

**Date:** October 24, 2019

**To:** Councilmember Greg Landsman  
**From:** Paula Boggs Muething, City Solicitor *PBM*  
**Subject:** **Ordinance – New Section to Municipal Code “Residential Rental Property Inspection Pilot Program” – B Version**

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Transmitted herewith is an ordinance captioned as follows:

**MODIFYING** the provisions of Title XI, “Cincinnati Building Code,” of the Cincinnati Municipal Code by **ORDAINING** new Section 1127-07, “Residential Rental Property Inspection Pilot Program,” to create a pilot inspection program in the City of Cincinnati to ensure that rental property in the pilot neighborhoods is compliant with applicable building, housing, and zoning codes; and **AMENDING** Section 1501-5, “Class B Civil Offenses,” of Title XV, “Code Compliance and Hearings,” of the Cincinnati Municipal Code.

PBM/EEF/(lnk)  
Attachment  
298969

# City of Cincinnati

EEF/B *BM*

## An Ordinance No. \_\_\_\_\_ - 2019

**MODIFYING** the provisions of Title XI, "Cincinnati Building Code," of the Cincinnati Municipal Code by **ORDAINING** new Section 1127-07, "Residential Rental Property Inspection Pilot Program," to create a pilot inspection program in the City of Cincinnati to ensure that rental property in the pilot neighborhoods is compliant with applicable building, housing, and zoning codes; and **AMENDING** Section 1501-5, "Class B Civil Offenses," of Title XV, "Code Compliance and Hearings," of the Cincinnati Municipal Code.

WHEREAS, rental housing provides affordable housing for many City residents with the existing rental housing stock of approximately 80,000 units accounting for half of all of the City's housing stock, and the City has a significant interest in ensuring that rental housing remains a viable housing option for its citizens; and

WHEREAS, over time, due to neglect by property owners, managers, and tenants, rental housing often deteriorates, resulting in substandard or hazardous conditions that adversely affect the value of neighboring structures; and

WHEREAS, property owners often choose not to make necessary repairs because of cost, tenants do not report deficiencies because they lack knowledge or fear retaliatory eviction, and mismanaged rental property often becomes dilapidated, disorderly, an environment for crime, and a public nuisance, disturbing the peace and safety of the neighborhood and causing surrounding property values to depreciate; and

WHEREAS, the City of Cincinnati suffers from a shortage of affordable rental housing units, which will be exacerbated if residential rental properties that are eligible to receive federal housing assistance are not maintained in good repair; and

WHEREAS, residential rental properties require greater health and safety regulation than other types of property, and the governmental interest in protecting the community from unsafe housing is more critical with rental property, which has numerous residents, common areas, and greater access by the general public; and

WHEREAS, this Residential Rental Property Inspection Pilot Program will ensure compliance with minimum standards, prevent blight, and ensure that persons who live in rental housing units are provided decent, safe, and sanitary housing; and

WHEREAS, this program is enacted as a pilot project that, based on limited code enforcement resources, has both proactive and reactive enforcement elements;

WHEREAS, the neighborhoods of Avondale, East Price Hill, and Clifton-University Heights-Fairview were selected due to the higher than average concentration of aging rental properties with known or suspected code violations; and

WHEREAS, the Clifton-University Heights-Fairview neighborhood is an important part of the pilot program because it contains a significant number of student housing rentals characterized by frequent turnover, which can more quickly result in deterioration of housing conditions, property damage, and a higher risk of fire deaths; and

WHEREAS, the East Price Hill neighborhood is an important part of the pilot program because it contains a significant number of older, single-family, and multi-family housing rentals with out-of-town and absentee landlords, and because a property condition survey of the pilot area in East Price Hill completed by Price Hill Will indicates that conditions at rental properties in the area are inferior to that of owner-occupied properties; and

WHEREAS, the Avondale neighborhood is an important part of the pilot program because it contains a significant number of older, multi-family rental housing units with out-of-town and absentee landlords; and

WHEREAS, the pilot program is further intended to measure the impact of regular inspections of residential rental properties on eviction rates and instances of documented code violations at properties in the pilot area; and

WHEREAS, Council finds that the pilot program is in the interests of the public health, safety, morals, and general welfare; now, therefore,

BE IT ORDAINED by the Council of the City of Cincinnati, State of Ohio:

Section 1. That new Section 1127-07, "Residential Rental Property Inspection Pilot Program," of Title XI, "Cincinnati Building Code," of the Cincinnati Municipal Code is hereby ordained to read as follows:

**Sec. 1127-07 - RESIDENTIAL RENTAL PROPERTY INSPECTION PILOT PROGRAM**

**1127-07.1. - Definitions.**

As used in this section, the following words and terms shall have the meanings indicated in the definition herein. Words and terms used and not specifically defined in this section, but which are defined in the Cincinnati Building Code ("CBC"), shall have the meanings defined in the CBC.

