

AGENDA ITEM SUMMARY

City Council



STAFF

Marcy Yoder, Neighborhood Services Manager
Meaghan Overton, Housing Manager
Caryn Champine, Director of Planning, Development, and Transportation
Monica Martinez, PDT Financial Planning and Analysis Manager
Claire Turney, Finance
Holly Coulehan, Legal

SUBJECT

Items Relating to Rental Housing Program.

EXECUTIVE SUMMARY

A. Second Reading of Ordinance No. 058, 2023, Adopting a Rental Housing Program as an Implementation Action of the Housing Strategic Plan and the Our Climate Future Plan.

B. Second Reading of Ordinance No. 059, 2023, Appropriating Prior Year Reserves in the General Fund for the Start Up Phase of the Rental Housing Program.

These Ordinances, both adopted on First Reading on April 4, 2023 by a vote of 4-3 (Nays: Peel, Arndt, Canonico), establish a Rental Housing Program that begins with registration and adds proactive rental inspections after one year of full implementation and approve an off-cycle general fund appropriation in the amount of \$1.1 million over a 2-year period (\$421,583 in 2023 and \$669,500 in 2024) to support the start-up phase of the proposed program. The development of a Rental Housing Program implements policy direction in both the Housing Strategic Plan (2021) and the Our Climate Future Plan (2021):

- Housing Strategic Plan, Strategy 20 – Explore the option of a mandated rental license/registry program for long-term rentals and pair with best practice rental regulations.
- Our Climate Future Plan, Strategy HAH6 – Explore the option of mandated rental licensing/rental registry with minimum standards for health, safety, stability, and efficiency.

If adopted by Council on Second Reading, staff recommends that the proposed Rental Housing Program commence the start-up phase by Q1 2024. The period between adoption and start-up will be used to hire and train staff, implement new software, and conduct education and outreach with landlords, tenants, property managers, and others impacted by the Rental Housing Program.

STAFF RECOMMENDATION

Staff recommends adoption of both Ordinances on the Second Reading.

BACKGROUND / DISCUSSION

Updates and Clarifications Following First Reading

During the discussion at First Reading, Council expressed interest in a more detailed implementation timeline for the proposed Rental Housing Program and requested information about future Council engagement in program implementation. Council members discussed the funding and the proposed fee-based design of the program. Councilmembers also asked for further clarification on the City's right of entry to inspect a rental property and on plans for improvements to the current complaint-based inspection program.

Implementation and Council Engagement: If Council adopts the Rental Housing Program on Second Reading, implementation of citywide registrations is expected to take 12-18 months (Q2 2024). Proactive inspections would then begin one year after implementation of citywide registration (Q1 2025). Council would have several touchpoints with the Rental Housing Program including memo updates, the City's Budgeting for Outcomes (BFO) process, and a planned check-in prior to implementation of proactive inspections.

	Jun-23	Q3 2023	Q4 2023	Q1 2024	Q2 2024	Q3 2024	Q4 2024	Q1 2025	Q2 2025
Hiring 1st Round: Prgm Coord, Engagement Splst, Rental Insp									
Hiring 2nd Round: Mediation Specialist, Second Inspector									
Hiring 3rd Round: Inspectors									
Software Updates & Develop Program Rules & Regulations									
Education & Outreach: Complaint based system, registration, pro-active inspections									
Develop program evaluation metrics, data collection & anlysis	Set metrics								
Launch Registration Program & Enhanced Complaint Based System			Test & Adjust pilot area						
Launch Pro-Active Inspections; Update Fees								Test & Adjust pilot area	
Quarterly Reporting (Memo & Website)									
Council - Decision Points									
#1 Part 2 of Start Up Appropriation		#1							
#2 Midpoint Check In WS					#2				
# 3 2025/2026 BFO Offer: Formal approval of program							#3		

Program Funding: There was discussion at First Reading regarding the potential of providing part or all funding for this program from the general fund to lessen or eliminate registration and/or inspection fees. This is a program design component rather than a code provision and, as such, is not codified. Staff could implement this change at any point if Council gave such direction. The program as proposed on Second Reading is aligned with previous Council direction to design a program funded through fee recovery rather than ongoing general fund support.

City's Right of Entry to Inspect: The City has the right to enter and inspect rental properties, and other types of properties in Fort Collins, under the City's building and property maintenance codes. The language included in the rental registration provisions includes similar language regarding entry for inspections.

