

City of Arcata Residential Rental Inspection Program FAQ

DRAFT 5.23.22

1. What is the Residential Rental Inspection Program (RRIP)?

The purpose of the RRIP is to address the issue of substandard long-term rental properties and to ensure that all rental units in the City of Arcata meet minimum health, safety, and welfare standards. Property owners of rental units within the City will be required to register and a City inspector will conduct an inspection per the approved ordinance.

2. What information (data, studies, complaints) has led the city to believe that this program is necessary?

The data to date has been based on complaints from tenants and residents on file going back multiple years. Further, elected officials have continued to hear from the community that sub-standard living units are prevalent in Arcata and that tenants will not report the conditions because of the fear of losing their housing. One of the key goals of this program is to collect data in an organized manner so that it is available to decision makers, especially considering the rapid changes our community is facing in the next few years. The program also compliments the identified needs in the Housing Element of the City's General Plan.

3. What other solutions has the City considered, if any, to the RRIP? The City has many citizen advisory committees and commissions. Was this a path considered and if no, why not?

Our current process is not delivering equitable service and is not sustainable. We are open to more suggestions, but this was the pathway chosen by the City Council and the direction most building departments, big or small, in the state of California are moving towards. After the initial introduction of the Ordinance the City Council instructed staff to form a Working Group and further modify the program to fit the needs of the community. This latest draft is the product of five (5) Working Group meetings, input from the general public, conversations with the Arcata Fire Department, and further development by Staff.

4. What is AB838? Does this law affect the City's ability to run a rental inspection program?

AB838 was instituted by the state to compel cities to respond to complaints by the community, cities are required by law to inspect for basic life and safety concerns. Our current practices already comply with these new requirements. AB838 does not conflict with the proposed RRIP program, and specifically allows cities to implement such programs.

5. Does the City Attorney have an opinion on the impact of AB 838 as it relates to the RRIP Ordinance and taxing all property owners to fund the program? If yes, what is it?

The City Attorney has provided clarification confirming our department's interpretation which is that the state is providing jurisdictions guidance for conduct rental inspections and specifically allows for fees to be collected in a general manner to sustain rental inspection programs.

AB 838 requires that "...a city ... that receives a complaint from a tenant, resident, or occupant ... regarding a potential violation" the city shall "Inspect the building or portion thereof intended for human occupancy...", "Document any violations", and "advise the owner or operator of each violation." It does state that we shall not charge fees for these services. The city has already (and will continue) to do this and will be in compliance with these provisions. Provision (f) clearly allows us to create this program and charge fees to support it. "(f) Nothing in this section limits or alters the existing authority of a city, county, or city and county to impose fees on rental property owners to support a rental property inspection program, or to otherwise impose generally applicable charges, fees, or assessments to cover the costs of inspections or inspection reports required by this section."

6. Does the City understand that it is specifically targeting Property Managers and their livelihood and will negatively impact this industry?

The rental inspection program does not target any specific group. It is intended to be generally applicable to rental properties within the city whether they have a property manager or not. Besides regularly scheduled inspections, this program does not engage in the day-to-day management of rental properties but will act as a local layer of oversight.

7. Does my rental property need to be registered?

All rental properties must be registered with the program. There are a few exemptions:

- Rooms rented to individuals in an owner-occupied single-family residence,
- Hotel or motel units subject to the City's Transient Occupancy Tax,
- Units inspected for health and safety standards by another governmental authority,
- Mobile home parks,
- And newly constructed dwelling units for a period of five (5) years from the issuance of the Certificate of Occupancy.

8. How does the city plan to get people registered to sign up to the program? What are the consequences for not registering and not paying?

The city will send out flyers or letters to all residential properties that are not owner occupied, and to all property management companies and realtors. This flyer (or flyers) will include information directed to tenants, owners, and/or managers. There will also be press releases and public service announcements. Properties (managers and/or owners) that do not comply will be sent notices of violation and administrative citations (fees) may be issued.

9. *What are the costs associated with this program?*

Refer to the RRIP Fee Schedule that breaks down the fees for the first two (2) cycles of the program.

10. *When and how often will my property be inspected?*

All required units will be inspected by the City within the first three years of the program. After the initial inspection, units may either qualify for self-certification, continued city inspection every three years, or require a re-inspection if the unit does not pass the initial inspection. If approved for self-certification the property owner will retain record of the annual self-inspections of every unit and provide that copy to the City upon payment of registration each year or upon request.

All units will be inspected at least once every three (3) years or five (5) years depending on if the property is enrolled in the Self-Certification Program. Inspections will be scheduled in coordination property owner and the tenant.

11. *How will the inspections work? How will we know who to call? How will this process work?*

Inspections will be scheduled in coordination with city staff, the property owner/manager, and the tenant. The inspector will walk through the unit with the purpose of ensuring that the unit meets minimum life, health, and safety standards. An inspection can be scheduled directly with the Building Division. Ideally inspections will be scheduled when a unit is in between tenants. All units not enrolled in the self-certification program will require one inspection in a three (3) year cycle. Units in the self-certification program will have one inspection over the course of a five (5) year cycle.

12. *The fire department inspects my units, does this mean I qualify for the exemption?*

Yes. We will continue to work with the Arcata Fire Department (AFD) to see how and if the programs can be coordinated over time. At this time the AFD is responsible for parcels with three (3) or more rental units and this program will include parcels with less than 3 rental units or not covered by the fire department

13. *Can you clarify what is meant by “another governmental authority”?*

Any unit that is regularly inspected by a qualifying governmental agency is exempt from the program. Such as AFD, US Department of Housing and Urban Development, and the CA Department of Housing and Community Development.

