



CITY OF DURHAM
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CITY OF DURHAM
PLAN FOR THE
PROACTIVE RENTAL INSPECTION PROGRAM (PRIP)

*** PRELIMINARY DRAFT ***

1/20/12

1. PURPOSE

The purpose of the Proactive Rental Inspection Program (“Program”) is to proactively identify rental housing that does not meet the City of Durham’s minimum housing code and all related ordinances or state unsafe building laws, to create a healthy, safe, and crime-free environment, and to further preserve and enhance the quality of life for residents of the City of Durham living in residential rental properties. This will be achieved by conducting proactive inspections and requiring rental registration pursuant to North Carolina G.S. 160A-424.

2. SCOPE

This Program shall apply to all residential rental properties in the City of Durham. This includes rooming and boarding houses as defined in the Minimum Housing Code. Proactive rental inspections will be conducted in residential rental buildings based on reasonable cause or being located in areas designated by the City Council. All property owners that have more than two housing code violations in the prior year will be required to register their rental unit with the Department of Neighborhood Improvement Services after the initial grace period (March 1, 2012—December 31, 2012), except for those owners meeting the conditions of the Compliance Incentive Program.

3. DEFINITIONS

Administrator means the housing code administrator or his or her designee.

Code Enforcement Office (CEO) refers to an officer who enforces the minimum housing code as a designee of the Housing Code Administrator.

Code enforcement maturity date is the date by when violations must be corrected pursuant to the finding of facts letter.

Compliance Incentive Program is the program that offers rental unit owners otherwise required to register an exemption from registration provided they have met certain conditions.

Housing Appeals Board (HAB) is the quasi judicial board that hears minimum housing code cases.

Minimum housing code or housing code referenced in this article means Article VI, Chap. 10 of this code or as that article may be amended.

NIS when used means the Department of Neighborhood Improvement Services.

Periodic Inspections means proactive inspections of rental units that occur at regular or scheduled intervals as a result of reasonable cause or being located a designated area.

Registration means filing a registration form and registration fee payment with the Department of Neighborhood Improvement Services.

Remedy refers the means with which a court of law, usually in the exercise of civil law jurisdiction, enforces a right, imposes a penalty, or makes some other court order to impose its will.

Rental Unit means a dwelling, dwelling unit or rooming unit that is leased or offered for lease to a tenant as a residential dwelling.

Self-certification is a process where rental property owners who meet certain conditions can complete a checklist and certify the rental unit(s) meets the minimum housing code.

Unsafe building law referenced in this article means Article VII, Div. 1, Chap. 10 of this code and G.S. 160A-424 et seq. or as these laws may be amended.

Verified violation means each violation listed or set forth in a complaint and notice issued pursuant to the minimum housing code or unsafe building laws.

4. PROGRAM APPLICATIONS

- a) All residential rental units shall meet the exterior, interior, and site maintenance standards as outlined in the City of Durham minimum housing code and all related ordinances or state unsafe building laws.
- b) All residential rental units in the City of Durham are subject to the Proactive Rental Inspection Program.
- c) Proactive rental inspections will be conducted in residential rental buildings based on reasonable cause or being located in areas designated by the City Council.
- d) All property owners that have more than two housing code violations in the prior 12-month period will be required to register their rental unit with the Department of Neighborhood Improvement

Services (NIS) after the initial grace period, except for those owners meeting the conditions of the Compliance Incentive Program.

- e) To register a unit (rental property), owners must complete a registration form and pay a registration fee pursuant to Section 7.A(b).
- f) The registration term will be from receipt of the registration form (and fee payment) by NIS until December 31 of the same year.
- g) Without a certificate of registration and compliance, it is unlawful for the property owner required to register to rent the rental unit (property).
- h) Failure to register property as required will result in civil penalties of \$300.00 per month, with a maximum penalty of \$5,000.