With respect to tenants who occupy rental properties to be inspected, most leases provide for reasonable access for the rental owner or manager after notice. City inspectors always offer their credentials when

inspecting, and verification of the identity and authority of the inspectors can be provided. If there is an issue related to obtaining access, staff can seek an inspection warrant from the Municipal Court in order to gain access.

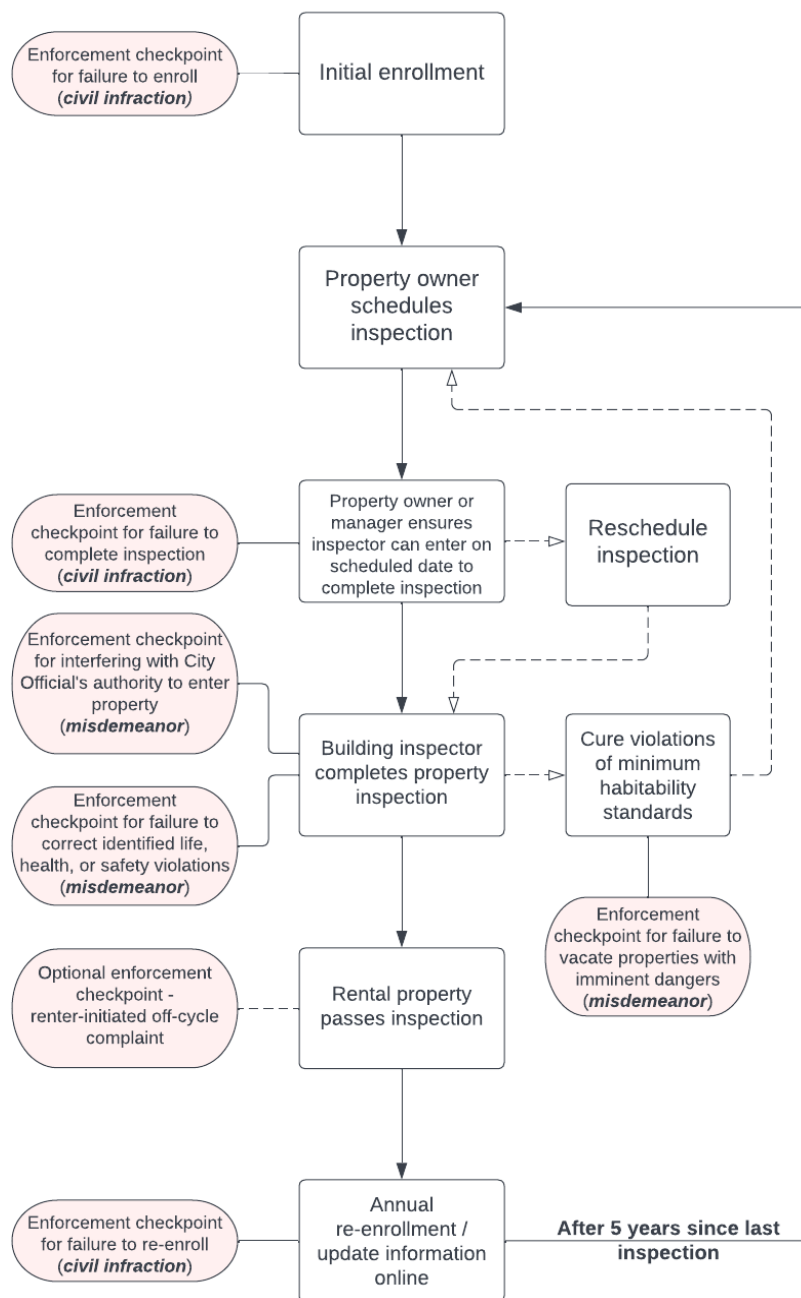
Additional Enforcement Information:

Enforcement checkpoints have been built into the proposed Rental Housing Program's design to ensure compliance at each stage. Staff intend to partner with property owners to achieve voluntary compliance with the program requirements whenever possible. A critical task of the start-up phase (and beyond) is education and outreach to landlords, property owners, property managers, and tenants to increase awareness of and compliance with the proposed program. If Council chooses to adopt the proposed program, however, staff expects that there will be some situations that may require enforcement to address violations that have not been successfully resolved through voluntary compliance.

