

An Equity Assessment for The City of Fort Collins Proposed Rental Housing Program

Source: This Assessment was adapted from "Equity Framework for City of Fort Collins - Land Development Code Update - May 2022". Gretchen Armijo, Equity Policy Solutions LLC as published for Fort Collins City Council Meeting AIS materials for 1.17.23.

Safe and stable housing provides a foundation that allows individuals, families, and communities to thrive. High-quality, livable housing has a positive impact on health, economic security, educational attainment, and the overall stability of families and communities.

In Fort Collins, more than 40% of all housing units are renter-occupied. The renter community in Fort Collins makes up a significant portion of the population, but rental housing is not currently required to complete proactive property inspections for health, safety, and habitability. State law implies that every rental agreement includes a warranty of habitability where a landlord is deemed to warrant that the residential premises is fit for human habitation. Neither the implied warranty of habitability nor the City's complaint-based rental inspection system proactively ensure the health, safety, and habitability of rental housing.

The burden to report issues rests primarily on tenants, and a complaint-based system does not adequately address power dynamics between tenants and landlords. In the case of the warranty of habitability, tenants must initiate communication with landlords about their rights and proactively notify their landlords of any breaches. Should a landlord not cure violations after the tenant has submitted notice, a tenant may obtain injunctive relief for the breach of the warranty of habitability in any county or district court. This process may require the tenant to obtain legal counsel for enforcement. This option does not account for tenants' potential fear of retaliation (though retaliation is prohibited by state law) or the possibility of contentious enforcement actions that could result in high legal costs, a significant time investment, and uncertainty of success or recovery of reasonable attorney fees. The City's complaint-based rental inspection system similarly relies on tenants to report life, health, and safety violations. Both existing policies are reactive, and neither ensures equitable access to healthy, safe rental housing due to inconsistency in tenants' willingness and ability to assert their rights.

Research has found that many tenants fear asserting their rights to safe and livable homes due to concerns about retaliation, including increased rental payments, damaged relationships with property owners, and eviction.¹ For these reasons, tenants are often faced with choosing between more expensive, high-quality housing and more affordable housing that does not meet minimum standards of livability.² Because of the power dynamics associated with asserting one's right to safe housing, people with higher incomes who can afford newer and higher-quality housing experience privileges in the rental housing market that low-income people do not. In addition, people who struggle to find and pay for stable housing face financial and other resource barriers when they seek to assert their right to livable housing through existing complaint-based processes. During public engagement for the City's adopted Housing Strategic Plan (2021), similar themes emerged around rental housing. Participants mentioned the need for rental inspections focused on health and safety and expressed fears of retaliation up to and including eviction if they reported substandard conditions.

Unequal abilities to access safe and healthy housing can result in drastically different health

¹ Chisholm, E., Howden-Chapman, P., & Fougere, G. (2020). Tenants' responses to substandard housing: Hidden and invisible power and the failure of rental housing regulation. *Housing, Theory and Society*, 37(2), 139-161.

² Marquez, E., Dodge Francis, C., & Gerstenberger, S. (2019). Where I live: A qualitative analysis of renters living in poor housing. *Health & Place*, 58, 102143.

outcomes for property occupants, with poorer mental and physical health outcomes associated with cost burden, housing unaffordability, and poor rental housing conditions.^{3 4}

The Fort Collins Rental Housing Program has been designed in parallel with this equity assessment to improve access to safe and livable housing within the City for all residents. An equity assessment considers the historic and systemic barriers to safe living conditions experienced by low-income renters and considers how other marginalized groups such as BIPOC (Black, Indigenous, People of Color) individuals and students may be impacted by the City's rental policies. It examines the current structures in place that foster safe living environments and the ability of tenants to assert their rights, identifies gaps, and seeks to reduce historic barriers and disproportionate impacts through specific program features and implementation mechanisms.

If adopted, the proposed Rental Housing Program will help the City implement the policy direction contained in the *Housing Strategic Plan*, in particular Strategy 20. "Explore the option of a mandated rental license/registry program for long-term rentals and pair with best practice rental regulations."⁵ The proposed Rental Housing Program will also help the City achieve the Plan's vision that "everyone has healthy, stable housing they can afford" by addressing both the health/safety of housing and stability for renters in Fort Collins.⁶

What is Equity?

