



## City Council

### Rental Housing Registration Proposed Program Scope

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#### Title

Rental Housing Registration Proposed Program Scope

#### Recommended Action

##### Committee Recommendation:

The Land Use & Environment Committee recommends discussing the rental housing registration proposed program scope and options and direct staff to pursue budget for program implementation in 2024, draft code language and develop program, as discussed, for future City Council meeting.

##### City Manager Recommendation:

Discuss the rental housing registration proposed program scope and options and direct staff to pursue budget for program implementation in 2024, draft code language and develop program, as discussed, for future City Council meeting.

#### Report

##### Issue:

Discussion on proposed rental housing registration program.

##### Staff Contact:

Christa Lenssen, Senior Housing Program Specialist, City Manager's Office

##### Presenter(s):

Christa Lenssen, Senior Housing Program Specialist, City Manager's Office, 360.570.3762

#### Background and Analysis:

In May 2022, the Land Use & Environment Committee directed staff to explore options for implementing a rental housing registration program, as part of Council's update to the City's rental housing code (OMC 5.82). Council adopted an ordinance amending OMC 5.82 in August 2022 to limit move-in fees and security deposits, as well as notice periods required for rent increases.

The Committee identified the following goals for a registration program:

- Gather data about rental housing in Olympia
- Share information and resources with landlords

- Ensure basic life, health and safety in rental housing

Staff from Housing, Code Enforcement, Building Inspections, and Community Planning & Development met regularly to review peer city programs and options. Staff interviewed peer cities to learn more about program models, staffing structure, and sample code language. Staff will present information regarding legal authority to require inspections, peer city programs, proposed structure, resources needed to implement proposed program structure, additional policy and program considerations for developing a rental housing registration and inspection program.

In the proposed program model, an annual City-issued rental housing registration would be required with mandatory periodic inspections in order to renew their Olympia business license. Certain unit types would be required to register annually but would not be subject to inspection requirements unless code violations are found (owner-occupied properties with one rental unit onsite). These units would be required to submit a self-certification that their unit meets the City's requirements and could be subject to mandatory inspections if code violations are found. Staff recommends requiring third party inspections, on a 5-year inspection cycle (a portion of rental units at a property would be inspected one out of every five years). Approximately 2,900 rental units would undergo inspections each year. City staff would be responsible for overseeing compliance with the program, selecting units for inspection, notifying property owners, reviewing inspections, training and certifying inspectors, providing education and outreach to property owners, as well as adding information and resources responsive to community needs.

The City could consider requiring re-inspections by City code enforcement rather than third party inspectors to ensure that units failing the initial inspection are properly remedied or pursue further code enforcement action. This would require more staff time and the City could charge a fee for re-inspections. The City could either train onsite staff to perform inspections or reimburse costs for inspection of properties that are affordable to low-income households but not owned/operated by a government agency or nonprofit organization (ex: 12-year MFTE, Low Income Housing Tax credit properties).

Land Use & Environment Committee members asked staff to determine whether the City has legal authority to inspect renter-occupied manufactured homes. Department of Labor & Industries (L&I) regulates inspection of manufactured homes at assembly and for certain alternations to the home (permits and inspections required for work conducted). The City could include renter-occupied manufactured homes in the inspection program. If repairs are needed which require a permit and inspection from L&I, the property owner could provide a copy of the inspection to verify work was completed to remedy the deficiencies.

Climate program goals include developing an energy efficiency baseline, helping to identify buildings with high energy usage, and connecting property owners with resources to improve energy efficiency and decarbonize their buildings. Housing and Climate program staff will work together to develop inspection program requirements that achieve both goals of monitoring health and safety, as well as energy efficiency.

Staff is seeking direction from Council to move forward with budget planning, program development and drafting of code language. Information will be presented for the Council to consider regarding:

- Proposed program structure, including exemptions and scope;

- Fee schedule;
- Program staffing and budgetary impacts;
- Other policy additions.

To implement a rental housing registration program, staff will need to:

- build a permit process and create a checklist for information needed to submit an application in SmartGov;
- work with Department of Revenue to establish a Rental Housing endorsement for the Olympia business license (DoR staff advised this will likely take 6 months);
- develop informational resources and guidance;
- perform outreach to communicate with rental housing property owners about new requirements, implementation schedule and deadlines;
- create inspection checklist;
- create energy efficiency audit (with outside technical assistance);
- create system for tracking inspections and selecting units for inspections;
- create geographic sectors for inspection cycle;
- perform outreach to potential inspectors;
- create inspector training and certification.