The staff has proposed a range of penalties for failure to comply with the requirements of the Rental Housing Program that include fines, civil penalties, and, upon several repeated instances of noncompliance, misdemeanor charges.

- If property violations are found upon inspection, property owners will receive a notice of violation with a specified amount of time to cure the violation(s) that is dependent on the severity and implications for renter life, health, and safety.
- Properties with violations upon inspection will require subsequent reinspection to ensure compliance.
- If unpermitted work or dangerous conditions are identified during the rental housing inspection that presents a life, health, or safety concern as defined in the Building Code, a violation notice and enforcement actions would follow the current Building Code processes and codes.

The following graphic illustrates enforcement checkpoints in the enrollment and inspection processes:



**Solid arrows indicate required action steps while dashed arrows indicate variable steps that depend upon individual property considerations and conditions as well as property owner actions

Complaint-Based Inspection: Building Services staff have created plans for improving the City's complaint-based rental inspection system. This includes outlining training, materials, and establishing protocols for rental inspections. If the Rental Housing Program and appropriation pass on Second Reading, staff will begin hiring, training a rental inspector, and implementing a software platform to track inspections, results, violations, etc. Without additional resource allocation, it has not been possible to move beyond the initial planning stages for the improvements needed to the existing complaint-based inspection system.

Previous Council Direction

Regulations for rental housing have been a topic of community dialogue and debate for many years. In November 2005, alongside changes to the enforcement of the occupancy ordinance, Council considered several options for rental registration/licensing. However, a formal rental registration or licensing program was not pursued at that time. Council also considered rental licensing in 2016 but did not pursue a program. The most recent community discussion about rental housing strategies began in 2020 as part of the development of the Housing Strategic Plan. In December 2020, the Council Housing Ad Hoc Committee expressed interest in exploring rental licensing to support healthy, stable housing for people who rent their homes. The Committee encouraged consideration of a pilot program for rental registration or licensing.

At the October 26, 2021, work session, staff shared information with Council about the history of rental housing strategies, findings from recent demographic and market analysis, a summary of peer cities research, and an outline of a proposed roadmap to implement rental housing strategies. Several Councilmembers supported additional community engagement in early 2022 to further explore the potential design of a rental registration/licensing program.

Staff conducted a thorough community engagement process during an 8-month period between December 2021-July 2022. The outcomes and themes from community engagement, recommendations from a Rental Housing Task Force composed of community members, a summary of best practices, and an exploration of potential next steps toward implementation were the focus of a work session with Council on August 23, 2022. At this work session, Council directed staff to design a Rental Housing Program that included proactive inspections.

In response to Council feedback, a cross-departmental staff team designed a Rental Housing Program comprised of two essential components: 1) property registration; and 2) proactive inspections. The proposed program would have required an initial appropriation of \$1.6 million for its start-up phase. An overview of the proposed program and its expected financial impact was presented to the Council Finance Committee on December 1, 2022. The Committee supported bringing the Rental Housing Program before the full Council for consideration on First Reading.

At the first reading on January 17, 2023, Council voted to table the Rental Housing Program as presented and asked staff to bring scaled options to a future work session.

At the February 28, 2023, work session, Council reviewed scaled options for a Rental Housing Program. Three options were presented: rental registration with improved complaint-based inspections (Option 1), rental registration with delayed proactive inspections (Option 2), and rental registration with proactive inspections (Option 3). Proposed improvements to the complaint-based inspection program in Option 1 included the expansion of landlord/tenant mediation support, enhanced education and outreach, and additional staff capacity to perform rental inspections. Most Councilmembers supported Option 2 and staff was directed to schedule a date for Council consideration of Option 2.

Issue Identification

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

In Fort Collins, the best available data suggests that more than 40% of all housing units are renter-occupied. The renter community in Fort Collins makes up a significant portion of the population and the City does not currently conduct proactive rental property inspections for health, safety, and habitability. While the City maintains a complaint-based rental inspection system to promote safe and habitable housing

for renters, this program does not address power dynamics faced by tenants who often fear retaliation, increased rental payments, damaged relationships with property owners, and eviction.¹

Community comments from renters during Housing Strategic Plan engagement indicated a range of concerns with the City's current level of regulation: a need to proactively ensure healthy, safe units; fear of retaliation or loss of housing if renters report substandard or unsafe units; and concerns about discrimination. Feedback from landlords/property managers about a Rental Housing Program included concerns about the cost of the program, concerns that the problem had not been sufficiently defined, a desire to ensure fair treatment of both small and large landlords, a lack of trust in the City, a desire to keep the current complaint-based system and concerns that mandatory rental registration/licensing may not be an effective way to address substandard units.

