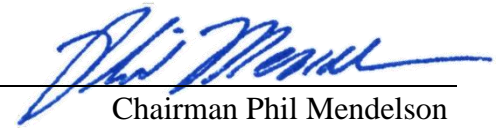




Councilmember Anita Bonds



Chairman Phil Mendelson

A BILL

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, to establish minimum program requirements, and to establish reporting requirements for the program.

BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this act may be cited as the “Proactive Inspection Program Act of 2023”.

TITLE 1. ESTABLISHMENT OF THE PROACTIVE INSPECTION PROGRAM

Section 2. Definitions.

For the purposes of this act, the term:

(1) “Department” means the Department of Buildings.

(2) “Director” means the Director of the Department of Buildings.

(3) “Extremely low household income” means a household income equal to 30% or less of the area median income.

(4) “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.

33 (5) “Mayor” means the Office of the Mayor of the District of Columbia.

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

37 (7) “Occupant” means a person authorized by the tenant or housing provider to be on the
38 premises of the rental unit.

39 (8) “Tenant” means a lessee, sublessee, or other person entitled to the possession or
40 occupancy of a rental unit.

41 Section 3. Program; purpose.

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

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

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

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

49 (b) For purposes of the program, multifamily rental housing properties shall be classified
50 into three tiers: Tier 1, Tier 2, and Tier 3. Program tiers shall be as follows:

51 (1) Properties in tier 1 shall be proactively inspected every 8 years;

52 (2) Properties in tier 2 shall be proactively inspected every 4 years; and

53 (3) Properties in tier 3 shall be proactively inspected every year.

54 (c)(1) A multifamily residential housing property shall be assigned to a tier based on the
55 total number of points assigned to the property, with fewer points resulting in a lower tier

56 classification and more points resulting in a higher tier classification. Points shall be based on the
57 following factors:

58 (A) The number of housing code violations found at the property in the
59 past two years;

60 (B) The average length of time (in days) housing code violations remained
61 unabated at the property in the past two years;

62 (C) The number of stop-work orders issued for the property in the past two
63 years;

64 (F) The number of violations for failure to properly store solid waste at or
65 on the property in the past two years;

66 (G) The age of the property;

67 (D) The owner has failed to be current in paying property taxes in the last
68 two years;

69 (H) The property is located within an area where the percentage of
70 vulnerable populations, including people with disabilities, people who are foreign-born, people
71 who use English as a second language, and households with extremely low household income, is
72 greater than the District average; and

73 (I) The property is located in an area where the percentage of children
74 under the age of 6 that have lead blood levels equal to or greater than 5 micrograms per deciliter
75 ($\geq 5 \mu\text{g/dL}$) is greater than the District average.

76 (2)

77 (d)(1) Multifamily rental housing properties shall be re-evaluated for classification as
78 follows:

79 (A) Properties in tier 1 shall be re-evaluated for classification every 8
80 years;

81 (B) Properties in tier 2 shall be re-evaluated for classification every 4
82 years; and

83 (C) Properties in tier 3 shall be re-evaluated for classification every year.

84 (D) Notwithstanding subparagraphs (A) through (C) of this paragraph, the
85 Director may re-evaluate and reclassify a property at any time.

86 (2)(A) The Department shall notify multifamily residential housing providers of
87 their initial classification and any subsequent change in tier classification.

88 (B) The notification shall include basic information about the proactive
89 inspection program, the specific criteria that were used to classify the multifamily residential
90 housing property, the percent and number of units that will be inspected at the property, and
91 contact information for the Department for further questions.

92 Section 4. Inspections.

93 (a) For purposes of a proactive inspection, an inspector shall inspect the exterior, all
94 common interior areas, and individual units in a property.

95 (b) The number of individual units inspected in a multifamily housing property shall be
96 calculated as follows:

97 (1) At least 75% of units in a property with 25 units or less;

98 (2) At least 60% of units in a property with 26 to 49 units;

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

100 (4) At least 33% of units in a property with 200 or more units.

101 (c) Units shall be selected at random; except, that units with one or more housing code
102 violations in the last two years shall also be included for inspection.

103 (d)(1) The Department shall notify the property owner or property manager of a proactive
104 inspection and post notice of a proactive inspection at the property at least 14 days before the
105 scheduled inspection date.

106 (2)(A) The Department shall provide property owners with inspection consent
107 forms at least 14 days before the scheduled inspection date.

108 (B) A property owner or manager shall obtain written consent from
109 tenants of the units that have been selected by the Department for inspection at least 7 days
110 before the scheduled inspection date. Completed consent forms shall be transmitted to the
111 Department at least 5 days before the date of the scheduled inspection.

112 (B) Where a tenant does not give his or her consent to inspect the unit, the
113 Department shall provide the property owner or manager with another unit selected pursuant to
114 subsection (c) of this section.

