

ORDINANCE NO. 1552

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF ARCATA, ADDING
CHAPTER 5, RESIDENTIAL RENTAL INSPECTION PROGRAM, TO
TITLE VIII, BUILDING REGULATIONS, OF THE ARCATA MUNICIPAL CODE**

The City Council of the City of Arcata does ordain as follows:

Section 1: Chapter 5, Residential Rental Inspection Program, is hereby added to Title VIII, Building Regulations, of the Arcata Municipal Code as follows:

**TITLE VIII – Building Regulations
CHAPTER 5 - Residential Rental Inspection Program**

SEC. 8500. Findings and Purpose.

- A. The City Council finds and declares that there exist in the City substandard, over-crowded and/or unsanitary residential rental buildings and dwelling units, the physical conditions, and characteristics of which violate state and local building, housing and sanitation codes and ordinances rendering them unfit or unsafe for human occupancy and habitation. These buildings and units are detrimental to the health, safety, and welfare of their occupants and the public. Substandard housing serves to seriously compromise the integrity and residential quality of City neighborhoods through such factors as deferred property maintenance, overcrowding, a proliferation of vehicles attributable to multiple tenants, and the accumulation of excess trash or debris on or about the properties.
- B. The City Council further finds and declares that the existence of such substandard residential buildings and dwelling units threatens the social stability and economic integrity of the neighborhoods which host these buildings; necessitates disproportionate expenditures of public funds for code enforcement and remedial action; impairs the efficient exercise of governmental powers and functions; and disrupts the peaceful enjoyment of residential areas and neighborhoods.
- C. The City Council further finds and declares the desire to nurture the stock of safe and sanitary rental housing in the City through a partnership of owners, tenants, the City and the community.
- D. The purpose of this Chapter is to proactively identify such substandard residential buildings and dwelling units and to ensure the rehabilitation or removal of those units that do not meet minimum building code and housing code standards, are not safe to occupy, or do not comply with zoning codes. It is intended that structures be required to be maintained at the level consistent with the codes of the period in which they were constructed. However, unpermitted additions and alterations must coincide with current codes adopted by the City

of Arcata unless otherwise allowed by other applicable Building/City Code and approved by the Director. This chapter is further intended to preserve and enhance the quality of life for residents living in such rental residential buildings and dwelling units and the neighborhoods which host these structures.

- E. The Director shall facilitate the improvement of existing rental housing. The Director shall make reasonable efforts to assist property owners in achieving voluntary compliance with State and Federal Laws, Building Codes, Local Zoning Ordinances, and this program. This program is intended to supplement, not replace, established code enforcement policies and procedures.

SEC. 8501. Definitions.

As used in this Chapter, the following terms and phrases are defined as follows:

- A. “Building, Housing and Sanitation Codes or Ordinances” shall refer to: the current codes specified in Title VIII, Building Regulations, Chapter 1, Building Regulations, of the Arcata Municipal Code, all as modified, adopted and codified in the Arcata Municipal Code. The phrase “Building, Housing and Sanitation Codes or Ordinances” shall also refer to the City of Arcata Zoning Ordinance as codified at Title IX of the Arcata Municipal Code, and all provisions of California statutory law and the Arcata Municipal Code pertaining to property-related sanitation, health, safety and nuisance, as well as state regulations promulgated pursuant to California statutory law, for which the City has enforcement authority.
- B. “Code Enforcement” shall refer to established procedures in place for correcting nuisances and code violations.
- C. “Director” shall refer to the City Engineer or other employee of the City authorized by the City Manager.
- D. “Effective Date” means sixty (60) days after the effective date of the ordinance adopting this Chapter.
- E. “Local Representative” shall refer to any person authorized on behalf of the Owner or Operator to serve as the local point of contact.
- F. “Multifamily Dwelling” shall refer to an existing structure or parcel with three or more dwelling units.
- G. “Operator” shall mean any person authorized on behalf of the Owner to operate or manage any Property or Rental Dwelling Unit.
- H. “Owner” shall mean any person who owns one (1) or more Rental Dwelling Units.