**1127-07.1-A. - Applicable Codes.**

“Applicable Codes” includes, but is not limited to, the Residential Code of Ohio (“RCO”), the Ohio Building Code (“OBC”), Chapter 3742 of the Ohio Revised Code (“ORC”), the CBC, and the following provisions of the Cincinnati Municipal Code (“CMC”): Chapter 1117 - Housing Code; Title XII - Cincinnati Fire Prevention Code; Title XIV - Zoning Code; Title XVII - Land Development Code; Chapter 761 - Chronic Nuisance Premises; Chapter 714 - Littering, and Chapter 731 - Weed Control; and any other building, housing, health and safety codes and provisions applicable to residential rental property that materially affect the public health, safety and welfare.

**1127-07.1-C. - Code Compliant.**

“Code Compliant” means a residential rental property that, upon inspection by the city under this section, is found to be compliant with all applicable code provisions. In determining whether a residential rental property is Code Compliant, the director may consider additional factors including, without limitation, whether the properties which are well maintained; have any code violations; require some routine maintenance work but not beyond responding to normal wear and use expected for the property age and type of construction; are suitable for rental occupancy and affords the occupants a decent, safe, and sanitary habitation; the maintenance and management of the property does not contribute to depreciating neighboring property values and does not adversely impact the peaceful enjoyment of surrounding properties; there is no history of ignoring substantiated housing violation-related complaints about the property within the previous twelve months.

**1127-07.1-N. - Non-compliant.**

“Non-compliant” means a residential rental property that, upon inspection by the city under this section, is found to have one or more violations of applicable codes that (1) constitute an immediate hazard or threat to the occupants of the property or (2) in their totality indicate that the rental unit is not being properly maintained. In determining whether a residential rental property is Non-compliant, the director may consider additional factors including, without limitation, whether properties are not being maintained in compliance with the applicable codes; have a number of code violations, some of which appear to be longstanding and/or could materially affect the health and safety of the occupants; have deferred maintenance and/or have evidence of lack of routine maintenance of the halls, yard, common areas or dwelling units; unless the violations are promptly corrected and the premises proactively and routinely maintained, are not suitable for rental occupancy and would not afford the occupants a decent, safe, and sanitary habitation.

**1127-07.1-P. - Pilot Residential Areas.**

“Pilot Residential Areas” are specified census tracts within the statistical neighborhood boundary maps of the neighborhoods of Avondale, East Price Hill and Clifton-University Heights-Fairview. The qualifying census tract numbers within each

Pilot Residential Area are listed below:

<b>Neighborhood</b>	<b>Qualifying Census Tract Numbers</b>
Avondale	6900, 6600, 27000
East Price Hill	9200, 9300, 9400, 9500, 9600
Clifton-University Heights-Fairview	2500, 2600, 2700, 2900

**1127-07.1-R. - Residential Rental Properties.**

“Residential Rental Properties” shall have the same meaning as O.R.C. Section 5323.01(E).

(a) The director may consider one or more of the following criteria in identifying whether real property constitutes residential rental property for purposes of this Chapter:

- (1) The property does not receive an owner occupancy tax credit based on the records of the Hamilton County Auditor;
- (2) The property contains a dwelling unit registered as a rental property with the Hamilton County Auditor pursuant to O.R.C. Chapter 5323;
- (3) The property is owned by a corporate entity and not individually;
- (4) For single-family homes, the water records kept by greater Cincinnati water works reflect third-party billing;
- (5) The Hamilton County Auditor has applied any of the following land use codes to the property:

