

Offered by Councilors Liz Breadon, Ruthzee Louijeune, Kenzie Bok, Arroyo, Coletta, Fernandes Anderson, Lara, Mejia, Murphy, Worrell and Flynn



## CITY OF BOSTON IN CITY COUNCIL

### AN ORDINANCE ESTABLISHING A “SCOFFLAW PROPERTY OWNER LIST”

- WHEREAS,* Housing, building, and fire codes help to ensure residential properties meet minimum health and safety standards, and code enforcement activities are essential to verify compliance and the habitability of properties because all tenants have the right to a decent, safe, sanitary, and healthy place to live; *and*
- WHEREAS,* The Massachusetts Department of Public Health establishes regulations setting minimum legal standards in the State Sanitary Code (105 CMR 410) ensuring safe housing conditions, and portions of the Code pertaining to residential dwellings are enforced in the City of Boston by inspectors of the Housing Division in the Field Services program of the Inspectional Services Department; *and*
- WHEREAS,* The Massachusetts Board of Building Regulations and Standards approves and administers the State Building Code (780 CMR) to establish standards for the design, materials, and safety of structures, and the Code is enforced in the City of Boston by building, electrical, and mechanical inspectors of the Buildings and Structures Division of the Inspectional Services Department; *and*
- WHEREAS,* The Massachusetts Board of Fire Prevention Regulations adopts the State Fire Code (527 CMR) to establish a reasonable level of fire and life safety and property protection from the hazards created by fire, explosion, and dangerous conditions, and state and local fire codes are enforced by the Legal Unit of the Fire Prevention Division of the Boston Fire Department; *and*
- WHEREAS,* In a November 2012 message transmitting for the approval of the City Council an order regarding City of Boston Code, Ordinances, Chapter 9-1.3, the Rental Inspection Ordinance, Mayor Menino stated that “By requiring owners to regularly demonstrate compliance with the State Sanitary and Building Codes, tenants will be better protected from health and safety standards, improving their quality of life”; *and*
- WHEREAS,* In Massachusetts, a petition requesting a criminal complaint for violations of the State Sanitary Code, State Building Code, or State Fire Code may be made to the Housing Court if the property owner failed to comply with written orders and “did so willfully, intentionally, recklessly or repeatedly”; *and*

- WHEREAS,* It is necessary to employ both cooperative models focused on helping owners bring their properties into compliance, as well as punitive measures which penalize violators, particularly those with persistent and chronic offenses; *and*
- WHEREAS,* The Massachusetts Attorney General has the authority to debar businesses and employers who violate certain laws, such as fair labor laws, from bidding or participating in any state or municipally-funded contracts, or for the construction of any public building or other public works; *and*
- WHEREAS,* The Commonwealth of Massachusetts requires departments to check a debarred vendor list prior to awarding or renewing a contract in order to ensure they do not knowingly accept a response or award a contract to any contractor, or approve a subcontract, or any party subject to a state or federal debarment order; *and*
- WHEREAS,* The City of Chicago publishes a “Building Code Scofflaw List” and prohibits property owners from obtaining business licenses, receiving zoning variances, acquiring city land or receiving financial assistance, or obtaining building permits unrelated to addressing their violations; *and*
- WHEREAS,* As the enforcement of code violations entails a multi-department, multi-step process with property owners entitled to an administrative hearing and due process, it is especially egregious when serious and chronic offenses persist uncorrected, requiring interdepartmental coordination for the City to bring the property owner to court for code enforcement proceedings; *and*
- WHEREAS,* The City’s code enforcement system must be strengthened with greater integrity and credibility or risk losing the confidence of residents when the worst offenders flout laws which they may believe are difficult to adequately enforce; *and*
- WHEREAS,* Policies which increase public awareness of chronic violators, as well as punitive limitations on their ability to conduct business with government agencies, have been adopted in code enforcement mechanisms across the country, and in turn they have helped remedy offenses, improved living conditions, deterred further violations, and informed current and prospective tenants and the general public of a scofflaw property owner’s record; *NOW, THEREFORE*

***Be it ordained by the City Council of Boston as follows:***

**SECTION 1.**

The City of Boston Code, Ordinances, Section 9-1.3(a) is hereby amended by striking the definition for “Owner” and inserting in place thereof the following three definitions:

*Occupant.* A person or persons residing in a rental unit.