- I. “Person” means and includes any individual, partnership of any kind, corporation, limited liability company, association, joint venture or other organization or entity, however formed, as well as trustees, heirs, executors, administrators, or assigns, or any combination of such persons. The terms “person”, “owner”, “operator,” and “landlord” may herein be used interchangeably.
- J. “Property” refers to the parcel on which one (1) or more Rental Dwelling Units are situated, as identified by the Assessor’s Parcel Number provided by the County Assessor’s Office.
- K. “Rental Dwelling Unit” (RDU) shall mean a building or portion of a building that is rented or leased to tenants for residential purposes on a non-transient basis (when one or more tenants reside on the property or rents or leases the property for thirty consecutive days or longer) and which is owned in whole or in part by a landlord. This shall include but not be limited to single family residences, duplexes, triplexes, apartment houses, townhouse dwellings, condominiums, boarding houses, lodging houses, rooming houses, single room occupancy units, and small ownership units in the City of Arcata.
- L. “Residential Rental Inspection Program” (RRIP) means the rental inspection program created by this Chapter.
- M. “Self-Certification Program” means the program created by this Chapter by which the Owner or Operator of a Property or RDU certifies that the Property and its occupancy comply with all applicable Building, Housing and Sanitation Codes or Ordinances.

SEC. 8502. Scope.

- A. The provisions of this Chapter shall apply to all owners of one (1) or more RDUs located within the City of Arcata.
- B. The provisions of this Chapter shall not apply to the following:
 - 1. Rooms rented to single individuals in an owner-occupied single family residence;
 - 2. Hotel or motel units subject to the Transient Occupancy Tax, Title VI, Chapter 3, of this Municipal Code;
 - 3. Units inspected for housing and safety standards by another governmental authority;
 - 4. Mobile home parks;
 - 5. Newly constructed dwelling units (including townhouse dwelling groups and condominiums projects that are rented) for a period of five (5) years from the issuance of the Certificate of Occupancy.

SEC. 8502.1. Residential Rental Inspection Program Registration.

- A. Every Owner or Operator shall register each RDU with the RRIP on a form provided by the City’s Building Division. Initial registration applications shall be due within six (6) months after the Effective Date of this Chapter. Newly created RDUs shall be registered no later than sixty (60) days after the Owner first acquires or converts the RDU.
- B. RDU registration applications shall be subject to verification by the Director. All information on registration applications shall be submitted under penalty of perjury. Any person who makes a false statement in the registration application or submits false information in connection with a registration shall be guilty of an infraction.
- C. An Owner or Operator may self-certify compliance with all applicable Building, Housing and Sanitation Codes or Ordinances by applying to the Self-Certification Program pursuant to Section 8503 of this Chapter on a form provided by the City’s Building Division.
- D. Registration must be renewed each calendar year.
- E. Any Owner or Operator may designate a Local Representative who is fully authorized to act for the purposes of this Chapter, including acceptance of service of notices from the City and availability to attend inspections. When so designated, the terms “Owner” and “Operator” as used in this Chapter shall be understood as applying to the Local Representative, as appropriate.
 - 1. Any Owner or Operator with a primary residence or business address located outside of Humboldt County limits must designate a Local Representative. Exceptions may be made at the discretion of the Director.
 - 2. All Local Representatives must maintain a primary residence or business address within 35 miles of Arcata City Hall.

SEC. 8502.2. Residential Rental Inspection Program Initial Phase.

During the first three (3) years after the Effective Date (“Initial Phase”) or as soon as feasible, initial inspections by City inspectors will be conducted on all RDUs not exempt from the RRIP.

SEC. 8502.3. Residential Rental Inspection Program Fees.