<b>CATEGORY</b>	<b>DESCRIPTION</b>	<b>DEPT. OF TAX EQUALIZATION</b>	<b>HAMILTON COUNTY</b>
COMMERCIAL	APARTMENTS - 4 TO 19 UNITS	401	401
COMMERCIAL	APARTMENTS - 20 TO 39 UNITS	402	402
COMMERCIAL	APARTMENTS - 40+ UNITS	403	403
COMMERCIAL	RETAIL - APARTMENTS OVER		404
COMMERCIAL	OFFICE - APARTMENTS OVER		431

RESIDENTIAL	TWO FAMILY DWELLINGS	520	520
RESIDENTIAL	THREE FAMILY DWELLINGS	530	530
RESIDENTIAL	LOW INCOME HOUSE TAX CREDIT (residential)	569	569
RESIDENTIAL	OTHER STRUCTURES	599	599

- (6) The property has been registered as a residential rental property with the Hamilton County Auditor as required by Ohio Revised Code 5323.02 and/or the city of Cincinnati;
  - (7) Other reasonable indicators that real property has been rented to tenants for residential purposes, for example, the existence of a lease agreement.
- (b) Real property or a portion thereof used exclusively for the following purposes shall be exempt from the requirements of this section:
- (1) Hotels or motels;
  - (2) College or university dormitories that are state-owned and are inspected for code compliance under other procedures or licensure;
  - (3) Two-family units that are owner-occupied;
  - (4) Properties that are currently unoccupied because they have been ordered vacated by the director;
  - (5) Properties that are available to the public for rental for a period of thirty days or less;
  - (6) Non-residential purposes when separate and distinct from a portion used as a residential rental property, e.g., first floor retail in a multi-story mixed-use apartment building.
- (c) In the event of a dispute over whether a property is subject to the application and inspection provisions of this ordinance, property owners may submit evidence to the director demonstrating that their property is not “Residential Rental Property” for purposes of this section.

**1127-07.1-S. - Substantially Compliant.**

“Substantially Compliant” means a residential rental property that, upon inspection by the city under this section, is found to have one or more violations of applicable codes

that (1) do not constitute an immediate hazard or threat to the occupants of the residential rental property and (2) do not indicate in their totality that the rental unit is not being properly maintained. In determining whether a residential rental property is Substantially Compliant, the director may consider additional factors including, without limitation, whether the owner of a substantially compliant property has demonstrated a plan and capacity to abate the violations within thirty (30) days, or in a reasonable time as determined by the director; the maintenance and management of a substantially compliant property does not contribute to depreciating neighboring property values and does not adversely impact the peaceful enjoyment of surrounding properties; and based on the number of units at the property, there have been few or no substantiated complaints of code violations on the premises within the previous twelve months and there is no history of ignoring substantiated code violations.

**1127-07.3. - Purpose.**

The purpose of this section is to protect the public health, safety and welfare by authorizing the periodic evaluation of certain residential rental property businesses for compliance with applicable codes, including but not limited to, the RCO, the OBC, ORC Chapter 3742, the CBC, and the following provisions of the CMC: Chapter 1117 - Housing Code; Title XII - Cincinnati Fire Prevention Code; Title XIV - Zoning Code; Title XVII - Land Development Code; Chapter 761 - Chronic Nuisance Premises; Chapter 714 - Littering, and Chapter 731 - Weed Control; and any other building, housing, health, and safety codes and provisions applicable to residential rental property that materially affect the public health, safety and welfare. This section incorporates provisions of CBC Chapter 1101 by reference.

**1127-07.5. - Scope.**

- (a) This section authorizes a pilot inspection program to determine the effectiveness and benefits of proactive enforcement and periodic inspection and evaluation, with enhanced reactive enforcement, of rental property businesses in specified 2010 U.S. Census tracts and blocks in the following three neighborhoods Avondale, East Price Hill and Clifton-University Heights-Fairview that meet certain conditions described in section 1127-07.1-R of this section.
- (b) The duration of the pilot program shall be four years from the effective date of this section.
- (c) This section does not preempt, supersede, cancel or set aside the requirements of any other applicable landlord-tenant laws, and building, housing, zoning or related regulations.