Proposed Program Design

The proposed program design aims to address concerns about the lack of proactive inspection and to ensure safe, healthy, habitable housing for all Fort Collins residents. It also strives to thoughtfully address concerns expressed by landlords and others in the rental industry regarding fairness, unnecessary regulation, and increased costs. The proposed program includes two primary components – property registration and delayed proactive rental inspections. A start-up phase is a key component of the proposed program and focuses on outreach, education, and feedback from those entities participating in the initial stages of implementation. The proposed program would require landlords/property owners to enroll their properties into the program, update contact information annually, and – when delayed proactive inspections are added after the first year – to submit their rental businesses to property inspections once every five years to ensure compliance with minimum life, health, and safety standards.

Rental Property Registration: To maintain complete and timely information about rental properties in Fort Collins, all property owners who rent to tenants would be required to enroll their rental properties into the program, including both owner-occupied rental properties and fully renter-occupied properties. The registration information collected would include, but is not limited to:

- Name and contact information of the property owner(s), whether LLC or natural person
- Contact information for the property manager, if one is used
- A local contact located no more than 70 miles from the property
- A complete list of additional rental properties owned by the property manager, if applicable
- Types of units at the property
- Age of units
- Has a third-party inspection been completed in the last year? If yes, please upload a copy of the detailed results, the criteria used to conduct the inspection and the credentials of the inspector.
- A self-attestation that the property is compliant with the IPMC (International Property Maintenance Code)

Additional reporting could be added if the start-up phase reveals the need for additional information that could enable more data-informed decision making.

Property owners would be required to update their enrollment information annually to ensure that local contact information is up to date, which ultimately helps facilitate a streamlined rental property inspection process.

It is expected that the additional education and outreach planned for this program will result in additional requests for mediation and complaint-based rental inspection. Therefore, additional staffing (one mediation specialist and two rental inspectors) was added to meet these needs.

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.

Proactive Rental Inspections: The second element of the Rental Housing Program adds proactive inspections after the first full year of implementation for any properties that do not have an adequate and acceptable third-party inspection that meets the City's minimum habitability standards and approval. Having collected a year of registration information will allow staff to understand and evaluate the third-party inspections that are already occurring. Fees can then be established for the remaining properties and units that still require inspection by the City. The following rental property classifications would require inspections:

- Single detached
- Attached
- Multi-unit buildings
- Condos
- Mobile homes

All single detached, attached units, and individually owned units, regardless of property type, are proposed to be inspected once every five years. For multi-unit buildings in which units share the same property owner, properties will be inspected on a percentage basis. The program will require buildings with 0-10 units to be 100% inspected, 11 to 100 units to have 10% of units inspected and buildings with greater than 100 units to have 5% of units inspected. The percentage-based inspections will allow building inspectors to identify the general state of repair for multi-unit buildings, reinforce the City's rental housing standards of habitability for multi-unit buildings, and relieve the burden on staff and property owners of inspecting every unit in large apartment complexes.

Building Type	% Inspected
Single unit, detached	100%
Single unit, attached (e.g., townhouse)	100%
Individually owned (e.g., condo)	100%
Multi-unit, 0-10 units	100%
Multi-unit, 11-100 units	10%
Multi-unit, 100+ units	5%

The current complaint-based rental inspection system will remain in place. As education and outreach are completed, staff expect the number of requests for complaint-based rental inspections to increase. Upon beginning proactive inspections, maintaining the complaint-based system would allow tenants to report off-cycle life, health, and safety concerns that may arise between inspections. Moreover, this system would provide an option for renters in multi-unit buildings whose units were not selected for inspection to report concerns.

Proposed Fee Structure

The proposed Rental Housing Program fee structure has been designed to cover all administrative costs as projected for the first five years of implementation. Regular analysis of fees to evaluate cost recovery will be included in the administrative tasks of the Rental Housing Program staff, like many other fee-based City programs.