- A. Each annual registration application for the RRIP shall be accompanied by a non-refundable annual registration fee in the amount established by resolution of the City Council. The fee shall be used to defray the costs of the administration and enforcement of this Chapter.
 - 1. If a RDU is not enrolled in the Self-Certification Program, an annual registration fee and inspection fee shall be required, in the amounts established by resolution of the City Council. The fees shall cover the non-refundable costs of the annual registration and one inspection every three (3) years.

2. If the Owner fails to correct violations of any applicable Building, Housing and Sanitation Codes or Ordinances past the first compliance re-inspection, the Owner may be required to pay an hourly re-inspection fee for the second and any subsequent compliance re-inspections in the amounts established by resolution of the City Council.
 3. If a RDU is enrolled in the Self-Certification Program, the Owner is required to pay a onetime self-certification administrative fee in addition to the RRIP annual registration fee, in the amount established by resolution of the City Council.
- B. Annual RRIP fees shall be levied for the calendar year and each applicant shall pay for the full calendar year upon registration.
 - C. A fee for any missed inspections may be charged by the Director as appropriate in the amount as established by resolution of the City Council.
 - D. For RDUs which become subject to this Chapter after July 1 of any calendar year, the annual registration fee shall be reduced by one-half for that calendar year.
 - E. The RRIP fees required by this Chapter are in addition to and not in lieu of any general business license tax that might be required by Title VI of this Code.

SEC. 8502.4. Inspections.

In accordance with the requirements of this Chapter, the City shall be authorized to periodically conduct an inspection of RDUs to assure compliance with all applicable Building, Housing and Sanitation Codes and Ordinances. Owners shall provide access to all required areas of a RDU and Property for inspection within thirty (30) calendar days of an inspection request from the City's Building Division. This time period may be extended upon the approval of the Director or their designee. If the RDU is legally occupied by a tenant or other occupant, the Owner shall notify the tenant or occupant, in accordance with applicable law, and request that the tenant or occupant allow the inspection. The Owner shall not be in violation of this Chapter if the tenant or occupant refuses to allow the inspection.

SEC. 8502.5. Frequency of Inspections.

- A. Initial Inspections. It is the intent of the City that all RDUs shall receive one (1) initial inspection as outlined in this Chapter. After the initial inspection, RDUs that are not eligible for the Self-Certification Program will receive an inspection once every three (3) years, subject to the thirty (30) calendar day notice required by Section 8502.4.
 1. RDUs eligible to participate in the Self-Certification Program shall have a period of five (5) years to schedule an inspection; provided that, the RDU's condition does

not deteriorate during that time to the extent that the RDU no longer satisfies the Self-Certification Program eligibility standards set by the Director.

2. Owner-Occupied properties converted to RDUs shall receive an inspection within ninety (90) calendar days of the date of registration unless they are eligible and enrolled in the Self-Certification Program.

B. Subsequent Inspections. If during the initial inspection or any subsequent inspection there are Building, Housing, or Sanitation Code or Ordinance violations, or permit violations, on the Property which prevent the City inspector from issuing a rental housing inspection certification, one or more re-inspections of the Property may be required before a RDU is considered to be in compliance.

SEC. 8502.6. Other Inspections.

The Owner, Operator, or tenant of a RDU may request additional inspections in accordance with this Section.

- A. An Owner or Operator may request an inspection of a RDU at any time outside of the scheduled inspection calendar. The Owner or Operator may be required to pay the inspection fee in the amount established by resolution of the City Council.
- B. A tenant of a RDU may request an inspection of a RDU at any time outside of the scheduled inspection calendar.

SEC. 8502.7. Enforcement.

When a Building, Housing or Sanitation Code or Ordinance violation is discovered, as a courtesy prior to undertaking formal enforcement action, the City inspector shall document the violation, advise the Owner or Operator of the violation and of the action that must be undertaken and completed in order to remedy the violation. The City Inspector shall schedule a re-inspection to verify correction of the violation. If upon re-inspection the violation has not been corrected, the City inspector may refer the violation for Code Enforcement. If upon receipt of the courtesy notice from the City inspector, the Owner or Operator advises that he or she will not correct the violation, the violation shall then be immediately referred for Code Enforcement.