*Owner.* A for-profit or not-for-profit individual, corporation, partnership, association, business trust, estate, commercial or legal entity, trustee of a land trust, or any other persons having ownership interest in a private dwelling, tenement, lodging house, or other residential rental unit or rental property dedicated to residential use.

*Ownership interest.* Any for-profit or not-for-profit individual, corporation, partnership, association, business trust, estate, commercial or legal entity, trustee of a land trust, or any other persons having any whole or partial ownership of a private dwelling, tenement, lodging house, or other residential rental property dedicated to residential use.

## SECTION 2.

The City of Boston Code, Ordinances, Section 9-1.3(b) is hereby amended by striking the first sentence and inserting in place thereof the following: –

“b. *Rental property registration.* Private residential rental property owners (“Owners”) shall register all owned rental units and rental properties located in the City of Boston with the Inspectional Services Department (“ISD”) no later than July 1st of each year. When registering a rental unit or rental property, the owner shall provide to ISD: (i) identification of the rental unit or rental property by street address; (ii) the total number of rental units owned at that address; and, (iii) the name(s) and address(es) of all individuals or entities with ownership interest in the rental unit or rental property. Additional information may be required from property owners during the registration process at the discretion of the Commissioner of Inspectional Services.”

## SECTION 3.

The City of Boston Code, Ordinances, Chapter IX, is hereby amended by inserting at the end thereof the following new section:

### ***Section 9-15 Scofflaw Property Owner List.***

#### **9-15.1 Purpose**

To further the duties set forth in section 9-9, residential rental property owners who continually fail to comply with the City’s rental unit regulations and provide tenants with safe and adequate housing, as regulated under subsections 9-1.3 and 9-1.4 of this Code, the State Sanitary Code (105 CMR 410), the State Building Code (780 CMR), the State Fire Code (527 CMR), and all other applicable state and local laws, shall be designated as scofflaw property owners.

#### **9-15.2 Definitions.**

As used in this section:

*Active enforcement proceedings* means court proceedings relating to code violations in which the plaintiff is the City of Boston or a department acting on its behalf, where a subsequent court date has been established by the court, and excludes court proceedings where an agreement has been entered.

*Code violation* means a violation of the State Building Code (780 CMR) or the State Fire Code (527 CMR) as enforced under *M.G.L. c. 148A*, or the State Sanitary Code (105 CMR 410) as enforced under *M.G.L. c. III, §§ 3, 127A*.

*Days* means consecutive calendar days.

*Do business with the City* means: (i) being awarded a City contract; (ii) receiving a grant, loan or other form of financial assistance from any City department; or (iii) having an application for

any of the following accepted and processed by the relevant City department: (A) an acquisition of City real property, (B) a lease, (C) a real property tax reclassification, (D) a zoning map amendment, or (E) any other form of zoning relief, including conditional use permits, variances, and/or permission to expand or change nonconforming uses.

*Housing court* means the Eastern Division of the Housing Court Department of the Trial Court of Massachusetts.

*Occupant* has the same meaning as set forth in section 9-1.3(a).

*Owner* has the same meaning as set forth in section 9-1.3(a).

*Ownership interest* has the same meaning as set forth in section 9-1.3(a).

*Rental units or rental properties involved in court proceedings* means a residential unit and/or property that: (i) is occupied; (ii) is subject to enforcement proceedings initiated by the Corporation Counsel or a department on behalf of the City of Boston in the Housing Court to enforce the provisions of the State Building Code, the State Fire Code, or the State Sanitary Code; and (iii) remains subject to active enforcement proceedings for a period greater than the applicable civil action time standards promulgated as a standing order for cases filed in the Housing Court Department.

*Rental unit* has the same meaning as Section 9-1.3(a).

*Scofflaw* means an owner of a residential rental unit and/or property subject to the prohibition in subsection 9-15.6.

