

AN ACT

IN COUNCIL OF THE DISTRICT OF COLUMBIA

To require the Department of Buildings to establish a tiered proactive inspection program for multifamily rental housing properties; and to amend the Department of Buildings Establishment Act of 2020 to require the Department’s Annual Enforcement Report to contain specific data on proactive inspection program activities and enforcement.

BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this act may be cited as the “Proactive Inspection Program Act of 2024”.

Sec. 2. Definitions.

For the purposes of this act, the term:

- (1) “Area” means a defined geographical area such as a ward, police district, neighborhood, census tract, census block group, or advisory neighborhood council single member district.
- (2) “Code official” means a person designated by the Director of the Department of Buildings to administer or enforce the Housing Code of Title 14 of the District of Columbia Municipal Regulations (14 DCMR § 100 *et seq.*) or the Construction Codes adopted pursuant to section 10 of the Construction Codes Approval and Amendments Act of 1986, effective March 21, 1987 (D.C. Law 6-216; D.C. Official Code § 6-1409).
- (3) “Department” means the Department of Buildings.
- (4) “Director” means the Director of the Department of Buildings.
- (5) “Extremely low household income” means a household income equal to 30% or less of the area median family income.
- (6) “Housing provider” means a landlord, an owner, lessor, sublessor, assignee, or their agent, or any other person receiving or entitled to receive rents or benefits for the use or occupancy of any rental unit within a housing accommodation within the District.
- (7) “Mayor” means the Office of the Mayor of the District of Columbia.
- (8) “Multi-building housing complex” means a group of 2 or more contiguous or proximate structures, under management of a single owner or licensee, through single or multiple licenses, of 3 or more dwelling units.

(9) “Multifamily rental housing property” means residential real property consisting of 3 or more dwelling units that are rented or offered for rent for residential occupancy, including an apartment, efficiency apartment, room, suite of rooms, a single-family home, or duplex.

(10) “Tenant” includes a tenant, subtenant, lessee, sublessee, or other person entitled to the possession, occupancy, or the benefits of any rental unit owned by another person.

Sec. 3. Program; purpose.

(a) The Director shall establish a program to proactively inspect all multifamily rental housing properties. It is the purpose of the proactive inspection program to:

(1) Proactively identify and address housing code violations in multifamily rental housing properties across the District;

(2) Ensure significant compliance with the housing code in multifamily rental housing properties; and

(3) Preserve and enhance the quality of life for District residents.

(b)(1) For purposes of the program, the Director shall classify multifamily rental housing properties into 2 tiers: Tier 1, and Tier 2.

(2) Properties classified into the tiers shall be proactively inspected as follows:

(A) Properties in Tier 2 shall be proactively inspected at least once every 6 years; and

(B) Properties in Tier 1 shall be proactively inspected at least once every 2 years.

(c)(1) The Director shall assign multifamily residential housing property to one of the tiers established by subsection (b) of this section. Tier assignments shall be made pursuant to an algorithm developed by the Director that may take into account the following factors:

(A) The type of building on the property;

(B) The age of the building;

(C) The status of the rental housing business license for the property;

(D) The legal structure of the corporation to which the business license was issued;

(E) The number and class of housing code violations found at the property;

(F) The average length of time (in days) housing code violations remained unabated at the property;

(G) The number of stop-work orders issued for the property;

(H) The number of violations for failure to properly store solid waste at or on the property;

(I) Whether the owner has been delinquent in paying property taxes;

(J) Whether the property is located within an area where the percentage of vulnerable populations, including people with disabilities, people who are foreign-born, people who have limited or no-English proficiency, and households with extremely low household income, is greater than the overall percentages for the District;

(K) Whether the property is located in an area where the percentage of children under the age of 6 that have lead blood levels equal to or greater than 3.5 micrograms per deciliter ($\geq 3.5 \mu\text{g/dL}$) is greater than the overall percentage for children in the District; and

(L) Whether the property is located in an area where the rate or incidence of pediatric asthma is higher than the rate or incidence of pediatric asthma for the District.

(2) The Director shall specify the weight to be assigned to each of the factors listed in paragraph (1) of this subsection.

(d)(1) The Director shall re-evaluate the tier classification for each multifamily rental housing property as follows:

(A) Properties in Tier 2 shall be re-evaluated for classification every 6 years; and

(B) Properties in Tier 1 shall be re-evaluated for classification every 2 years.

(2)(A) The Director shall notify each housing provider of their initial classification and of any subsequent change in that classification.

(B) The notification shall include basic information about the proactive inspection program, the specific criteria that were used to classify the multifamily residential housing property, and contact information for the Department for further questions.

(3) Notwithstanding any other provision of this subsection, the Director may reclassify a property at any time; provided, that the Department shall provide notice to the affected housing provider describing the reasons for the reclassification.

(4) Classification and reclassification decisions made by the Director are not subject to appeal.

Sec. 4. Proactive inspections; units inspected; consent of tenants.

(a) For purposes of a proactive inspection, a code official shall inspect the exterior, all common interior areas, and individual units in a property.