**1127-07.7. - Applicable Properties: Residential Rental Properties.**

This section shall apply to any Residential Rental Property as defined in section 1127-07.1-R of this chapter that is located in the Pilot Residential Areas and that:

- (1) Is currently the subject of a delinquent lead hazard control order issued by the Cincinnati health department;
- (2) Has been ordered vacated in part by the Cincinnati building department pursuant to section 1101-65 of the CBC, but which remains partially occupied;
- (3) Has failed an inspection of the U.S. Department of Housing and Urban Development Real Estate Assessment Center within the last twelve (12) months;
- (4) Has been determined to be a public nuisance pursuant to section 1101-57 of the CBC;
- (5) Has been the subject of two or more orders issued within a twelve-month period by the department of buildings and inspections, the Cincinnati fire department, and/or the board of health or its designee for building, housing, fire prevention, public health, quality of life, or health code violations;
- (6) Has been the subject of four or more validated complaints received by the department of buildings and inspections of housing or zoning code violations within a twelve-month period;
- (7) Has been identified by the City of Cincinnati as being at risk of being declared a chronic nuisance as set forth in section 761-3 of the CMC;
- (8) Is currently or within the past twenty-four (24) months has been the subject of civil or criminal prosecution by the City of Cincinnati for violations of the ORC, CMC, or CBC; or
- (9) Is certified as tax delinquent by the Hamilton County Treasurer.

**1127-07.9. - Rental Inspection Certificate Application Process.**

- (a) All owners and persons in control of Residential Rental Properties as that term is defined in subsections 1127-07.1-R and 1127-07.7 of this Section in the pilot residential areas shall apply for a rental inspection certificate under this section within thirty (30) days of enactment of this ordinance.
- (b) Application for a rental inspection certificate shall be made on forms and instructions prescribed by the director. The application shall include:
  - (1) A description of the Residential Rental Property, including but not limited to the street address and parcel identification number;
  - (2) The name, street address, and telephone number of the owner or person in control;



- (3) A copy of the owner's current rental registration with the Hamilton County Auditor pursuant to Ohio Revised Code Section 5323, or in the alternative, the same information that would otherwise be provided by the owner to the Auditor on the Auditor's rental registration form; and
  - (4) A written certification whether the owner or person in control of the Residential Rental Property consents to an inspection of the property.
- (c) An application for a residential rental certificate shall not be construed by the city as a waiver of the owner's Fourth Amendment rights.

**1127-07.11. - General Inspection Requirements.**

- (a) Upon receipt of a complete application and the applicable fee, the director shall perform a visual inspection of the interior and exterior of a Residential Rental Property to determine whether the property complies with all applicable codes.
- (b) The director shall inspect Residential Rental Properties at a reasonable time agreed to by the owner or person in control of the Residential Rental Property; provided, however, if an owner, person in control, or tenant refuses to provide the director with permission to inspect the private areas of the Residential Rental Property at a reasonable time, the director shall obtain an administrative search warrant from a court of competent jurisdiction as allowed by law.
- (c) The owner or person in control of the Residential Rental Property shall be responsible for notifying the tenants of a scheduled inspection in accordance with notice requirements under applicable landlord-tenant regulations.
- (d) All dwelling units in a Residential Rental Property shall be inspected.
- (e) If a Residential Rental Property is inspected and found to be compliant, the director shall issue a residential rental inspection certificate to the owner or person in control of a Residential Rental Property following the inspection. The certificate shall indicate that the property is compliant and indicate the next required inspection date based upon the inspection interval for compliant properties provided for in section 1127-07.13 of this section.
- (f) If a Residential Rental Property is inspected and found to be substantially complaint or non-compliant, the director shall provide the owner or person in control with a written order specifying the reasons for the designation and establishing an inspection schedule based upon the inspection intervals provided for in section 1127-07.13 of this section.
- (g) A residential rental inspection certificate shall expire thirty (30) days following the required inspection date indicated on the certificate; provided, however, a residential

rental inspection certificate shall expire six months following the transfer in ownership of a Residential Rental Property or the transfer of a controlling interest in any entity that owns Residential Rental Property if occurring sooner than thirty (30) days following the required inspection date indicated on the certificate.