5. PERIODIC INSPECTIONS

A. Reasonable Cause Proactive Rental Inspections – Authorization

- a) The Department of Neighborhood Improvement Services (NIS) will conduct City-wide proactive inspections for unsafe, unsanitary, or otherwise hazardous and unlawful conditions in buildings or structures within its territorial jurisdiction. NIS may make proactive inspections when there is reasonable cause to believe that unsafe, unsanitary, or otherwise hazardous or unlawful conditions may exist at a residential building or structure.
- b) For purposes of this section, the term “reasonable cause” means any of the following:
 - 1. The landlord or property owner has a history of more than two verified violations of the Minimum Housing Code or related codes within a 12-month period;
 - 2. There has been a complaint that substandard conditions exist within the building or there has been a request that the building be inspected;
 - 3. NIS has actual knowledge of an unsafe condition within the building; or
 - 4. Violations of the Minimum Housing Code or related codes are visible from the outside of the property.
- c) In conducting inspections authorized under this section, NIS shall not discriminate between single-family and multifamily buildings.
- d) Upon presentation of proper credentials, Code Enforcement Officers (CEOs) have the right to enter any premises within the jurisdiction of NIS at all reasonable hours for the purposes of inspection or other code enforcement actions. Nothing in this section shall be construed to prohibit periodic inspections in accordance with State fire prevention code or as otherwise required by State law. All proactive rental property inspections will be based on the City’s minimum housing code and or related ordinances.

B. Reasonable Cause Proactive Rental Inspections - Implementation

- a) When reasonable cause has been found, the Department of Neighborhood Improvement Services (NIS) will notify the property owner, designated management entity, and occupant of the rental unit to schedule an inspection.
- b) For the inspection, the occupant(s) and/or property owner are required to give the inspecting CEO access to all areas of the rental unit required for the inspection.
- c) If the occupant will not be present, the CEO may obtain prior written permission from the occupant to enter and inspect the rental unit accompanied by the property owner or Landlord.
- d) Should the CEO need to re-schedule an inspection, the CEO will notify the property owner, designated management entity and occupant of the rental unit in writing at least two (2) business days before the scheduled date of inspection.
- e) Should the property owner, designated management entity or occupant of the rental need to re-schedule an inspection, they will notify the inspecting CEO in writing at least two (2) business days before the scheduled date of inspection.
- f) In the event a property owner, designated management entity, or occupant of the rental unit to be inspected refuses access to the rental unit, the Housing Code Administrator or his designee is authorized to obtain from the Durham County Magistrate's Office any warrant necessary to conduct the inspection.

C. Designated Area Proactive Rental Inspections - Authorization

- a) The Department of Neighborhood Improvement Services (NIS) will conduct proactive inspections of rental units in areas designated by the City Council.
- b) An area will be designated by City Council.
- c) Periodic Inspections will be conducted in the designated area within the City of Durham.
- d) The City shall not discriminate in its selection of areas or housing types to be targeted and shall:
 - 1. Provide notice to all property owners and residents of properties in the affected area about the proactive inspections plan and information on the public hearing regarding the plan;
 - 2. Hold a public hearing regarding the plan; and
 - 3. Establish a plan to address the ability of low-income rental property owners to comply with minimum housing code standards.

D. Designated Area Proactive Rental Inspections - Implementation

- a) NIS will provide notice to all property owners and residents of properties in designated areas about the proactive inspections plan and information on the public hearing regarding the plan.

- b) If the occupant will not be present, the CEO may obtain prior written permission from the occupant to enter and inspect the rental unit accompanied by the property owner or Landlord.
- c) Should the CEO need to re-schedule an inspection, the CEO will notify the property owner, designated management entity and occupant of the rental unit in writing at least two (2) business days before the scheduled date of inspection.
- d) Should the property owner, designated management entity or occupant of the rental need to re-schedule an inspection, they will notify the inspecting CEO in writing at least two (2) business days before the scheduled date of inspection.
- e) In the event a property owner, designated management entity, or occupant of the rental unit to be inspected refuses access to the rental unit, the Housing Code Administrator or a designee is authorized to obtain from the Durham County Magistrate's Office any warrant necessary to conduct the inspection.
- f) NIS will inspect all rental units in buildings in the designated areas with five or less units.
- g) For buildings with six or more rental units in the designated areas, a percentage of the rental units will be inspected as follows:
 - 6-10 units: 50% of units
 - 11-29 units: 20% of units
 - 30-49 units: 15% of units
 - 50 or more units in one location: 5% of the units

In the event a majority of the rental units in a building inspected under this section is found to have code violations, the Department of Neighborhood Services reserves the right to conduct inspections of additional units in the building.