"Equity is when everyone, regardless of race, gender, age, neighborhood or financial status, has fair and equal access to opportunity."⁷

Land use planning practices and regulations enacted over the past century resulted in disproportionate negative impacts to certain groups - such as Black, Latinx, and low-income people - more than others. Zoning, which was intended to separate incompatible land uses, was also used to exclude certain groups of people from single-family neighborhoods and to exclude multifamily rental housing from neighborhoods with better access to jobs, transit, and amenities.⁸ This historic marginalization has resulted in a significantly greater proportion of BIPOC and low-income people living in rental housing rather than transitioning into homeownership. Consequently, even before pandemic-related challenges in the housing market, 2019 data indicates that homeowners had a median total wealth about 40 times greater than the median household wealth of renters (\$254,900 vs. \$6,270).⁹ These wealth disparities are then compounded by health and safety concerns in rental units and the power dynamics that may keep some renters from reporting unsafe living conditions.

³ Park, G., & Seo, B. K. (2020). Revisiting the relationship among housing tenure, affordability and mental health: Do dwelling conditions matter? *Health & Social Care in the Community*, 28(6), 2225-2232.

⁴ Pledger, M., McDonald, J., Dunn, P., Cumming, J., & Saville-Smith, K. (2019). The health of older New Zealanders in relation to housing tenure: Analysis of pooled data from three consecutive, annual New Zealand Health Surveys. *Australian and New Zealand Journal of Public Health*, 43(2), 182-189.

⁵ Housing Strategic Plan, p. 57.

⁶ Housing Strategic Plan, p. 11.

⁷ *Health Equity*. (n.d.). Policy Link. <https://www.policylink.org/our-work/community/health-equity>.

⁸ American Planning Association. (2019). *Planning for Equity Policy Guide*. https://planning-org-uploaded-media.s3.amazonaws.com/publication/download_pdf/Planning-for-Equity-Policy-Guide-rev.pdf.

⁹ Lerner, M. (2022, July 13). *Affordability, wealth gap persist in housing market, report finds*. Washington Post. <https://www.washingtonpost.com/business/2022/07/13/affordability-wealth-gap-persist-housing-market-report-finds/>.

A survey conducted in partnership by the Joint Center for Housing Studies at Harvard University and the Farnsworth Group found that a significant portion of renters have serious concerns about the impact of their housing environment on their health. Of a sample of 253 renters, 43% reported worries about their home negatively impacting their health, safety, and wellbeing or the health, safety, and wellbeing of another occupant. Among the 43% of the sample who reported concern about rental property health and safety, the major categories for concern included indoor air quality (54%), pests (36%), flooding/moisture/mold (32%), water quality (32%), and structural safety/comfort (24%).¹⁰ Renters' limited capacity to address these inadequacies often results in health-related inequities for the disproportionately BIPOC, low-income group of people who make up the property-renting population.

The proposed Rental Housing Program is designed to center equitable access to healthy and safe housing for the more than 40% of Fort Collins residents who rent their homes. The program has been crafted to enhance health and safety for renters by requiring **enrollment of all rental properties, proactive inspections of rental units for minimum health and safety standards, reinspection on a regular five-year cadence, and penalties for landlords who fail to participate in the program or to cure health and safety violations.**

Equity in Fort Collins Plans and Equity Factors to Consider

The *Housing Strategic Plan* identifies strategies that can expand equitable access to housing, including:

- 'Lead with health equity' - prioritize housing strategies that improve health equity and reduce health disparities
- Expand 'equity in the process' - impacted groups participated in strategy prioritization
- Expand access to housing for both current and future residents.

This Equity Assessment also draws from the equity goals in other City plans including the *2020 Strategic Plan*, *Our Climate Future*, and *City Plan*:

- Equitable access to 'high-opportunity areas' with transportation, services, and amenities
- Equitable access to sustainability practices (such as complete neighborhoods)
- Equitable community engagement and outcomes

The Rental Housing Program's features were crafted using the equity framing questions of:

- What are the policy's objectives?
- Who/what will policy changes impact?
- What is the scope of these policy changes?
- How can we set the program up for success?
- Which stakeholders must be involved?