- (h) Upon the transfer in ownership of a Residential Rental Property or the transfer of a controlling interest in any entity that owns a Residential Rental Property, the owner or person in control shall notify the new owner or person in control of their obligation to maintain a residential rental inspection certificate for the property.
- (i) The director is authorized to seek the assistance of personnel from the fire department, health department, police department, and other enforcement agencies concerned with the operation of residential rental property in carrying out the inspections authorized in this section.
- (j) The provisions of this section shall not limit or restrict the director or any other authorized official from conducting inspections of residential rental property in administering or enforcing the laws, rules, and regulations they are charged with enforcing, e.g. responding to tenant complaints or upon probable cause that a violation is present.

**1127-07.13. - Inspection Intervals.**

- a. Residential Rental Properties shall be inspected and evaluated according to the following intervals:
  - (1) *Code Compliant.* Properties found to be code compliant shall be issued a certificate and shall be inspected again after forty-eight months, prior to the expiration of the certificate or prior to the expiration of the Pilot Program, whichever comes first.
  - (2) *Substantially Compliant.* Properties found to be substantially compliant shall be inspected at thirty-day intervals following the initial inspection, or at reasonable intervals established by the director as necessary to promote and sustain code compliance, to verify whether previously identified code violations have been cured. Once compliance is achieved, the property shall be issued a certificate and shall be inspected again after forty-eight months, prior to the expiration of the certificate or prior to the expiration of the Pilot Program, whichever comes first.
  - (3) *Non-Compliant.* Properties found to be non-compliant shall be inspected at thirty-day intervals following the initial inspection, or at reasonable intervals established by the director as necessary to promote and sustain code compliance, to verify whether previously identified code violations have been cured. Once compliance is achieved, the property shall be inspected in twelve months following the initial inspection or prior to the expiration of the Pilot

Program, whichever comes first. Based on the level of non-compliance, if any, found upon inspection, the director may change the inspection interval as determined necessary to attain compliance.

**1127-07.15. - Appeals.**

- a. *Administrative Ruling.* Any person who has a bona fide controversy with the interpretation, application, or enforcement of the provisions of this section may petition the director for a written decision, order, or adjudication pursuant to section 1101-80.1 of the CBC.
- b. *Appeals.* Any person adversely affected by a final, appealable decision, order, or adjudication issued by the Director of the Department of Buildings and Inspections under section 1127-07.15(a) may appeal to the Board of Housing Appeals within 30 days from the date of the mailing of the final, appealable decision, order, or adjudication.

**1127-07.17. - Recovery of Additional Costs Incurred in Program Administration and Enforcement.**

The director is authorized to charge the owner or person in control of a Residential Rental Property subject to inspection under this section for the recovery of reasonable costs incurred in its administration and enforcement of this inspection program. Additional costs may include the cost of third-party technical experts hired to assist the director of buildings and inspections in the administration and enforcement of this inspection program.

**1127-07.19. - Inspection Fees.**

- a. Initial inspections will be charged a \$100 per unit inspected inspection fee. The re-inspection fee schedule for each unit re-inspected is as follows:
  - (1) First re-inspection \$70
  - (2) Second re-inspection \$140
  - (3) Third re-inspection \$210
  - (4) Fourth or more re-inspection \$280
- b. Fees and costs assessed and recovered under this program shall be returned to the department of buildings and inspections as the department charged with enforcement and are to be used exclusively to pay the costs of operating the program and enforcement of the provisions of this section.

- c. All fees and fine penalties collected under this Section shall be deposited in the building hazard abatement fund.

**1127-07.21. - Rules and Regulations.**

The city manager or the city manager’s designee is authorized to promulgate rules and regulations to effectuate the provisions and purposes of this section.

**1127-07.99. – Penalties.**

- a. An owner or person in control of Residential Rental Property in one of the three pilot neighborhoods who fails to apply for a residential rental inspection certificate commits a Class B civil offense under section 1501-5 of the CMC.
- b. Having once been notified of the violation under Section 1501-13, an owner or person in control of Residential Rental Property commits a separate, subsequent Class C civil offense on each additional day on which the owner or person in control fails to apply for a rental inspection certificate.

Section 2. That Section 1501-5, “Class B Civil Offenses,” of Title XV, “Code Compliance and Hearings,” of the Cincinnati Municipal Code is hereby amended as follows:

**Sec. 1501-5. - Class B Civil Offenses.**

A person who violates a standard of conduct set forth in a provision of the Cincinnati Municipal Code listed below is liable for the civil fine specified in § 1501-99 for a Class B Civil Offense. If the provision is listed under paragraph (a) below, the otherwise applicable civil fine is reduced by 50% if the person charged shows in accordance with § 1501-15 that the violation has been corrected. If a person has previously been found to have violated the same provision of the Cincinnati Municipal Code within one year that person may be charged as a second offender and on being found to have committed a second or subsequent offense is liable for the civil fine for the subsequent offense provided below, the amount of which fine is specified in § 1501-99 and is not subject to reduction for correction of the violation.