To balance the impact of fees across different types of landlords and properties, staff proposes a hybrid fee structure that allocates program costs to both the rental property (75% of the cost) and each unit being rented (25% of the cost). Fees will need to be recalculated after the first full year of implementation to account for the additional cost of proactive inspections. Staff proposes separating the cost of registration from the cost of inspection.

Alternative fee structures were also considered. A "per-unit" fee is more expensive for owners of larger multi-unit properties, while a "per property" fee is more expensive for owners of single-unit properties.

Staff's intent in proposing a hybrid fee structure is to provide a more equitable distribution of costs among different property types. (See attachments for Root Policy Fee memos)

Proposed Fee Table (75% based on property and 25% based on units)

Annual Fees per Model Type	Per Property	Per Unit
Registration Only (year 1)	\$37	\$10
Registration/Delayed Inspection	To be determined	To be determined

Proposed Enforcement Checkpoints

Enforcement checkpoints have been built into the proposed Rental Housing Program's design to ensure compliance at each stage. Staff intends to partner with property owners to achieve voluntary compliance with program requirements whenever possible. A critical task of the start-up phase (and beyond) is education and outreach to landlords, property owners, property managers, and tenants to increase awareness of and compliance with the proposed program. If Council chooses to adopt a Rental Housing Program, however, staff expects that there will be some situations that may require enforcement to address violations that have not been successfully resolved through voluntary compliance.

Staff has proposed a range of penalties for failure to comply with the requirements of the Rental Housing Program that include fines, civil penalties, and, upon several repeated instances of noncompliance, misdemeanor charges. If property violations are found upon a complaint-based rental inspection, property owners will receive a notice of violation with a specified amount of time to cure the violation(s) that is dependent on the severity and implications for the renter's life, health, and safety. Properties with violations upon complaint-based rental inspection will require subsequent reinspection to ensure compliance. If unpermitted work is identified during the complaint-based rental housing inspection that presents a life, health, or safety concern as defined in the Building Code, violation notices and enforcement actions would follow the current Building Code processes and codes.

Proposed Staffing and Startup Costs

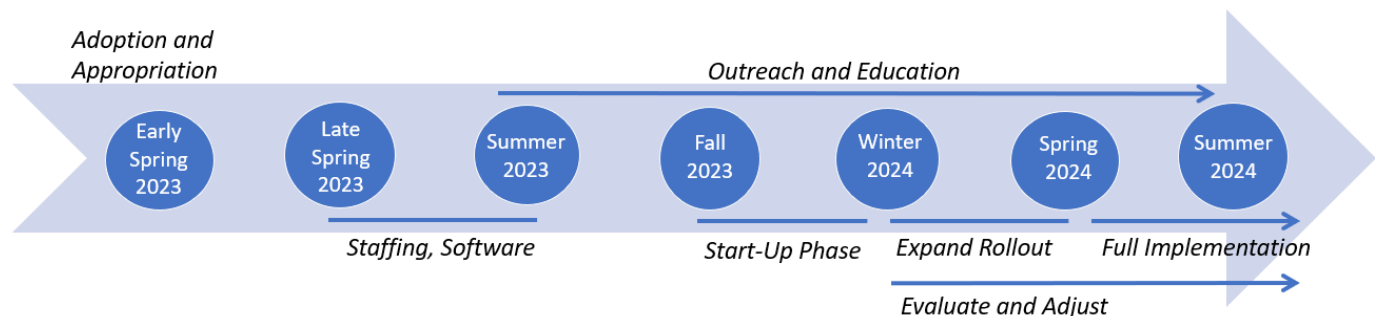
The proposed staffing and startup costs of the Rental Housing Program are based on a phased approach to hiring during the startup phase. Hiring would start with four staff to begin education, outreach, and implementation. Then additional staff will be added as needed to support implementation. In total, staff is requesting an appropriation of \$1.1 million over a 2-year period (\$421,583 in 2023 and \$669,500 in 2024) to support the start-up phase of the proposed program.