Based on these questions, the Rental Housing work team defined nine criteria by which the

¹⁰ Will, A. (2022). *New Survey Finds Many Renters Are Concerned about the Impact of Home on Health*. Joint Center for Housing Studies. <https://www.jchs.harvard.edu/blog/new-survey-finds-many-renters-are-concerned-about-impact-home-health>.

program and its components should be evaluated:

1. Improve health and safety for renters
2. Help renters exercise their rights to safe and healthy housing
3. Center equity and Triple Bottom Line (economic, social, environmental) impacts
4. Adapt regulations to community living standards
5. Community health, safety, and livability
6. Scope appropriately based on staff capacity
7. Clarity and transparency
8. Improve consistency and predictability for impacted stakeholders
9. Solutions fit Fort Collins

The Rental Housing Program's features were informed by careful consideration and balancing of competing feedback from the Rental Housing Advisory Taskforce, an extensive community questionnaire, Council feedback during the August 23, 2022 work session, and industry best practices. The program is meant to work in tandem with other housing strategies and initiatives to achieve the Housing Strategic Plan vision that "everyone has healthy, stable housing they can afford."

There are a number of cross-cutting factors that disproportionately impact renters, people of color, and/or those with low incomes. *Equity factors* are overarching systemic conditions that are historically and/or currently present that impact people's ability to reach their full potential for health and prosperity. Though there are countless equity factors the City could consider in the context of countless policy discussions, the ones listed below are closely related to the Rental Housing Program:

- **Health Inequity** - *differences in health outcomes due to race, income, gender, age, disability*
- **Environmental Justice** - *eliminating differences in exposure to climate or environmental impacts, in both the natural and built environments, due to race, income, age, disability*
- **Access to Opportunity** - *access to 'high-opportunity' neighborhoods regardless of race, income, age, disability*
- **Income and Wealth Inequality**- *differences in distribution of income and wealth based on race, age, gender, disability*
- **Pandemic Response & Recovery**- *ability to withstand and recover from pandemic impacts regardless of race, income, age, gender, disability*
- **Community Empowerment** - *access to participating in civic processes regardless of race, income, age, disability, or housing status and the belief that one's participation matters regardless of the same factors*

The disproportionate negative impacts of these factors on some groups can be mitigated or improved through intentional housing policy and regulatory solutions, of which the Rental Housing Program is one component.

Equity Policy Levers

Policy levers are tools that governments can use to achieve goals for the public good, including individual and community health and safety. The following policy levers are used in the Rental Housing Program to achieve the equity goals of the *Housing Strategic Plan* and other City plans.

1. **Requiring enrollment** of all rental properties with an identified local contact
2. **Proactively inspecting** rental units for minimum health and safety standards and features

3. **Reinspecting** at a regular five-year cadence
4. **Enforcing penalties** for landlord noncompliance with program requirements
5. **Maintaining a complaint-based inspection option** for off-cycle safety concerns
6. **Utilizing in-house inspectors** to ensure consistency and simplify enforcement/implementation

Taken together, the *equity factors* are addressed using *policy levers* to achieve the City's goals. It is important to state that these policy levers primarily address health inequity concerns, as the main purpose of the program is to enhance and ensure renter health and safety. Nonetheless, these policy levers can also indirectly address environmental justice, access to opportunity, income inequality, pandemic response and recovery, and community empowerment as well. Environmental justice includes equity in the built environment, access to opportunity requires habitable living situations first and foremost, income inequality is a primary factor that contributes to renters' inability to report landlords for violations of health and safety standards, healthy homes are the first line of defense against physical illness, and the Rental Housing Program is meant to give a voice to renters within the City. Thus, while the program primarily addresses health equity, it impacts other equity factors as well.

Challenges to Achieving Equity Goals

The Rental Housing Program has been designed to advance equity and reduce disparities in access to safe and healthy housing. However, there are a number of program features that may unintentionally result in the creation of new inequities. These may include:

1. **Renter Displacement.** Should inspectors identify living conditions that are imminently dangerous for tenants and require immediate evacuation while the landlord remediates the issue, renters may experience sudden displacement. While renters in this situation would be removed from uninhabitable living conditions, they may not have anywhere else to stay in the interim, especially if property repairs demand significant time to complete.
2. **Increased Rents due to Program Costs for Landlords.** The fees associated with registration and inspection, as well as the cost of repairs for landlords in violation of minimum health and safety standards, may be passed on to tenants through higher rent payments. This challenge is difficult to address because it puts staff and policy analysts in the position of determining the monetary value of equitable access to healthy and safe housing with the knowledge that the financial difference will likely be passed to those with disproportionate cost burdens.
3. **Unfeasible Cost Burdens for Small Landlords.** While large property owners may have the capital on-hand to cure any health and safety violations that inspectors might find, small landlords may not be able to readily invest in high-cost repairs that meet minimum health and safety standards. This could result in fewer rental units being available within the City.

