

Mandatory Inspections of Rental Property by Municipalities for a Fee

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Background and Objective

IREM legislative staff first began researching municipal inspections of rental units for a fee in order to write a briefing paper on the issue in 1999. Some IREM chapters had reported municipalities passing, or attempting to pass, ordinances that required the owners or managers of rental property to have their units inspected by the local government for a fee. This was a way for municipalities to collect revenue from owners and managers of rental properties in order to cover budget shortfalls without directly taxing the electorate.

Statewide legislation, codes and statutes, along with municipal codes and ordinances, were researched for information pertaining to mandatory inspections of rental property for a fee by municipalities. Ten states were chosen at random to be included in the study: Arizona, California, Florida, Kansas, Louisiana, Michigan, Nevada, New Jersey, Pennsylvania, and Texas. The following municipalities were also included in the research: Atlanta, Denver, El Cajon (CA), Escondido (CA), Evanston (IL), Fort Wayne (IN) Fresno, Houston, Montgomery, Mukilteo (WA), Philadelphia, San Diego, SeaTac (WA), and Tukwila (WA).

The IREM Legislative and Public Policy Committee (LPP) is responsible for periodically reviewing existing briefing papers. Staff researched *every one* of the states and municipalities originally selected in order to be consistent. The paper was updated in August, 2010 in which the ten selected states were reassessed in order to determine their state laws pertaining to mandatory inspections. There have been no changes to the state laws since this paper was last updated in 2005. There are, however, more municipal and local ordinances mandating rental property inspections and/or registration/licensing of rental units; these have been included in this updated version.

Introduction

In the past several years, state and municipal governments have found themselves in the position of having to fund a greater number of programs with declining tax revenues. One of the avenues they have turned to in order to fill this financial gap has been the imposition of rental housing inspection and registration programs. Most often, cities seeking to implement these requirements do argue that their aim is to regulate the housing market in order to ensure that units are safe and well maintained. Property owners and managers, however, know that the rental housing market is an extremely competitive one, and if they do not maintain their property, they will be unable to attract tenants and the value of their property will decline. Furthermore, there are multiple laws already on the books that are aimed at ensuring the quality and safety of the housing stock.

Research Results

State Level of Government

The research showed that of the states reviewed only one state—New Jersey—had an existing statute addressing this issue. The New Jersey Hotel and Multiple Dwelling Law includes a section regarding inspection, application for certificate, and fee. The statute provides:

Each multiple dwelling and each hotel must be inspected at least once in every five years for the purpose of determining the extent to which each hotel or multiple dwelling is in compliance with the Act. N.J.S.A. 55:13A-13(a)

Within 90 days of the most recent inspection of any multiple dwelling occupied or intended to be occupied by three or more persons living independently of each other, the owner of each such multiple dwelling must file with the commissioner, upon forms provided by the commissioner, an application for a certificate of inspection... The application must be accompanied by a fee of \$43 per unit of dwelling space for the first 7 units in any building or project, \$27 per unit of dwelling space for the 8th through the 24th unit in any building or project, \$23 per unit for the 25th through the 48th unit in any building or project, and \$16 per unit of dwelling space for all units of dwelling space over 48 in any building or project, provided that the maximum total fee for owner-occupied three-unit multiple dwellings must be limited to \$85 for owners having a household income that is less than 80 percent of the median income for households of similar size in the county in which the multiple dwelling is located, and the maximum total fee for owner-occupied four-unit multiple dwellings must be limited to \$104 for owners having a household income that is less than 80 percent of the median income for households of similar size in the county in which the multiple dwelling is located. A certificate of inspection and the fees must not be required more often than once every five years.

Additionally, there must be re-inspection fees for multiple dwellings in the amount of \$52 for each dwelling unit re-inspected, but only after the first re-inspection.

The commissioner may waive the inspection fee for any unit upon a finding that the unit has been thoroughly inspected within the previous 12-month period under a municipal ordinance requiring inspection upon change of occupancy in accordance with the maintenance standards established by the commissioner under this act, and has received a municipal certificate of occupancy as a result of that inspection. N.J.S.A. 55:13A-13(b)

Municipal/Local Level of Government

The research discovered some municipalities that have, or have attempted to pass in recent years, an ordinance that requires inspection of rental property for a fee:

St. Louis, MO- In 2005, a "Mandatory Inspections of Rental Properties" proposal was introduced to the St. Louis County Board. The proposal would require mandatory inspections of multi-family properties for a fee. In March 2005, the legislation was tabled after opposition, including St. Louis area IREM members, voiced opposition to the proposal as it is currently written. IREM members argued that this legislation poses a serious challenge to the provision of affordable housing in the community. If it is to pass, as is predicted, they argue that the legislation should include all properties- single-family as well as multi-family rental housing- not exclusively multi-family housing. A representative for the county's buildings department stated it does not have the staff to conduct the inspections. After realizing the flaws in the proposal, the Board tabled it in order to conduct necessary research. The amount of the fee is being determined at this time. The legislation is expected to be amended and then passed by the Board in April 2005.