- (a) Class B Civil Offenses With Civil Fines Subject to 50% Reduction for Correction of Violation:

			Civil Fine for Subsequent Offense
(1)	§ 511-31	Storage of Unlicensed Vehicles	Class B
(2)	§ 720-15	Public [Stormwater] Facilities	Class C
(3)	§ 720-29	[Stormwater] Permits and Plan Review	Class B

(4)	§ 721-83	Street Contractor's License	Class C
(5)	§ 723-3	Unauthorized Wires, etc., in Streets	Class C
(6)	§ 1219-3	Material Subject to Spontaneous Ignition	Class B
(7)	§ 1219-7	Baled Material	Class B
(8)	§ 1219-9	Combustible Containers	Class B
(9)	§ 1219-15	Fire Doors, Shutters and Windows	Class B
(10)	§ 1219-29	Drip Pans	Class B
(11)	§ 1219-41	Exhaust Fans	Class B
(12)	§ 1219-45	Gas Shutoff Valves	Class B
(13)	Chapter 1225	Smoking and the Use of Open Flame	Class B
(14)	§ 1231-11	Obstructing Fire Hydrants	Class B
(15)	§ 718-9	Advertising in the Public Right-of-Way	Class C
(16)	Chapter 765	Special Event Permits	Class B
(17)	§ 1601-7	Early Fire Warning System	Class C
(18)	§ 1127-07.99	<u>Rental Property Inspection Pilot Program</u>	<u>Class C</u>

(b) Class B Civil Offenses With Civil Fines Not Subject to 50% Reduction for Correction of Violation:

			Civil Fine for Subsequent Offense
(1)	§ 413-25	Sidewalk or Street Parking	Class C
(2)	§ 503-25	Damaging Street Surface	Class C
(3)	§ 506-63	Driving on Sidewalk Area	Class C
(4)	§ 506-64	Driving Over New Pavement	Class C
(5)	§ 721-25	Sale of Land on Private or Undedicated Streets	Class D
(6)	§ 721-41	Street Opening Without Permit Unlawful	Class D
(7)	§ 721-61	Warning Lights; Barriers	Class D
(8)	§ 721-109	Sidewalk Covering Over Sub-space; Prohibited Materials	Class D
(9)	§ 721-111	Support for Sidewalk Covering Over Sub-space	Class D
(10)	§ 723-1	Street Obstructions	Class C

(11)	§ 723-33	Sweeping Onto Sidewalk or Roadway	Class C
(12)	§ 729-5	Waste Containers; Requirements.	Class D
(13)	§ 729-9	Setting Out Containers on Property Abutting Alleys	Class B
(14)	§ 729-27	Removal of Dead Animals	Class B
(15)	§ 729-41	Disposal of Combustible Garbage	Class B
(16)	§ 729-53	Transporting Putrescible Commercial By-Products	Class B
(17)	§ 729-60	Commercial Establishments to Maintain Commercial Waste Collection Contract	Class C
(18)	§ 729-69	Unloading Waste on Sidewalks	Class B
(19)	§ 729-71(c)(1)	Personal Property Left Abandoned on Streets and Sidewalks- 3 or fewer items	Class B
(20)	§ 729-75	Escaping Hot Water or Steam	Class B
(21)	§ 1219-5	Accumulated Waste and Waste Receptacles	Class B
(22)	§ 1219-13	Trap Doors	Class B
(23)	§ 1221-7	Smoking and Use of Open Flame	

Section 3. That existing Section 1501-5, "Class B Civil Offenses," of Title XV, "Code Compliance and Hearings," of the Cincinnati Municipal Code is hereby repealed.

Section 4. That this ordinance shall take effect 183 days after it becomes law.

Passed: \_\_\_\_\_, 2019

\_\_\_\_\_  
John Cranley, Mayor

Attest: \_\_\_\_\_  
Clerk