6. PROPERTY MANAGER ENTREPRENEURIAL PROGRAM (PMEP)

- a) The Department of Neighborhood Improvement Services (NIS) has established a plan to address the ability of low-income rental property owners to comply with minimum housing code standards.
- b) The PMEP is an educational rental property development program that will provide training in property rehabilitation to help low-income residential rental property owners comply with minimum housing code standards.
- c) This initiative will supplement the existing Landlord Training program and aid in the Proactive Rental Inspection Program's proactive approach for improving Durham's rental housing stock.
- d) The program will provide technical assistance and foster skills necessary for low-income rental property owners to efficiently manage, rehabilitate, and market rental property.

- e) To ensure successful participation, this learning-by-doing program comprises a specialized curriculum. Some of the expected outcomes are:
- Alleviate substandard housing conditions
 - Preservation of rental housing stock in Durham
 - Increase economic value of single family homes and other rental residences
 - Increase in local small businesses
 - Protection of landlord investment
 - Reduction of property damage

7. REGISTRATION OF RENTAL PROPERTY

A. Registration

- a) All property owners that have more than two housing code violations in the prior year will be required to register their rental unit with the Department of Neighborhood Improvement Services (NIS) after the initial grace period, except for those owners meeting the conditions of the Incentive Program.
- b) The fee schedule for the Rental Registration is as follows:
- c) The registration term will be from receipt of the registration form (and fee payment) by NIS until December 31 of the same year. The registration application will be a standard form developed by NIS. The form is available through the NIS website or upon request. When it appears that an owner is required to register a rental unit (property) and pay a fee, then administrator shall forward notice to owner at owner's last known address by regular mail. The date on the notice (letter of notification) shall be same date that notice was placed in mail. Service shall be deemed sufficient from date of the mailing if the regular mail is not returned by the post office within 10 days after mailing.
- d) If the whereabouts of responsible persons is unknown and cannot be ascertained by the administrator in the exercise of reasonable diligence, the administrator shall make an affidavit to that effect, and then the serving of such notice upon the unknown owner or other persons may be made by publication in a newspaper having general circulation in the City at least once no later than the time at which personal service would be required under the provisions of this division. When service is made by publication, a notice of the registration requirement shall be posted in a conspicuous place on the premises thereby affected.
- e) The property owner, upon receiving notice of the registration requirement, shall file a registration form with Neighborhood Improvement Services ("NIS") within 30 days from the date the notice was mailed. Registration fee payment is required to accompany the registration form.
- f) After receipt of the registration form, an NIS CEO will schedule an inspection of the unit (property) to

document any existing violations of the minimum housing code.

- g) If no violations are found, NIS will issue a certificate of registration and compliance. Upon receipt of the certificate, the owner may rent the unit.
- h) A registered property owner will not have to re-register for the next calendar year if the initial code enforcement violations are remediated and the owner is not cited for additional code enforcement violations during the registration term.
- i) Any property owner who does not bring the property into compliance by the code enforcement maturity date is subject to the registration program, even if the property is subsequently brought into compliance.

B. Appeals

Any owner served with notice that the owner's rental unit (property) has to be registered or that owner's application is denied may appeal the notice in the following manner:

- I. An appeal shall be filed in writing with the administrator within 30 days from the date the notice (letter) was mailed and shall specify the grounds thereof. An appeal shall stay all proceedings under this division. The administrator shall conduct a hearing on the appeal within a reasonable time and issue an order which shall be mailed to the owner. If administrator deems that notice requiring registration is valid, then order shall give owner 30 days from the date the order was mailed to file application. If application is denied, owner shall be notified and order shall provide it that it is unlawful for the owner to rent the rental unit until such application is approved.
- II. An appeal from the administrator's order may be taken by giving written notice of appeal to the Housing Appeals Board ("HAB") within 30 days from the date the order was mailed. The notice of appeal shall be filed with the administrator who shall transmit the notice of appeal and any other related papers to the HAB. The appeal shall be placed on the HAB agenda at its next regular meeting or within a reasonable time. The HAB shall issue a written order within a reasonable time stating whether the disputed application of this division will be approved without change or modified or reversed. If HAB deems that notice is valid, upholds order or otherwise requires compliance with this division, then order shall give owner 30 days from the date the order was mailed to file application or otherwise comply with this division.

C. Unlawful to rent un-registered rental unit

Without a certificate of registration and compliance, it is unlawful for the property owner required to register to rent the rental unit. The property owner may rent the unit when the certificate has been granted.

D. Civil Penalties

Failure to register property as required will result in civil penalties of \$300.00 per month until the rental unit (property) is registered, with a maximum penalty of \$5,000.