Montgomery, AL - In 1995, the city of Montgomery attempted to pass an ordinance that would require all rental residential properties to be closed for 15 days each time the property turns over, allowing for a city inspector to inspect the property to ensure that it was safe and habitable. The property managers would be held equally liable for failure to comply with the ordinance. This ordinance was defeated. Currently, Montgomery inspects rental property by complaint only. In February 2005 IREM Legislative staff contacted the Building Inspections Division of Montgomery, Alabama and confirmed no ordinance has been passed requiring inspections of rental residential properties prior to new tenant move-in.

Tukwila, WA - In 1999, the city attempted to pass an ordinance that is a combination of an inspection program and rental license program. Under the proposed ordinance, all landlords with four or more units would be required to obtain a license from the city. The license fee is \$50 per location, with an additional fee of \$60 per unit inspected at the same location. In 2000, a task force was formed to investigate this issue further.

In February 2005 IREM Legislative staff contacted Tukwila's Building Division and found that there are no mandatory inspections of rental properties for a fee on a routine basis. Apartments are inspected by the city only when complaints have been filed.

Baltimore, MD - An ordinance requiring inspections of any type of revenue producing unit on an annual basis has been in place for more than 35 years. In 1999 the fee was increased. Buildings with three or more units are charged \$35 per unit and building with less than three units are charged \$25 per unit. Similar ordinances exist in Howard County and Prince Georges County, Maryland.

Wichita, KS - In late 1999, the Metropolitan Area Planning Commission attempted to address this issue in the long range strategy for Wichita and Sedgwick County. The plan was to include provisions to develop a yearly rental housing inspection program at \$25 per unit, per inspection. The Commission removed the inspection program wording from the long range strategic plan after receiving heavy opposition from the real estate industry. Currently, the City only inspects rental housing upon request of a tenant.

The City has created a Redevelopment Incentives Task Force to research various issues pertaining to the redevelopment of specific areas of Wichita. The task force weighed ideas including establishing a rental inspection program to "eliminate or up grade undesirable, unsightly and unhealthy housing conditions" for the designated revitalization areas on a trial basis. In an effort to revitalize designated areas of the city, it accepts applications for neighborhood improvement grants. A limited amount of funding is included in the city budget for these grants.

Sacramento, CA - The County of Sacramento adopted a mandatory rental inspection ordinance costing roughly \$30-\$50 per unit. Rental owners with properties in the unincorporated areas of Sacramento County will not be subjected to a mandatory rental inspection program run by local government. Instead, rental owners will have the option

to conduct self-inspections, designate another individual or have a county official conduct these inspections beginning January 2010.

Boulder, CO – Rental property must be both licensed and inspected in Boulder, Colorado city limits. Licensing is required of any new or expired properties that were previously licensed and the renewal a license when ownership has changed during the four year licensing period. Baseline inspections are required for the exterior including: egress, stairways, fire protection and gas appliances, food preparation and storage, lighting and ventilation, general conditions, and plumbing; as well as the electrical components of the rental property. Fees for inspections vary and it costs \$15 to become a licensed inspector. These changes were made in 2002 in response to questions that arose during the 2000 budget process.

Adrian, MI - The City of Adrian adopted a comprehensive rental housing inspection program that requires all non-owner occupied residential properties to be inspected on a systematic city-wide basis. Non-owner occupied rental properties must be registered as well. The cost of registration is \$25.00 for the first unit and \$10.00 for each additional unit per property address. There is an inspection fee of \$40.00 for up to 4 units and \$10.00 for each additional unit after the first 4. This fee covers the first inspection and 1 re-inspection. Additional inspections are \$15.00 each. These laws were implemented in 1998.

Licensing or Registration

In conducting the research, IREM staff came across numerous municipalities that require, or have attempted to pass an ordinance to require, owners or managers of residential rental property to be licensed or register each unit.

Evanston, IL - In 1999 the City Council deliberated a licensing program for the city. Citing a need for greater control over the rental stock, city officials would require a license for the owners or operators of rental property and would be given the authority to revoke the license for a particular building whose landlords or tenants continue to violate city codes. The ordinance did not pass and as of March 2005 Evanston does not have a program of regular inspections for rental property. However, licensing ordinances are in place in the Chicagoland communities of Aurora, Oak Park, and Elgin.

Philadelphia, PA - Requires any person operating a multiple-family dwelling to obtain a license from the city. Also requires any person offering to rent property to secure a license if the property is not located within a multiple-family dwelling covered by the multiple-dwelling license. Each person applying for a license is required to pay an annual fee of \$30 per unit with a maximum fee of \$12,000 per building.

SeaTac, WA – The city attempted to pass an ordinance that would have required all units to be individually registered with the city with an annual fee of \$35 per unit. The

ordinance was not adopted, but the city does inspect the common areas of multifamily residential properties for code violations on an annual basis. There is no fee associated with this inspection; however, rental properties are required to have an annual business license. The fee for this license is \$35 per street address.