115 (e) The Department shall publicly post a list of properties to be proactively inspected
116 each month at least 7 business days prior to the beginning of each month. The list shall not
117 include information on specific units within a property that are to be inspected.

118 (f) A property owner or manager must be on the premises during inspections.

119 Section 5. Proactive inspection fees and fines.

120 (a) A proactive inspection fee is established to fund the implementation of this act.

121 (b) As of January 1, 2023, proactive inspection fees shall be established as follows:

122 (1) The fee shall be \$35 per unit with a maximum cumulative fee of \$6,000 for
123 any inspection cycle.

124 (2) The fee for re-inspections shall be \$90. Any re-inspection fees shall not count
125 toward the cumulative fee under subparagraph (1) of this subsection.

126 (c) Fees assessed pursuant to this act shall be deposited into the Nuisance Abatement
127 Fund in § 42–3111.01.

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

131 Section 6. Prohibited conduct.

132 (a)(1) Housing providers shall not take any retaliatory actions, as defined in D.C. Official
133 Code § 42-3505.02, against tenants or occupants due to any findings of proactive inspections, or
134 as a result of fees, fines, or other expenses incurred due to the proactive inspection program.

135 (B) A tenant may submit a complaint of retaliatory action to the
136 Department. The Department shall investigate complaints of retaliatory actions submitted by
137 tenants within five days of receipt of the complaint.

138 (A) The Department shall issue a written determination to the tenant or
139 occupant who submitted the complaint and the housing provider no later than 15 days after the
140 receipt of the complaint. The determination shall provide information on the scope of their
141 investigation, the evidence used to inform the investigation, and the findings of the investigation.

142 (B) Where the Department determines, through a preponderance of the
143 evidence, that a housing provider has taken retaliatory action against tenants or occupants as a
144 result of a proactive inspection action, the Department shall issue a fine to the housing provider
145 of not less than \$3,000 per violation.

146 (C) A housing provider may appeal a determination of the Department
147 within 15 days of receipt.

148 (b)(1) If a property owner or property manager knowingly impedes or interferes with the
149 proactive inspection process, DCRA shall issue a fine to the housing provider of not less than
150 \$3,000.

151 (2) In addition to the fine under subparagraph (1), DCRA shall classify the
152 property in question as tier 3.

153 Section 7. Implementation plan.

154 (a) The Director shall prepare and submit to the Council a plan to facilitate the
155 implementation of this act.

156 (b) The plan shall include:

157 (1) A timeline for drafting and promulgating rules to implement this act;

158 (2) A list of memoranda of agreement or memoranda of understanding with other
159 District agencies that will be necessary to implement this act;

160 (3) A communications strategy that articulates the methods by which the
161 Department will share information about the program with landlords, tenants, and other
162 stakeholders;

163 (4) Methodology the Department will use to classify properties into tiers pursuant
164 to Section 3, including the number of points assigned to each factor under Section 3(c)(1) of this
165 act.

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

167 Section 8. Annual reporting.

168 (a) On or before January 1, 2024, and annually thereafter, the Director shall submit to the
169 Council, a report detailing inspection and enforcement activities of the prior fiscal year under the
170 proactive inspection program.

171 (b) The report required under paragraph (a) shall include the following data for the prior
172 fiscal year:

173 (1) Inspection data: The number of properties and units inspected by tier;

174 (2) Violation data: The number and type of violations identified and cited by tier;

175 (3) Enforcement data: The dollar value of violations cited by the Department, the
176 dollar value of the fines assessed versus the fines collected, violations for which the fines were
177 issued, and identifying any reduction in the fine amount due to an action by the Department
178 and/or an administrative judge, and any fines not yet collected as of the date of the report by tier;

179 (4) Abatement efficacy data: The average length of time (in days) for violations to
180 be abated, and the number, average length, and justification for extensions granted by the
181 Department by tier;

182 (5) Enforcement escalation: The number of violations referred to the Attorney
183 General for the District of Columbia, the dollar amount assessed, and a description of matters
184 referred by tier;

185 (6) Collections data: The number of violations referred to the Central Collections
186 Unit by tier;

187 (7) Re-evaluation data: For applicable years, the number of properties reclassified
188 pursuant to Section 3(d).

189 Section 9. Rules.

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

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

198 (c) Upon the effective date of rules promulgated pursuant to this act, existing rules related
199 to the Proactive Inspection Program under Title 14 of D.C. Municipal Regulations shall be
200 deemed repealed.

201 Section 10. Fiscal impact statement.

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

205 Section 11. Effective date.

206 This act shall take effect following approval by the Mayor (or in the event of veto by the
207 Mayor, action by the Council to override the veto), a 30-day period of congressional review as
208 provided in section 602(c)(1) of the District of Columbia Home Rule Act, approved December
209 24, 1973 (87 Stat. 813; D.C. Official Code § 1-206.02(c)(1)), and publication in the District of
210 Columbia Register.