Other policy considerations:

Tenants who are residing in housing units with deficient conditions may be displaced if the property requires substantial rehabilitation or the property is condemned. Council could explore two different options for relocation assistance at this time and could reevaluate after program implementation to determine need.

State law (RCW 59.18.085) requires a landlord to pay relocation assistance if the property is condemned or deemed unlawful to occupy by a government enforcement entity (not required if a natural disaster occurs, because of eminent domain, or caused by a tenant or other third party). Code in Tukwila and Lakewood requires landlords to comply with state law and to pay relocation assistance if the property is condemned. The landlord either pays the tenant directly or the City pays the tenant and seeks reimbursement from the landlord. The amount of relocation assistance is three times the monthly rent or \$2,000 (whichever is more).

State law (RCW 59.18.440) allows cities to require payment of relocation assistance to a low-income tenant (at or below 50% of Area Median Income) if the unit is demolished, substantially rehabilitated, or the use changes. Cities can only require landlords to pay up to half of the total amount of relocation assistance. A public hearing is required for a City to implement this type of relocation assistance. A maximum of \$2,000 of relocation assistance may be provided and annual future adjustments can be made based on the consumer price index.

Additional tenant protections that can be added to code language for compliance with a rental housing registration and inspection program:

- Failure to comply with program is a defense to eviction (no license or noncompliance with inspection program).
- Rent increases are prohibited if the unit fails to meet health and safety standards in the inspection.

- Prohibition on forwarding charges to tenants for requirements of the registry program (i.e. inspection costs).

Other code amendments to consider:

- Repeated violations of OMC 5.82 (City tenant protections) could result in penalties including denial or revocation of license.
  - *Context: the City's tenant protections are tenant-enforced, however, this would allow staff to have regulatory authority if violations are found after education efforts have been attempted.*
- Prohibition on retaliation against a tenant for exercising their rights under OMC 5.82.
  - *Context: multiple tenants have contacted City staff who believe their landlord is not providing adequate notice for an increase in rent in their next lease term and who expressed fear of retaliation if asserting their rights.*
- Cap on late fees (which includes any notice fees).
  - *Context: a legal aid attorney reached out about the practice of charging tenants fees for preparing and delivering notices (in addition to late fees) regarding late payment of rent, a notice to pay or vacate, or a notice of noncompliance with a rental agreement. Although a landlord cannot evict a tenant for this type of fee alone, these fees will remain on the tenant's ledger and eventually end up in collections and follow the tenant even if an eviction action for rent was settled or dismissed. Seattle recently passed Ordinance 126803 which addresses this issue.*

### **Climate Analysis:**

The proposed rental housing registry and inspection program will result in a long-term reduction of greenhouse gas emissions by reducing energy use in existing buildings and supporting building electrification to phase out natural gas. An inspection checklist will be developed to monitor health and safety in housing units, as well as energy efficiency. Climate, housing, building inspections and code enforcement staff will work together to develop the inspection standards and ensure that third-party inspectors are adequately trained to perform this work. Inspectors will utilize the inspection checklist to identify deficiencies in housing units, including structural conditions and extreme energy inefficiency. Rental property owners will be required to remedy deficient conditions and will be provided information about available resources to make repairs and upgrades. Information will be shared about City resources to electrify housing units, make weatherization repairs and other updates.

### **Equity Analysis:**

BIPOC households are more likely to be renters than white households in Thurston County. Approximately 42% of BIPOC households rent, compared to 31% of white households. Renters benefit from ensuring housing units are in good condition. Renters with disabilities whose health may be negatively impacted by unit conditions (inadequate ventilation, mold/moisture intrusion, cold/heat) will benefit from improvements to housing units. About 20% of respondents to the fair housing survey in 2022 indicated they experience health impacts from their housing unit conditions. High heating and cooling costs or insufficient heat/cooling, mold, and air quality/pollution were the most commonly reported environmental concerns in housing units. Renters will benefit from decreased utility costs if energy efficiency improves and repairs are completed. According to the landlord survey conducted in

2021 as part of the Housing Needs Assessment, only 13% of landlords include electricity/gas utilities in rent. Renters may also benefit from the landlord being more aware of legal rights and responsibilities, if additional educational resources and information are included as part of this program.