(b)(1) The number of units inspected in a multifamily rental housing property shall be calculated as follow:

(A) At least 50% of units in a property with 25 units or less;

(B) At least 40% of units in a property with 26 to 49 units;

(C) At least 30% of units in a property with 50 to 199 units; and

(D) At least 20% of units in a property with 200 or more units.

(2) If the property contains more than one level, at least one unit on each level shall be inspected.

(3) All vacant units shall be inspected for purposes of a proactive inspection, but shall not count toward the percentages in paragraph (1) of this subsection.

(4) A multifamily rental housing property that comprises a multi-building housing complex shall be treated as a single property for purposes of determining the percentage of units that shall be inspected pursuant to paragraph (1) of this subsection.

(c)(1) The Director shall notify the property owner or property manager of a proactive inspection and use best efforts to post notice of a proactive inspection at the property at least 60 days before the scheduled inspection date. Notice is presumed effective if provided to any e-mail address on file with the Department in relation to the business license for the property.

(2) If a property owner does not consent to a proactive inspection after receiving notice from the Director pursuant to paragraph (1) of this subsection, the Director may apply to a judge of the District of Columbia for an administrative search warrant to conduct the inspection.

(3)(A)(i) The Department shall provide tenant inspection consent forms on its website, and property owners shall be responsible for accessing these forms as needed.

(ii) The Department shall provide consent forms in all languages covered by section 4 of the Language Access Act of 2004 (D.C. Law 15-167; D.C. Official Code § 2-1933).

(B)(i) Consent forms shall advise tenants of the purpose and importance of the Department's proactive inspection program and that:

(I) A code official with the Department will enter the unit for purposes of performing a proactive inspection if the tenant provides consent by signing the form;

(II) The inspection will occur on a specifically identified date and an approximate time; and

(III) The tenant has the right to see the code official's identification before the code official enters the unit.

(C)(i) A property owner or manager shall make a good faith effort to obtain written consent from tenants of the units that have been selected by the Department for inspection at least 25 days before the scheduled inspection date.

(ii) If a property owner or manager knows or reasonably should know that the tenant speaks a primary language other than English that is covered under section 4 of the Language Access Act of 2004 (D.C. Law 15-167; D.C. Official Code § 2-1933), the property owner or manager shall provide the consent form to the tenant in that language.

(iii) Completed consent forms shall be transmitted to the Department at least 25 days before the date of the scheduled inspection.

(iv) Absent emergency circumstances or an administrative search warrant, no proactive inspection shall occur of any unit for which the tenant has withheld consent.

(D) When a tenant does not return a signed consent form provided by the property owner or manager, the Director may provide the property owner or manager with another unit to inspect; provided, that the failure to obtain the requisite number of tenant consent forms shall not result in a delay or rescheduling of the proactive inspection of units for which tenants have provided consent.

(d) A tenant may request that his or her unit be subject to a proactive inspection if he or she does not receive a consent form pursuant to subsection (c) of this section. The request may be made in writing or orally to the property owner, manager, or the Department.

(e) The Director shall publicly post a list of properties and units to be proactively inspected at least 60 days prior to the scheduled inspection.

(f) A property owner or manager must be on the premises during inspections, and an authorized agent or employee of the property owner or manager with means to access each unit scheduled for inspection must accompany the code official during the inspection.

(g) If 2 or more units selected for inspection, or 20% or more of the inspected units, whichever is greater, are each found to have four or more class 1 civil infractions pursuant to 16 DCMR § 3200.1, the Director may require that up to 100% of the units at the property be inspected.

(h)(1) When it is necessary to make an inspection to enforce the provisions of the Construction Codes or the Housing Code, including for purposes of a proactive inspection, the code official is authorized to enter the premises, or any part thereof, at reasonable times to inspect or to perform the duties imposed by the Construction Codes or the Housing Code, subject to applicable law, including subsection (c) of this section. This authority includes situations when the code official has reasonable cause to believe that a condition exists in or upon a premise that is contrary to or in violation of the Construction Codes or the Housing Code. When attempting to gain entrance for inspection, the code official and authorized representatives thereof shall present official credentials.

(2) With respect to the inspection of an occupied residential portion of any premise under the exclusive control of a tenant, the code official shall not enter that portion of the premise without first having obtained permission from the tenant or other person of suitable age and discretion who resides there, unless the code official has:

(A) A valid administrative search warrant which permits the inspection;

(B) A reasonable basis to believe that an imminent danger to the public health, safety or welfare exists requiring immediate entry into that portion of the premises.

(3) Any person who interferes with the code official in the performance of authorized duties or prevents or refuses to allow the code official to enter a premises or any portion thereof for inspection in the performance of authorized duties, is in violation of the Construction Codes and the Housing Code.

(4) If entry is refused, the code official shall have recourse to the remedies provided by law to secure entry.

Sec. 5. Proactive inspection fees and fines.

