it is time to schedule an inspection for their rental properties. Printed notices will be sent via US Mail for the initial notice. If the inspection is not completed by the specific deadline provided, staff will then contact the owner/owner's representative by email and/or by phone. It is the owner/owner's representative's responsibility to contact the Inspector to schedule the inspection(s). Failure to complete the inspection by the provided deadline shall be considered a violation of this program. The City shall not be responsible for late or misdirected notifications, either by US Mail or by email.

Owners (or representatives) may elect to schedule an inspection at any time before the City-determined time for inspection. Upon passing this elective inspection, the property will then be placed on the appropriate inspection schedule. The inspector will not perform an inspection if the tenant has not been notified of the inspection by the owner or owner's representative, if the owner or owner's representative does not show up for the inspection ("No Show"), or if the owner's representative is not at least 18 years of age.

Properties will **NOT** be inspected as a part of a contingency for a real estate sales transaction.

The "Inspection Notice" shall consist of the following items:

- Date by which the inspection must be completed;
- Address of property to be inspected including number of unit(s) to be inspected;
- Contact information for the Rental Inspector;
- Instructions for locating additional information pertaining to the Rental Inspection Program such as the Rental Inspection Checklist (Appendix B); and
- Contact information for city staff, if applicable.

If necessary, re-inspections shall be scheduled after the initial inspection by the owner or owner's representative. The inspector shall document all inspections and provide a written report immediately after each inspection to the owner/owner's representative and to the Community Development Department.

The property owner will pay for the inspection at the time it is conducted. If the inspection is conducted by a contracted entity, the owner/owner's representative shall pay the inspector directly for the inspection at the time of inspection. Inspection fees will be established in accordance with the adopted fee schedule and, if relevant, the approved contract with the contracted entity.

The inspector shall conduct the inspection in-person and shall visually inspect all exterior and interior spaces of the rental property. The inspector shall inspect all sides of the exterior structure and the grounds of the property. The inspector shall inspect every room in the rental property. The inspection shall be focused on building regulations identified in the Newton Code of Ordinances, as summarized in the Rental Housing Inspection Checklist (Appendix B). A rental property is considered to have "passed" the inspection once the inspector completes an inspection, finds no violations (or three or fewer violations that do not pose an immediate threat to life safety), and submits their approval to update the Rental Permit accordingly. The completed and signed Rental Permit will remain on file in the Community Development Department. A digital copy of the completed form may be provided to the property owner or owner's representative, if requested. If said updated Rental Permit is not requested after the passing inspection, the updated Rental Permit will be sent after the next scheduled renewal.

It is the inspector's responsibility to determine if a particular violation constitutes a major violation. If one or more major violations – summarized, but not limited to, the list below – is found, the inspector may deem the rental property or rental unit uninhabitable until corrections are made and a re-inspection has been completed. This may involve a revocation of the Rental Occupancy Permit and a requirement to immediately vacate the rental property and/or rental unit(s).

### **MAJOR VIOLATIONS:**

1. Smoke detectors and carbon monoxide detectors (if applicable) that are missing, inoperable, or are improperly placed.
2. Storage of flammable liquids in a dwelling.
3. Fuel fired equipment with missing or inoperable flues.
4. Electrical cords or wiring that shows signs of failure.
5. Inoperable heating system during winter months, generally considered between November and March.
6. Other life safety issues or items as determined by the designated inspector.

If the above items are not corrected prior to re-inspection, the property shall be considered non-compliant with this Rental Housing Inspection Program and may be subject to penalties described in the Failure to Comply section. Or, the inspector may deem the rental property or rental unit uninhabitable and immediate vacation of the rental property and/or rental unit(s) may be required until corrections are made and a re-inspection has been completed and passed, in accordance with the Newton Code of Ordinances.

## **MINOR VIOLATIONS REQUIRING SIXTY (60) DAY REINSPECTION:**

All other violations shall be corrected within sixty (60) calendar days of the original inspection. If the violations are not corrected prior to re-inspection due to whatever reason, the owner or owner's representative may request an extension from city staff. City staff is authorized to extend the re-inspection deadline another 60 days only one time. After 120 days from the initial inspection, the re-inspection must be completed. If not completed by this new deadline, the property shall be considered non-compliant with this Rental Housing Inspection Program and may be subject to penalties described in the Failure to Comply section. This may include the revocation of the rental permit and the immediate vacation of the rental property and/or rental unit(s).

(a). **Re-Inspections by Electronic Means.** In instances where a rental property has been found to have three (3) or fewer minor violations with no major violations and each of those violations can meet the following criteria, a re-inspection by electronic means, without charge of a re-inspection fee, may be accepted by the inspector.

(b). **Criteria for Re-Inspection by Electronic Means.** Issues that are either defined as Major Violations, require in-person testing or operation by the inspector, or are related to structural deficiencies are not eligible for re-inspection by electronic means.