### **9-15.3 Criteria for Designation.**

A residential rental property owner shall be designated as a “scofflaw property owner” by the Inspectional Services Department if any of the following criteria are met as of the date established in subsection 9-15.4(a):

- i. The owner in question has one (1) or more rental units or rental properties involved in active enforcement proceedings;
- ii. Rental units located in the City of Boston in which the owner in question has an ownership interest have received six (6) or more code violations within the preceding twelve (12) month period; or
- iii. The owner in question has one (1) or more rental units or rental properties designated as a “problem property” as defined in subsection 9-13.1(e).

### **9-15.4 Scofflaw Property Owner List.**

- a. On or before April 1 of each year, the Commissioner of Inspectional Services, in consultation with the Corporation Counsel, the Commissioner of Assessing, and the Chief Information Officer, shall create and publicly publish a list of all owners that have met the criteria to be designated as a scofflaw property owner under subsection 9-15.3 within the preceding twelve (12) month period as of the date the list is created.

- b. Scofflaw property owners who, despite having brought all properties into compliance by remedying code violations or no longer meeting the criteria for such designation, shall remain on the Scofflaw Property Owner List until the next annual publication of the list.
- c. The list shall be published and made publicly available as an open dataset in a standardized, non-proprietary machine-readable format that is reasonably structured to allow automated processing and is searchable, at minimum, by the following fields:
  - 1. name of scofflaw property owner;
  - 2. address of record of the scofflaw property owner;
  - 3. a list of residential rental units and/or properties in the City of Boston owned by each scofflaw property owner, presented with all associated data recorded in the City of Boston Street Address Management (SAM) system;
  - 4. the total number of code violations accrued by a scofflaw property owner in the preceding twelve (12) month period;
  - 5. the specific criteria that have caused the owner to appear on the list;
  - 6. all active case numbers in the Housing Court which involve the owner appearing on the list.
- d. The list shall also be published and made publicly available in a standard geospatial data format for use in geographic information system software.

#### **9-15.5 Notification.**

Not later than thirty (30) days prior to the publication of the Scofflaw Property Owner List, the Commissioner of Inspectional Services shall notify each owner meeting criteria to be designated as a scofflaw property owner. The notification shall be issued by certified mail to the property owner's address of record and provide information on the criteria met to cause appearance on the list and on any administrative hearing process to appeal the appearance on the list.

Within seven (7) days of publication of the Scofflaw Property Owner List, the Commissioner of Inspectional Services shall notify each property owner of their appearance on the list. The notification shall be issued by certified mail to the property owner's address of record and provide information on the criteria met to cause appearance on the list.

Within seven (7) days of the publication of the Scofflaw Property Owner List, the Chief Procurement Officer, shall annually, and may periodically, furnish the list to the awarding authority or officer in charge of a department, board, commission or division that enters into contracts on behalf of the City for the purposes of the prohibition under subsection 9-15.6.

#### **9-15.6 Scofflaws Prohibited to Do Business with the City.**

No owner shall be eligible to do business with the City of Boston, and no department or agency of the City shall do business with any owner, if that owner is designated as a scofflaw property

owner under subsection 9-15.3. Provided, however, that the prohibition in this subsection shall not apply for a specific contract if the awarding authority or department head administering the contract determines that: (i) the City is unable to acquire the goods or services provided by the owner at comparable price and quality, and in sufficient quantity, from other sources; or (ii) the public health, safety and welfare requires it.

#### **9-15.6 Applicability.**

The Inspectional Services Department shall exclude the following types of rental units or rental properties when determining the designation of scofflaw property owners: (i) rental units or rental properties owned or operated by the federal, state, or city government; (ii) rental units or rental properties located in dwellings containing six (6) or fewer units, one of which is occupied by the owner; and (iii) rental units or rental properties located in a building that has received public financing for an affordable housing rehabilitation project within the past five (5) years.

Property owners designated as scofflaw property owners by the Inspectional Services Department may remain eligible to receive a grant, loan, or other form of financial assistance from the City of Boston for the purpose of rehabilitating a rental unit and/or rental property to remedy an outstanding code violation.

#### **SECTION 4.**

The provisions of this ordinance are severable and if any provision, or portion thereof, should be held to be unconstitutional or otherwise invalid by any court of competent jurisdiction, such unconstitutionality or invalidity shall not affect the remaining provisions, which remain in full force and effect.

#### **SECTION 5.**

The provisions of this ordinance shall be effective immediately upon passage.

Filed on: March 17, 2023