People of color and people with disabilities earn less on average than white, non-disabled people. In Thurston County, about 36% of white households earn over \$100,000 per year compared to 18% of Native American households. White households are the most likely to earn over \$100,000 annually and least likely to earn under \$35,000 annually than any other racial or ethnic group countywide. In 2020 in Olympia, a person with a disability earned on average \$26,075, compared to \$37,168 earned by a person without a disability. Low-income renters could be disproportionately harmed by this program if they are currently renting lower cost units that need significant repairs, and their rents are increased as a result of unit upgrades, they are displaced due to the unit needing significant repairs, or the unit is taken off the rental market. Renters with disabilities may also be burdened by inspectors entering their units (some individuals may be immune compromised).

There is limited data on landlord demographics. City of Olympia surveys include demographic data, but not all respondents provide demographic information and there is a limited sample size. Approximately 71% of landlords who completed the landlord survey (part of the Olympia rental housing code update in 2022) identified as white, which is similar to the general population of Olympia overall. Landlords are burdened by additional requirements and costs. Landlords may benefit from value-added programs and resources offered by the City. Landlords may also benefit from knowing about repairs needed in their housing unit due to inspections which may not be reported by a renter. Some renters may fear retaliation from their landlord if they request repairs or report to code enforcement.

Staff recommends adopting relocation assistance measures and will present options to Council. Additionally, staff will work to promote resources to help property owners make upgrades in exchange for renting to households earning below 80% of Area Median Income through the CDBG revolving loan fund and critical home repair programs. Staff is also exploring addition of a reasonable accommodation policy to ensure that any renters with disabilities may have the option of forgoing an inspection in their unit (if entrance to their unit by an inspector poses a health risk). In the future, this program could employ incentives to encourage landlords to keep rents low, to partner with community organizations who are seeking housing placements for clients, or provide other pathways for tenants with higher barriers to access housing.

Many City departments may be impacted by increased work due to implementation of a new program, including: GIS, business licensing, legal and code enforcement. Many departments would also benefit from having access to data about rental housing, as well as ability to communicate with landlords and tenants about City initiatives and resources.

### **Neighborhood/Community Interests (if known):**

Potential changes to Olympia Municipal Code's Rental Housing Code (OMC 5.82) are a topic of significant interest to renters and rental housing owners/operators within the city and around Thurston County. City staff and consultant Jason Robertson conducted engagement with renters and landlords from Fall 2021 to Spring 2022 to review policy options, which lead to adoption of a tenant protection ordinance in August 2022.

Approximately 100 landlords and 200 renters responded to an Engage Olympia survey question that asked how supportive they would be of a rental housing registry to keep landlords updated on rental rules, codes, policies and resources, and potential unit inspections to ensure health and safety. Both renters and landlords generally expressed support for easily accessible information on laws and resources. Both renters and landlords expressed concern that increased costs related to fees or required property improvements would lead to rent increases. Overall, 56% of renters were very supportive of a registry, while 18% of landlords were very supportive of a registry.

**Financial Impact:**

Creating a new program will require additional staff. Revenue from fees is expected to offset staffing costs to operate the program, however, it is anticipated that additional staffing needs will have a budgetary impact, particularly in the startup phase. At full compliance, fee revenue is anticipated to be approximately \$465,000 (with a \$30 fee per unit) and an estimated additional \$36,000 in new business license revenue. Staff expect that it may take 3-5 years to gain program compliance and the first two years of implementation may operate at a deficit. Climate and Housing staff have applied for \$400,000 in grant funding to assist in startup costs and will be notified by September 1<sup>st</sup> if awarded. Staff proposed funds be used to start-up the rental housing registry and identify properties for an energy efficiency pilot program for affordable rental housing properties.

It is anticipated that 2.5 FTE (1 FTE coordinator, 1 FTE code enforcement, and 0.5 FTE permit tech or program assistant) will be needed to operate the program on an ongoing basis. In Year 1, the program could operate with 1.5 FTE (1 FTE coordinator and 0.5 FTE permit tech/program assistant) to establish the program and garner voluntary compliance without enforcement penalties. Staff have submitted a budget enhancement request to cover 1.5 FTE needed outside of the revenue generated from program fees for the first year. The program may have additional workload impacts on GIS, business licensing, legal, code enforcement, community planning and development business operations, and housing staff.

**Options:**

1. Direct staff to pursue budget for program implementation in 2024, draft code language and develop program, as discussed, for future City Council meeting.
2. Direct staff to modify proposed program and present alternative program scope and staffing needed at a future Land Use & Environment committee or City Council meeting. Program implementation would be delayed.
3. Take other action.

**Attachments:**

Peer City Program Comparison and Proposed Scope  
Kent Code Chapter 10.02 (rental housing inspection program)  
Tukwila Code Chapter 8.46 (relocation assistance program)  
Tacoma Code Chapter 1.95.080 (tenant relocation assistance)