14. *What criteria is being used? What is the program looking for?*

The intention of the program is to meet minimum health, life, safety, and welfare standards as set by Code. The RRIP Inspection checklist will be used by our City Staff and available

to those enrolled in the Self-Certification Program. A copy of the checklist can be view on the city website.

15. Does the property owner or their designee need to be present for the inspection?

Either the tenant/designee or the owner/designee must be present for the inspection. The tenant can also act as the authorized agent if arranged by the property owner.

16. If inspections are missed or entrance is not allowed by tenants, how does the City plan to deal with that?

The property owner will not be penalized for this sort of situation. There are no consequences from the City, and we will work with the property owner to find a solution.

17. Missed inspection appointments. Is a fee assessed if the missed inspection cannot be made within 7 days due to the city staff?

Re-inspection fees will not be incurred if city staff cannot perform inspections. Nor will they incur fees if inspections need to be rescheduled by the operator or tenant provided notice is given. The draft ordinance allows the re-inspection fee to be waived at the discretion of the Director. A re-inspection fee will be levied only if warranted.

18. Who decides and how is it decided if a Rental Dwelling Unit has deteriorated to the point where the health and safety of the tenant are in danger?

The Code Compliance Technician will perform the initial inspection and will be trained on how to identify potential problems and when to call for other support. Depending on the kinds of issues found, the Technician may request the presence of the City Building Inspector, the Fire Marshall, and/or the Building Official. The ultimate decision on determining if a unit is unfit for human occupancy lies with the Building Official.

19. What is the process and timeline for enforcement if a landlord perpetually refuses to make the necessary fixes?

The City has standard Code Enforcement Protocols listed in the Municipal Code that includes a process for administrative citation and enforcement. The language in all initial code compliance letters asks that the responsible party either corrects the problem **or contacts us** within a set timeline, typically thirty (30) days. In the case of this program the Property Owner will have a reasonable time to complete the repair (times will vary depending upon repair type). If repairs are not completed in the time frame or an alternate time schedule has not been approved by the City, an Administrative Citation will be issued, and the property owner will begin to occur daily financial penalties.

20. Are there legal protections against property owner retaliation for anything discovered during an inspection?

If the issue with the unit/property is due to an omission by the owner to fulfil a duty imposed by law, State laws protect the tenant from retaliation. If the issue is generated by the tenant, it is a matter between the owner and the tenant per their rental lease agreement.

21. What if a property is found to have serious violations? Would the owner have to pay for relocation?

The registration process will include clear directions for owners/managers to follow in order to schedule inspections and comply with the requirements of the program. Owners/managers will be encouraged to schedule inspections when they are between tenants. Once a property passes an inspection, there will be direction on how and when to set up the next required inspection or offered a path to move into the Self-Certification program. Complaint driven inspections by tenants will be handled separately from this program.

In the rare event that a residential unit is considered “unlivable” (meaning the code violations are so extreme that the unit is deemed unfit for human occupancy) then the owner/manager is responsible for relocation costs per state law.

If the issue with the unit/property is due to an omission by the owner to fulfil a duty imposed by law, State laws protect the tenant from retaliation. If the issue is generated by the tenant, it is a matter between the owner and the tenant per their rental lease agreement.

22. Regarding code violations, when inspecting a property built in 1950 which has not been remodeled and is in good working condition is found to have items that are not up to the current code, is this considered a code violation?

Assuming everything was built to code at the time it was built/remodeled then it is allowed to remain as-is. Typically, these corrections are often relatively easy to correct. For example, missing smoke/CO alarms, missing earthquake strap on a water heater, or replacing a defective GFCI outlet. More complex corrections are often not because of a code issue, but because of lack of maintenance, such as unsafe stairs, deck, or broken windows.

23. What recourse do property owners have to appeal decisions made by the Inspector or Department?

The City has adopted Part 2 of the California Building Code which provides for a Board of Appeals that reviews, “decisions or determinations made by the building official relative to the application and interpretation of this code”. In the current draft ordinance Sec.8504.5 does lay out an appeals process.

24. Do my properties qualify for the Self-Certification Program?

Properties that pass the initial inspection and have no existing or past violations of building, housing and sanitation codes or ordinances within the last three (3) year period may qualify to participate in the Self-Certification Program.

25. *What is a Self-Inspection?*

The owner will be provided with a Self-Inspection checklist and instruction packet by the City. Each year the owner or manager must conduct an inspection on each unit on the property. The completed checklists should be kept in your records for at least five (5) years and reproducible within seven (7) calendar days if requested by the City. Failure to conduct self-inspections may result in suspension from the Self-Certification program for a period of three (3) years.

26. *What if one of my properties fails the City inspection? Am I automatically out of the Program?*

Depending on the severity of the situation a property may be removed from the Self-Certification Program for three (3) years. For most cases the City will work with the property owner to set up a reasonable timeframe to correct violations. The unit(s) on the offending properties will be subject to the regular inspection schedule. However, the unit(s) on the properties without existing or past violations will continue to be eligible for the Self-Certification Program.

27. *Does this mean I will not have regular inspections by the City If I am self-certifying the units?*

No, the City will still conduct one inspection but in a five (5) year period as opposed to three (3). As required by AB 838 the City will respond to complaints received from tenants or other interested parties.

28. *Are there any extra associated fees with the Self-Certification Program?*

There is a small one-time administrative fee of \$40 that covers the costs of running the Self-Certification Program.