Only issues that are related to the condition or appearance of an element and those that can be easily conveyed to the inspector by electronic means are eligible. These issues include:

1. Matters of element condition such as visible house numbers, cover plates, light domes, remediated peeling paint, missing hardware, and the like.
2. Measurable repairs requiring only a ruler or measuring tape and where the measurement tool and the repaired element can be clearly viewed such as distance between guards, stair riser, smoke detector placement distance to ceiling, distance of window to floor for proper egress (step), and the like.
3. Repairs that required a building or trades permit from the City of Newton and were inspected by the City of Newton Building Official.

Nuisance Code matters for items found in Chapter 94 of the Newton City Code that are not part of the building(s) on the property shall be addressed by the Newton Community Services Officers. The inspector shall inform the owner/owner's representative about the issues at the time of inspection, but nuisance issues shall be recommendations rather than noted violations. Immediately after the inspection, the inspector shall then forward all exterior nuisance-related issues to city staff who will then submit a request to the Code Enforcement Division thereafter.

## **NO SHOWS**

The inspector shall meet the owner or the owner's representative at the agreed upon date, time, and location. The property owner shall be assessed a \$50 "No Show" fee for each time the owner or owner's representative fails to be present at a scheduled inspection.

Consideration will be given to property owners who contact the Inspector a minimum of two (2) business days **prior to the date of the inspection** to reschedule a rental inspection due to an unexpected conflict and/or the inability to get a contractor onsite to correct the violations. **This shall not apply to the violations defined as major violations above.** If a rental inspection is rescheduled more than once, a \$50 "No Show" fee will be assessed to the property owner for each rescheduling.

The inspector will not perform an inspection if the tenant has not been notified, if the owner or owner's representative does not show up for the inspection, or if the owner's representative is not at least 18 years of age. In each of these cases, a \$50 "No Show" fee will be assessed to the property owner.

## **TENANT COMPLAINTS**

Only current tenants of a rental property or unit(s) may file complaints of violation regarding a rental housing property. Complaints shall be made in writing using the Rental Housing Complaint Form (Appendix D) and delivered to the Community Development Department. Inspections based on a complaint will not be conducted if the Rental Property Complaint Form is not completed.

At the time the complaint is made, City staff will ask the tenant for any other type of documentation s/he may have. The tenant shall be required to certify s/he has registered a complaint with the owner or owner's representative at least fourteen (14) days prior to filing the complaint with the City, unless the complaint is regarding a major violation. For example, any pictures of damages or correspondence (letters/emails) sent to or received from the landlord. The tenant will be advised that the property owner will be notified regarding the complaint and a determination will be made on the validity and severity of the complaint and if an inspection is warranted. City staff will consult with the rental inspector to make a determination as to whether or not a complaint falls under the purview of this Rental Housing Inspection Program and if an immediate inspection is necessary. City staff will contact the owner (and if appropriate, the owner's representative) by phone within two (2) business days after a complaint is submitted.

If the complaint is regarding an item not covered by the Rental Housing Inspection Program, the tenant shall be informed of such and no further action shall be taken.

However, if a complaint is indeed within the purview of this program, a rental inspection notice requiring immediate inspection shall be mailed to the owner within seven (7) business days of the complaint. If violations exist at the time of the inspection, the inspector will document utilizing the same procedures as if a normally-scheduled inspection was performed. The tenant will be contacted regarding the outcome of the inspection. The inspection report shall be made available to the tenant upon request.

Any complaint that requires an on-site inspection shall have an associated re-inspection fee. If the complaint is found to have merit and violations are found at the rental property, the property owner will be responsible for paying the re-inspection fee directly to the inspector and resolving the founded violations. If the complaint is found to have no merit and violations are not found at the rental property, the City of Newton will be responsible for paying the re-inspection fee. The City of Newton Community Development Department shall maintain the record of each complaint and the outcome of the complaint as a part of the rental program.

## **APPEALS**

The Building Trades Board, as defined in the Newton Code of Ordinances, shall serve as the appeals board.

An owner or owner's representative of a property who decides to file an appeal regarding a notice of violation of their rental property or unit(s) shall complete an appeal form provided by the City of Newton (Appendix C). This appeal must be filed with the Community Development Department within sixty (60) days of the initial inspection. The Building Trades Board shall then schedule a hearing within thirty (30) days. City staff shall compile information related to the inspection and/or identified violation. At the Building Trades Board hearing, City staff or their representative shall present evidence of the violation and the rental property owner will be provided an opportunity to state his/her perspective on the need to reconsider the final decision. The Building Trades Board shall provide a ruling within ten (10) days after the hearing. If the owner is not satisfied with the ruling, the owner may file an appeal of decision to a court of competent jurisdiction within thirty (30) days of the date of the Board's decision. If the decision of the Board is not appealed, it shall become final.

## **FAILURE TO COMPLY**

Rental properties and/or rental units that fail to comply with the Rental Housing Inspection Program shall be referred to the Rental Program Administrator and City Attorney for prosecution as a municipal infraction. Failure to comply with this program, including but not limited to failure to register a property, may result in a penalty fee, the revocation of a rental permit, and/or a requirement to vacate the property.

## **ANNUAL REPORT**

The City of Newton Community Development Department shall provide an annual report to the Newton City Council. The report shall provide data on the number of rental housing units in the City and the frequency and type of violations that have been found in the previous year. The report shall be prepared near the end of each calendar year – beginning in 2020.