Addressing Equity Challenges

Any City policy or program change that possesses the potential to create rather than abate inequities requires proactive intervention strategies to avoid these impacts. The rental housing team has brainstormed the following strategies for addressing renter displacement, increased rents, and cost burdens for small landlords.

- In cases of short- and long-term displacement, the City must consider alternative housing options for displaced renters, including but not limited to motel vouchers, referral to outside legal resources, or other strategies the City currently implements to address homelessness.
- The City must also consider how it can bolster its existing tenant/landlord mediation system and direct both parties to this resource for resolving any conflicts that arise in the course of the inspection and repair processes.
- To avoid having inspection fees passed onto tenants, the City must make every effort to design an equitable fee structure that keeps fees to a minimum. Ideally, the fees would be nominal enough for landlords to absorb as an ongoing business expense. If this is not possible or if landlords choose to pass on even nominal fees to their tenants, the City should seek to keep the fees low enough to be manageable for tenants.
- Supporting small landlords may require the City to invest in health and safety repairs and upgrades. The rental housing team is exploring the feasibility of a grant program that would assist small landlords with repairs. To ensure that landlords do not personally profit from repairs and upgrades to rental properties by increasing rents, grant recipients would voluntarily restrict their rent increases to no more than 3% per year/lease period for a specified period of time in return for receiving City assistance.

Program Evaluation

If adopted, the Rental Housing Program will undergo annual evaluation to confirm that it continues to meet program criteria, addresses the identified challenges to achieving equity goals, and is successfully ensuring safe, healthy housing. Adjustments will be made as needed to improve the program and accelerate progress toward safe, healthy housing for renters.

The program criteria as outlined on page 3-4 are:

1. Improve health and safety for renters
2. Help renters exercise their rights to safe and healthy housing
3. Center equity and Triple Bottom Line (economic, social, environmental) impacts
4. Adapt regulations to community living standards
5. Community health, safety, and livability
6. Scope appropriately based on staff capacity
7. Clarity and transparency
8. Improve consistency and predictability for impacted stakeholders
9. Solutions fit Fort Collins

The challenges to achieving equity goals include:

1. Renter displacement
2. Increased rents due to program costs for landlords
3. Unfeasible cost burden for small landlords

Staff also plans to collect data on the following metrics each year, which may be revised or added to upon implementation of the program to address ongoing process and policy improvements.

1. The total number of life, health, and safety violations
2. A detailed breakdown of the types of violations, and the geographic locations and housing/property types in which they most frequently occur

3. The number of complaint-based inspections that the City conducts
4. Rates of voluntary landlord/property owner compliance
5. Rates of landlord/property owner noncompliance
6. Average time it takes landlords to complete necessary repairs (and percentage of time in which landlords complete repairs on or before deadlines instituted by inspectors)
7. Annual fee analysis to ensure the program can recover costs while keeping fees reasonable

Future proofing for Equity

As we now know after two years of the Covid-19 pandemic, any '*shock to the system*' -- such as pandemics/ongoing epidemics, a spike in gas prices, wildfires, flooding, extreme storms, utility outages, supply chain interruptions, cyber-attacks -- can quickly expose whether neighborhoods are complete and designed for resiliency in the face of such threats . Neighborhoods that are 'future proof' must include a diverse housing supply, access to basic services, local food supplies, access to multimodal transit, green space and the outdoors, nearby health and medical services, cooling centers, and potentially most fundamentally, safe and healthy homes. A 'roof over one's head' is needed first in order to deal with external threats. In particular, the COVID-19 pandemic made clear that affordable, safe, and uncrowded homes are a prerequisite for individual and public health and a protective factor against infectious disease.¹¹ The first step toward future proofing our community from shocks is to ensure safe, healthy housing for all community members to return to at the end of each day.

¹¹ National Low Income Housing Coalition . (2021). *The Gap: A Shortage of Affordable Homes*. https://reports.nlihc.org/sites/default/files/gap/Gap-Report_2021.pdf.