SEC. 8502.8. Certification.

Upon the successful completion of an inspection, subsequent inspection or re-inspection of the RDU establishing that the Property and its occupancy are in compliance with all applicable Building, Housing and Sanitation Code or Ordinance requirements, the City shall issue to the Owner or Operator a rental housing inspection certification and report verifying compliance and specifying the time period during which the certification will remain valid. During such time period, the RDU shall not be subject to a subsequent inspection.

Notwithstanding the foregoing, a rental housing inspection certification shall not preclude the investigation, inspection, or enforcement of any Building, Housing and Sanitation Code violations if a potential violation is reported to the City or otherwise lawfully discovered by the City.

SEC. 8503. Self-Certification Program.

Owners or Operators may apply to be enrolled in the Self-Certification Program. Once approved, the Director shall place the Property on a reduced five (5) year inspection schedule as follows:

- A. Properties will be limited to one inspection for a period of five (5) years, provided that the RDU's condition does not deteriorate during that time to the extent that the Property would no longer meet the Self-Certification Program eligibility standards set forth in Section 8503.1.
- B. If violations are found in any one RDU, additional or all of the Owner's RDUs may be inspected.
- C. Owners or Operators must conduct a self-inspection of each RDU as set forth in Section 8503.2.
- D. Owners or Operators of Properties enrolled in the Self-Certification Program shall pay the non-refundable annual registration fee as well as the onetime Self-Certification administrative fee, in the amounts established by the City Council.

SEC. 8503.1. Self-Certification Program Eligibility Standards.

- A. Properties with no existing violations of Building, Housing and Sanitation Codes or Ordinances and no past violations, depending on severity as determined by the Director, within the previous three (3) year period may qualify to participate in the Self-Certification Program.
- B. If the Director determines that any one RDU is not eligible to participate in the Self-Certification Program, then all the RDUs on the same Property shall be inspected and the Owner may be placed back on the regular inspection calendar.

SEC. 8503.2. Self-Inspections.

In order to remain enrolled in the Self-Certification Program, the Owner or Operator, shall conduct annual self-inspections of all the RDUs located on the Property, including exterior and site conditions, and certify that the conditions at the Property achieve minimum standards for Program participation. The Director will develop a checklist of minimum self-certification standards for the Owner's or Operator's use ("Self-Certification Program Checklist").

- A. All information on the Self-Certification Checklist shall be submitted under penalty of perjury. Any person who makes a false statement in the Self-Certification Checklist or submits false information in connection with a Self-Certification Checklist shall be guilty of an infraction. In addition, in the discretion of the Director, the rental housing inspection certification may be revoked and all RDUs on the same Property owned by that Owner may be disqualified from the Self-Certification Program for a period of up to three (3) years.
- B. The Owner or Operator shall maintain a copy of the signed and dated Self-Certification Program Checklist for each RDU for the five (5) year period and provide said Checklist within seven (7) calendar days upon request by the Director or their designee. Failure to maintain complete Checklists may result in disqualification from the Self-Certification Program for all RDUs on the same Property owned by that Owner for a period of up to three (3) years.
- C. A copy of the signed and dated Self-Certification Program Checklist shall be available to the tenant(s), if the dwelling unit is occupied, of each RDU at the time of self-inspection.
- D. Nothing in the Self-Certification Program shall be construed or interpreted as limiting the City's authority to investigate and compel the abatement of any Building, Housing and Sanitation Codes or Ordinance violations.

SEC. 8503.3. Removal from Self-Inspection Program.

- A. The Director may remove a Property from the Self-Certification Program at any time for up to three (3) years if that Property fails to meet the minimum interior and exterior standards designated on the Self-Certification Program Checklist, as determined by the Director, or fails to meet Building, Housing and Sanitation Codes or Ordinances.
- B. The Owner or Operator of any Property enrolled in the Self-Certification Program shall be given reasonable time as established by the Director to correct the violations and remain in the Self-Certification Program.