	FTE	Per FTE Cost	2023 Estimate	2024 Estimate
Compensation				
Program Manager	1	\$90,000	\$54,000	\$90,000
Engagement Specialist	1	\$65,000	\$39,000	\$65,000
Admin/Tech	1	\$50,000	\$30,000	\$50,000
Med Specialist	1	\$65,000	\$16,250	\$65,000
Lead Bldg Inspector	1	\$80,000	\$48,000	\$80,000
Bldg Inspector	1	\$70,000	\$0	\$70,000
Bulding and Dev. Review Tech	1	\$60,000	\$0	\$60,000
Total Salaries	7		\$187,250	\$480,000
Benefits	0.25		\$46,813	\$120,000

One-Time Costs				
Software	1	\$75,000	\$75,000	\$0
Vehicle	2	\$30,000	\$60,000	\$0
Clothing	2	\$500	\$1,000	\$0
Boots	2	\$160	\$320	\$0
Tools	2	\$100	\$200	\$0
iPad	2	\$1,300	\$1,300	\$1,300
Laptop	5	\$1,500	\$4,500	\$3,000
Desktop Computer	2	\$500	\$500	\$500
Total One-Time Costs			\$142,820	\$4,800
Ongoing Annual				
Marketing		\$20,000	\$20,000	\$20,000
Translation	1	\$10,000	\$10,000	\$10,000
Postage	1	\$10,000	\$10,000	\$10,000
Phone	7	\$600	\$4,200	\$4,200
Clothing	2	\$250	\$500	\$500
Vehicle Maintenance and Fuel	2	\$10,000	\$20,000	\$20,000
Total Ongoing Annual Costs			\$44,700	\$64,700
Total Compensation/One-Time/Ongoing Costs			\$421,583	\$669,500
Total 2023-2024				\$1,091,083

Implementation

If Council adopts the proposed Rental Housing Program and allocates funding for the start-up phase of the program, staff estimates that full implementation could begin as early as April 2024. The timeline below outlines the steps in the start-up phase that would lead up to the full implementation.



Adoption and Appropriation – April 2023

Initial Staffing and Software – June 2023

- The initial phase of hiring includes the Program Manager, Engagement Specialist, Admin/Tech, and Lead Building Inspector.
- Work on the Accela platform will begin to accommodate the Rental Housing Program enrollment and inspection processes.
- Staff will develop all necessary rules and regulations to implement.

Outreach and Education – June 2023 (and ongoing)

- Messaging and relationship building with rental industry partners will be developed and implemented

Start-Up Phase – Q4 2023

- Identify pilot neighborhood(s)
- Test registration processes

Evaluate and Adjust – Q1 2024 (and ongoing)

- Identify and implement process changes
- Council memo update

Implement registration citywide – April 2024

- Hire any remaining staff needed to support full implementation.

Begin delayed proactive inspection process – Q1 2025

- Determine City-approved third-party inspections
- Recalculate fees
- Pilot proactive inspections
- Hire appropriate staff

CITY FINANCIAL IMPACTS

On December 1, 2022, staff presented initial estimates of the proposed Rental Housing Program's initial and ongoing costs and anticipated fee structure, which was designed to make the program self-sustaining upon full implementation. Two of three Council Finance Committee members were supportive of an appropriation of \$1.6 million from General Fund reserves (\$750,000 in 2023 and \$850,000 in 2024) to fund the first two years of the program in its start-up phase.

The currently proposed option described herein has lower startup costs than the program presented in December. In total, staff request an appropriation of \$1.1 million from General Fund reserves (\$421,583 in 2023 and \$669,500 in 2024). A 2024 Revision offer will be completed during the revision process in July of 2023 in order to gain Council approval to appropriate the 2024 amount from General Fund reserves needed for this program. The total anticipated startup costs will be paid back over the first five years of full implementation of the Rental Housing Program with delayed inspections.

The total expected revenue per year is \$737,152 based on the assumptions of 12,496 properties at \$37 each and 27,480 units at \$10 each. This revenue projection exceeds the appropriation request, which suggests that the program may be able to repay some, if not all, of the start-up costs within the first five years of the program.

BOARD / COMMISSION / COMMITTEE RECOMMENDATION

An overview of the proposed program and its expected financial impact was presented to the Affordable Housing Board and the Council Finance Committee on December 1, 2022.

PUBLIC OUTREACH

A thorough public engagement process from December 2021-July 2022 helped shape the design of the Rental Housing Program.

ATTACHMENTS

First Reading attachments not included.

1. Ordinance A for Consideration
2. Ordinance B for Consideration
3. Presentation