E. Registration of Rental Property Exemption: One-time Grace Period

- a) To provide rental property owners with time to remediate code enforcement violations before registration would be required, NIS is offering a one-time grace period.
- b) The term of the One-time Grace Period is March 1, 2012 until December 31, 2012.
- c) Property owners with more than two violations during the 12 month period prior to January 1, 2013 would be exempt from registration upon meeting the following conditions:
 - 1. All violations are corrected on before the code enforcement maturity date; and
 - 2. The owner or property manager attends a landlord training class; and
 - 3. There are no additional housing code violations
- d) If the property owner meets all of the conditions, the property owner is not required to register on January 1, 2013
- e) The One-time Grace period does not continue beyond January 1, 2013.

F. Registration of Rental Property Exemption: Compliance Incentive Program

- a) Beginning January 1, 2013, NIS will have an ongoing Compliance Incentive Program to encourage compliance before registration is required.
- b) Property owners with more than two violations during the 12 month period prior to January 1 of the next calendar year would be exempt from registration upon meeting the following conditions:
 - 1. All violations are corrected on before the code enforcement maturity date; and
 - 2. The owner or property manager attends a training class; and
 - 3. There are no additional housing code violations
- c) If the property owner meets all of the conditions, the property owner is not required to register on January 1 of the next calendar year.

8. SELF CERTIFICATION: VOLUNTARY INSPECTIONS BY RENTAL PROPERTY OWNERS

- a) A rental property owner that is not subject to registration but desires a certificate of registration and compliance may obtain the certificate through the Self-Certification program. This program is voluntary.

- b) The self-certification offers rental property owners a three year certificate of registration and compliance
- c) For the three year term of the certificate of registration and compliance, the building would not be subject to designated area proactive inspections.
- d) Property owners may participate in the Self-Certification Program if:
 - 1. The building has no Durham Minimum Housing Code violations; and
 - 2. There are no NIS liens against the building or owner; and
 - 3. There are no outstanding civil penalties against the owner; and
 - 4. The owner or property manager attends a landlord training class.
- e) Self-Certification will require:
 - 1. The owner or property manager to complete an application that includes an inspection checklist; and
 - 2. The owner or property manager to certify that the rental property meets the interior, exterior, and site standards of the minimum housing code; and
 - 3. The owner or property manager to allow code enforcement officers to conduct random inspections during the three year self certification period.
- f) If housing code violations are found during a random inspection, the property owner will be subject to the processes set forth by the minimum housing code.
- g) The property will lose its certification status if violations are not corrected by the code enforcement maturity dates.
- h) The Department of Neighborhood Improvement Services shall retain the authority to investigate any complaints regarding the rental property and conduct reasonable cause periodic inspections regardless of self-certification.
- i) The Property owner will notify the City of a change of property ownership upon close of escrow. The new property owner must complete a new affidavit certifying that the property meets the standards established for the program, and returns the signed affidavit to the City.
- j) NIS reserves the right to refuse Self-Certification to applicants that own rental properties that do not comply with the minimum housing code or fail to comply with all of the eligibility requirements.
- k) Self-Certification certificates may be applied for by the property owner or management entity for dwellings located in the City of Durham.

9. ENFORCEMENT

- a) **Unlawful to rent unregistered units.** Without a certificate of registration and compliance, it is unlawful for the property owner required to register to rent the rental unit. The property owner may rent the unit when the certificate has been granted.

- b) **Civil penalties.** Failure to register property as required will result in civil penalties of \$300 per month, with a maximum penalty of \$5,000.
- c) **Equitable remedies, including injunctions.** The City may apply to the courts for any appropriate equitable remedy to enforce the provisions of this division including mandatory or prohibitory injunctions.
- d) **Not a criminal violation.** Any person violating any of the provisions of this program shall be subject to the civil penalties. Any violation shall be deemed a non-criminal violation and shall not be a misdemeanor or infraction pursuant to G.S. 14-4.

10. RETALIATORY EVICTION

It shall be unlawful for a landlord to recover possession of a rental unit in retaliation against a tenant for exercising his/her right pursuant to state law.

11. SEVERABILITY

In the event any section or portion of this Ordinance shall be determined invalid or unconstitutional, such section or portion shall be deemed severable and all other sections or portions hereof shall remain in full force and effect.