SEC. 8504. Enforcement and Noncompliance

- A. Failure to Pay Annual Fee. The Director shall add a penalty of twenty percent (20%) of the fee on the first day of the month following the due date and ten percent (10%) for each month thereafter while the fee remains unpaid, provided that the amount of the penalty shall not exceed fifty percent (50%) of the amount of the fee due.
- B. Failure to Register. If an Owner or Operator fails to register for the RRIP as required by this Chapter, the fee due shall be that amount due and payable from the first date

the Owner or Operator engaged in the residential rental business in the City, together with the penalty prescribed in Section 8504(A).

- C. Refusal to Permit Inspection. If an inspection is scheduled and entry is thereafter refused or cannot be obtained, the City shall have recourse to every remedy provided by law to secure lawful entry and inspect the premises, including but not limited to securing an inspection warrant pursuant to California Code of Civil Procedure Sections 1822.50 through 1822.57.
- D. Missed Inspection Appointments. If a previously scheduled inspection is missed, the Owner shall contact the City's Building Department to reschedule within seven (7) calendar days of the appointment date or be subject to a fee in the amount established by resolution of the City Council.
- E. Notwithstanding the foregoing, if the inspector has reasonable cause to believe that the RDU is so hazardous, unsafe, or dangerous as to require immediate inspection to safeguard the public health or safety, the inspector shall have the right to request immediate entry to inspect the premises and use any reasonable lawful means required to enter the Property and make an inspection.
- F. In addition to the prescribed penalties above, the Director may choose to utilize the Administrative Citation process set forth in Title I, Chapter 3 of this Code.

SEC. 8504.1. Public Nuisance.

Any RDU operated, conducted, or maintained in violation of the provisions, requirements, and regulations of any Building, Housing or Sanitation Code or Ordinance, or any permit conditions, shall be, and the same is hereby declared to be harmful to the public health and safety, unlawful and a public nuisance. The City may, in addition to or in lieu of prosecuting a criminal action, commence an action or proceeding for the abatement, removal, and enjoinder thereof, in the manner provided by law, and may take such other steps to obtain the relief necessary to abate or remove such violations and restrain and enjoin any person from operating, conducting, or maintaining a residential rental property contrary to the provisions, requirements, or regulations of said building, housing or sanitation codes or ordinances, or permit conditions. The remedies prescribed herein are in addition to, not in lieu of, any other remedies provided for in state or federal law or in this Code including, but not limited to, Title V Chapter 5 of the Arcata Municipal Code.

SEC. 8504.2. Retaliatory Eviction.

It shall be unlawful for a landlord to recover possession of a RDU in retaliation against a tenant for exercising their right to file a complaint with the City advising that a Building, Housing or Sanitation Code or Ordinance violation or permit violation may exist on the Property.

SEC. 8504.3. Tenant's Rights.

Whenever a tenant enters into an agreement with an Owner or Operator for the rental of a residential dwelling unit, the Owner or Operator shall distribute information to the tenant about substandard housing and the tenant's legal rights.

SEC. 8504.4. Change of Ownership.

When ownership of a RDU changes, the RDU seller shall notify, or shall cause the notification to, the Director of the change of ownership no later than sixty (60) calendar days after consummation of the sale. If the Director is not so notified, the existing rental housing inspection certification for the RDU shall automatically terminate and be null and void. The new Owner will not have to pay the program fees until the following calendar year provided all current fees were paid by for the RDU.

SEC. 8504.5. Appeals.

A. Any determination by the Director or a City inspector that a RDU is in violation of a Building, Housing or Sanitation Codes or Ordinances is appealable to the City Manager. The appeal must be in writing and filed with the City Manager within ten (10) calendar days from the date of notification of the determination. An appeal fee established by resolution of the City Council, shall be applied if the appeal finds in favor of the City. The appeal shall specifically identify the determination that is the subject of that appeal and the reasons why, in the appellant's opinion, the determination is erroneous. Failure of the City Manager to receive a timely notice of appeal constitutes a waiver of the right to contest any such determination.