(a) Fees assessed for proactive inspections shall be deposited into the Drug-, Firearm-, or Prostitution-Related Nuisance Abatement Fund described in section 12a of the Drug-Related Nuisance Abatement Act of 1998, effective April 4, 2006 (D.C. Law 16-81; D.C. Official Code § 42-3111.01).

(b) Fines assessed pursuant to this act or the District of Columbia Municipal Regulations (DCMR) as the result of proactive inspections shall be deposited into the General Fund of the District of Columbia.

Sec. 6. Proactive inspection algorithm evaluation report.

(a) The Director shall prepare and submit to the Council an evaluation report assessing the efficacy of the algorithm used to classify properties.

(b) The report shall include:

(1) The final list of factors that will be used in the algorithm and an explanation for why any factor listed in section 3(c) of this act was not utilized in the algorithm;

(2) A list and explanation of statistics that were used to assess the efficacy of the algorithm, including statistics for accuracy, precision, recall, the F1-Score, the receiver operating characteristic area under curve score, and the Brier score; and

(3) A plan detailing how the Department will assess the efficacy of the algorithm in the future.

(c) The report shall be submitted to the Council 90 days after the effective date of this act.

Sec. 7. Rules.

(a) The Mayor, pursuant to Title I of the District of Columbia Administrative Procedure Act, approved October 21, 1968 (82 Stat. 1204; D.C. Official Code § 2-501 *et seq.*), shall issue rules necessary to implement the provisions of this act.

(b) Proposed rules promulgated pursuant to subsection (a) of this section shall be submitted to the Council for a 45-day period of review, excluding Saturdays, Sundays, legal holidays, and days of Council recess. If the Council does not approve or disapprove the proposed rules, in whole or in part, by resolution within this 45-day period, the proposed rules shall be deemed approved.

(c) Upon the effective date of rules promulgated pursuant to this act, 14 DCMR § 207.1(d) is repealed.

Sec. 8. Section 202 of the Department of Buildings Establishment Act of 2020, effective April 5, 2021 (D.C. Law 23-269; D.C. Official Code § 10-562.02), is amended to read as follows:

“(a) On or before January 1, 2025, and January 1 of every year thereafter, the Director shall submit to the Council and the Office of Attorney General an annual report detailing the enforcement activities of the Department in the prior fiscal year.

“(b) The report required under subsection (a) of this section shall assess the Department's progress against the Strategic Enforcement Plan required under section 201 and identify any changes to operations necessary to implement the Strategic Enforcement Plan.

“(c)(1) The report required under subsection (a) of this section shall also include the following data for the prior fiscal year:

“(A) Complaint data, detailing the number, type, method, determination of validity, and resolution of complaints received by the Department;

“(B) Inspection data, detailing the number of inspections conducted by complaint and program type;

“(C) Violation data, detailing the violations identified and cited in the prior fiscal year and their status as abated or unresolved as of the date of the report;

“(D) Fine collection data, detailing the dollar value of the fines assessed, dollar value of the fines assessed versus the fines collected, violations for which the fines were issued, and identifying any reduction in fine amount due to an action by an administrative judge to reduce the assessed fine, adverse judgment at an administrative hearing, administrative settlement or dismissal by the Department, or other means resulting in a collection of less than the levied amount, and any fines not yet collected as of the date of the report;

“(E) Abatement efficacy, detailing the number and nature of abatement orders, the number of days taken to abate each order, the number of extensions granted by type of abatement order, the justification for each extension, and the location of each abatement order, and its status as abated or unresolved as of the date of the report;

“(F) Enforcement escalation data, detailing the number of violations referred to the Attorney General for the District of Columbia, the aggregate dollar amount assessed, and a description of the matters referred; and

“(G) Collections escalation data, detailing the number of violations referred to the Central Collections Unit.

“(2) For all data required pursuant to subparagraphs (B) through (G) of paragraph (1) of this subsection, proactive inspection program data shall be reported separately. All proactive inspection data shall be reported by tier and Ward.”.

Sec. 9. Applicability.

(a) This act shall apply upon the date of inclusion of its fiscal effect in an approved budget and financial plan.

(b) The Chief Financial Officer shall certify the date of the inclusion of the fiscal effect in an approved budget and financial plan and provide notice to the Budget Director of the Council of the certification.

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(c)(1) The Budget Director shall cause the notice of the certification to be published in the District of Columbia Register.

(2) The date of publication of the notice of the certification shall not affect the applicability of this act.

Sec. 10. Fiscal impact statement.

The Council adopts the fiscal impact statement in the committee report as the fiscal impact statement required by section 4a of the General Legislative Procedures Act of 1975, approved October 16, 2006 (120 Stat. 2038; D.C. Official Code § 1-301.47a).

Sec. 11. Effective date.

This act shall take effect following approval by the Mayor (or in the event of veto by the Mayor, action by the Council to override the veto), a 30-day period of congressional review as provided in section 602(c)(1) of the District of Columbia Home Rule Act, approved December 24, 1973 (87 Stat. 813; D.C. Official Code § 1-206.02(c)(1)), and publication in the District of Columbia Register.

Chairman
Council of the District of Columbia

Mayor
District of Columbia