Cleveland, OH - Requires each rental unit to be registered through the City on a yearly basis. The fee for registration is \$35 per unit, with a maximum fee of \$15,000 per building annually.

Athens, OH - Requires each rental unit to be registered through the City on a yearly basis. The fee is \$65 for a single family home or unit in an apartment building. If the number of units in a building is 10 or greater, the fee is \$60 per unit. The fee is \$40 for a room in a rooming house, such as a fraternity or sorority house. In 2005, Athens County Property Owners Association filed suit in Common Pleas Court against the City claiming the amount of the fee was arbitrary. The Court denied and dismissed the suit. MAXIMUS, an independent company, has recently conducted a cost analysis and stated that the fee for a unit should be \$90 instead of \$65.

Palatine, IL - Requires each rental unit to be registered through the Village. Granting of the license is subject to an inspection. Twenty-five percent of units in a multifamily property are inspected each year. The registration fee is \$55 for the first five units and \$4 per unit thereafter, as of March 2005.

Kansas City, MI - Effective January 1, 2008, it is mandatory that all owners of rental property within Kansas City, Missouri limits register their income homes. Registration ran through January 2008 without penalty. Penalty for non-registration on and after February 1, 2008, will be \$50 per unit.

Phoenix, AZ - All owners of residential rental properties within Maricopa County must register their properties regardless of whether the tenant is a family member. Under the statute, out-of-state owners must designate a statutory agent who lives in Arizona who will accept legal service on behalf of the owner. There is a \$10 fee for each registration.

Baltimore, MD - All buildings or a portion of a building that contain one to six dwelling units intended or designated as rental units must register and be licensed with Baltimore County on or before January 1, 2009. Registration fees are \$40 per unit for owner occupied properties and have 1-2 tenants and \$50 for 3 or more tenants. If the property is not owner occupied, it is \$50 per unit.

Kalamazoo, MI - A Rental Housing Certification Program was put into place, requiring all rental housing to be certified prior to occupancy. It is the responsibility of the owner/agent to secure inspection and certification of all rental properties. Certification costs \$100 per address, each year and \$1 per every additional unit.

Mandatory Inspection Due to Non-Compliance

Research also uncovered instances in which municipalities were requiring inspections of residential rental property to ensure that the property met health, safety, and building codes.

Atlanta, GA – A City ordinance allows for the city to inspect property to ensure the health and safety of the occupants or in the interest of enforcing any provisions of the Code. Inspections without a search warrant allowed under specific circumstances only. The ordinance requires the city to develop and implement a citywide inspection plan for rental properties. The fees for inspections are: 1) \$50 for a structure containing 1-12 units, 2) \$100 for a structure containing more than 12 units on no more than two floors, and 3) \$50 per floor for structures containing units located on more than two floors.

El Cajon, CA – Because of staffing shortages, the city concentrates their inspection efforts on neighborhoods that most need improvement. The city surveys the exterior of each property and sends self-inspection letters to those that appear to be in compliance with health and safety codes. Those properties that appear to have code violations are inspected. There is no fee for the inspections, but rental properties must hold a business license. Rental property owners must pay \$40 per complex and an additional \$20 per unit.

Escondido, CA - In 1993, the City of Escondido began to develop a program which would require annual, per unit, apartment inspections on rental property within the city; however the program was never implemented. Currently, rental units are inspected only when they are the basis of a complaint. The Fire Department is the only city department that routinely inspects buildings, as is the case in most cities.

Fort Wayne, IN – In the past the Fort Wayne City Council considered a proposed ordinance that would require owners of residential rental property to have biennial inspections to ensure that the property meets health and safety requirements. The inspection would only be required when specific conditions exist, including previous code violations. A fee of \$45 would be charged for the inspection of each residential unit at the time of the inspection. The City Council did not pass that ordinance, but did pass an ordinance requiring the biannual inspections of only those buildings that have previously faced a code violation. Inspections are conducted when there are building code violations.

San Diego County, CA – The county inspects properties every 18 months and when a complaint is filed about a property. The fee for the inspection is \$110 for the first three units and \$3 per unit thereafter. This inspection is conducted by and the fee is collected by the County Environmental Health Department and applies to conventional rental housing and hotels/motels in the unincorporated areas of the County, and, by request, cities without their own health departments. Rates are reviewed, and subject to increase, every five years. In July 2005, the fee for the inspection of the first three units is scheduled to be raised by \$10 from \$110 to \$120, while the fee for each additional unit will remain at \$3 per unit.

Excise Tax

Mukilteo, WA - City passed an ordinance in 1997 that enacted an excise tax on rental property only. Owners of apartment units were required to pay the city \$80 per unit, per year. The city had intended to raise the fee to \$90, effective 2000. This ordinance was ruled illegal by the Washington Supreme Court; therefore, there is no longer an excise tax on rental property.