B. Appeals under this subsection shall be heard as follows:

1. Upon receipt of an appeal, the City Manager shall set a date for hearing not less than ten (10) calendar days or more than sixty (60) calendar days from the date the City Manager receives a complete appeal. The City Manager may act as the hearing officer or may convene one or more persons to act as the hearing officer.
 - a) The City inspector's or other City official's determination and supporting documentation shall constitute prima facie evidence of the respective facts contained in those documents. Both the appellant and the Director and City inspector shall be given opportunities to present additional evidence concerning the determination at the hearing. The hearing officer may rely on any relevant evidence that is material to the alleged violations. Failure of an appellant to appear at the hearing shall constitute a waiver of the right to contest the determination.
 - b) The hearing officer shall issue a written decision to uphold or overturn the Director's or City inspector's determination.

2. The appellant may appeal the City Manager’s decision to the City Council. The appeal must contain a written statement of issues on appeal together with supporting documentation and evidence, as well as payment of the appeal fee established by resolution of the City Council. The appeal must be submitted to the City Clerk no later than fifteen (15) calendar days after the date of notification of the City Manager’s decision.
 - a) The City Council shall conduct a hearing to hear the appeal no later than sixty (60) days after submittal of a complete appeal. The City Council shall consider all relevant evidence including, but not limited to, the Director’s or City inspector’s determination with supporting documentation, applicable staff reports, and objections or protests relevant to the determination. The appellant carries the burden to demonstrate with clear and convincing evidence that the determination was erroneous. Both the appellant and Director or City inspector shall be given opportunities to testify and present evidence. The legal rules of evidence shall not apply, and the City Council may rely on any relevant evidence that is material to the Director’s or City inspector’s determination.
 - b) Upon the conclusion of the hearing, the City Council shall, on the basis of clear and convincing evidence presented at the hearing, decide whether the determination should be upheld, or whether the determination was erroneous and therefore should be modified or reversed. The decision of the City Council shall be final.

SEC. 8504.6. Regulations Nonexclusive.

The provisions of this Chapter regulating RDUs are not intended to be exclusive and compliance with this Chapter shall not excuse noncompliance with any other applicable provision, requirement, or regulation of the Arcata Municipal Code or any applicable state and federal law. Nothing in this Chapter shall limit or preclude inspection conducted by the Arcata Fire District inspectors for compliance with the California Fire Code, International Fire Code, or other applicable fire codes, regulations or standards.

SEC. 8504.7. Conflicts.

If the provisions, requirements, or regulations of this Chapter conflict with or contravene any other provision, requirement, or regulation of the Arcata Municipal Code, the provisions, requirements, or regulations of this Chapter shall prevail as to all matters and questions arising out of the subject matter of this Chapter.

Section 2. Severability. If any provision of this ordinance is invalidated by any court of competent jurisdiction, the remaining provisions shall not be affected and shall continue in full force and effect.

Section 3. Limitation of Actions. Any action to challenge the validity or legality of any provision of this ordinance on any grounds shall be brought by court action commenced within thirty (30) days of the date of adoption of this ordinance.

Section 4. CEQA. This ordinance is exempt from the California Environmental Quality Act (CEQA) Guidelines pursuant to Section 15321, 15301, and 15309 (*Apartment Association of Greater Los Angeles v. City of Los Angeles* (2001) 90 Cal.App.4th 1162) of the CEQA Guidelines.

Section 5. This ordinance shall take effect and be in force thirty (30) days after its adoption.

DATE:

ATTEST:

APPROVED:

City Clerk, City of Arcata

Mayor, City of Arcata

Clerk's Certificate

I hereby certify that the foregoing is a true and correct copy of Ordinance No. _____, passed and adopted at a regular meeting of the City Council of the City of Arcata, Humboldt County, California on the _____ day of _____, 20__, by the following vote:

AYES:

NOES:

ABSENT:

ABSTENTIONS:

City Clerk, City of Arcata