

**AN ORDINANCE RELATING TO THE ESTABLISHMENT OF THE
AVISTON RENTAL PROPERTY INSPECTION PROGRAM
AND
OCCUPANCY PERMITS**

BE IT ORDAINED BY THE PRESIDENT AND BOARD OF TRUSTEES OF AVISTON, ILLINOIS THAT:

WHEREAS, the Village of Aviston has inherent authority, granted by statute, to enact, repeal, amend and establish a Code of Ordinances to affect the greater good for the residents and citizens of Aviston; and

WHEREAS, the Village of Aviston has determined that the Ordinances of the Village require additional clarity than may have previously been put forth to better affect the overall health and well-being all residents and citizens of Aviston; and

WHEREAS, the President and Board of Trustees of Aviston has determined that residential rental property in the Village may be in such a condition or state of disrepair so as to constitute a public nuisance; and

WHEREAS, the Village of Aviston that certain residential rental properties in the Village of Aviston may have significant building code violations which negatively impact public health and property values, impose disproportionate municipal costs, and bring the possibility of harm to the public health, safety, and welfare:

NOW, THEREFORE, BE IT ORDAINED BY THE VILLAGE PRESIDENT AND BOARD OF TRUSTEES OF THE VILLAGE OF AVISTON, ILLINOIS, THAT:

The Village Code Book of Ordinances is hereby amended to include the following Ordinance, specifically Chapter 15 – OCCUPANCY INSPECTIONS AND PERMITS (attached herein), as it relates to the Establishment of a Rental Property Inspection Program, and any Ordinance in conflict or inconsistent with this Ordinance shall be amended or repealed.


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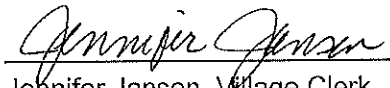
AN ORDINANCE RELATING TO THE ESTABLISHMENT OF THE
AVISTON RENTAL PROPERTY INSPECTION PROGRAM
AND
OCCUPANCY PERMITS

ADOPTED AND APPROVED THIS 7th DAY OF FEBRUARY 2022.



Mike Kampwerth, Village Board President

ATTEST:



Jennifer Jansen, Village Clerk

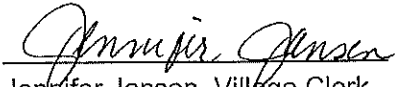
VOTING "AYE": *B. Littenken, K. Schmitz, K. Eversgerd
M. Kohren, K. Peck*

VOTING "NAY":

ABSENT: *C. Albers*

CERTIFICATION:

I hereby certify the foregoing Ordinance # 2022-2-1 is the true and correct original ordinance passed and approved by the Aviston Village President and Board of Trustees at the regular meeting held on the 7th day of February 2022.



Jennifer Jansen, Village Clerk

CHAPTER 15 OCCUPANCY INSPECTIONS AND PERMITS

Article 1 GENERAL PROVISIONS

11-1-1 SCOPE

The purpose of this Chapter is to create an occupancy inspection and permitting process, henceforth referred to as the Rental Property Inspection Program (RPIP), for all rented, leased, or sub-leased residential units in the Village of Aviston, to prevent deterioration of such properties, ensure rental dwellings properties are maintained free of nuisances, and to reduce the possibility of harm to the public health, safety, and welfare of all Aviston residents.

The RPIP establishes a process for the Village of Aviston to inspect all residential rental units and/or dwellings within the Village:

- (A) When a building permit has been issued within the past year and the unit(s) is ready for occupancy;
- (B) When there is a change in tenant;
- (C) At any point when the unit and/or property has a change in ownership and a permit has not been issued within the past year; or

When there are any number of complaints are forthcoming between inspections, property owners may be cited for violations of the derelict / nuisance property statutes of the Village (see Chapter 8 of this Code).

11-1-2 DEFINITIONS

In construing the intended meaning of terminology used in this Chapter, the following rules shall be observed:

- (A) Words and phrases shall have the meanings respectively ascribed to them herein unless the context clearly indicates otherwise; terms not defined in Section 11-1-3 shall have their Standard English dictionary meanings.
- (B) Words denoting the masculine gender shall be deemed to include feminine and neutral genders.
- (C) Words used in the present tense shall include the future tense.
- (D) Words used in singular number shall include the plural number, and the plural shall include the singular.
- (E) The term "shall" is mandatory; the term "may" is discretionary.
- (F) References to sections shall be deemed to include all subsections within that section; but a reference to a particular subsection designates only that subsection.
- (G) A general term that follows or is followed by enumerations of specific terms shall not be limited to the enumerated class unless expressly limited.

11-1-3 SELECTED DEFINITIONS

Whenever the following words or terms are used in this Chapter, they shall have the following meaning(s) herein ascribed to them, unless the context makes such meaning repugnant thereto;

Dwelling Unit – means a residence with two (2) or more rooms designed or used as living quarters by one (1) named tenant. A “dwelling unit” always includes a bathroom and kitchen and must also have a designated sleep area.

Living Quarters - Living quarters means the developed area within a dwelling unit but does not include basement, garage, or carport, patio, or atrium.

Occupancy Type – There are four (4) types of residential rental property types subject to inspection and permitting under the provisions of this Chapter:

- (A) Commercial refers to rental addresses that are part of a hotel, motel, or Airbnb style of enterprise. Only commercial rental units housing residents of the Village are subject to the requirements of this Chapter.
- (B) Duplex refers to a building which contains two separate residences, with each residence for one (1) family only.
- (C) Multi-family means a building or portion thereof containing three (3) or more dwelling units and includes apartment developments.
- (D) Single Family Residential means a dwelling containing one (1) dwelling unit intended for the occupancy of one (1) family.

Owner – For purposes of this Chapter, an Owner is a person or entity possessing legal title to a residential dwelling unit, development, or building that has subsequently rented, leased, or subleased said property to a tenant and/or resident.

Resident – A person who lives somewhere permanently or continuously for thirty days or more, typically identifiable as having a mailing address, utility billing, etc. Rental properties that include non-family residents as tenants are the focus of this Chapter.

Residential Unit – A place where one actually lives, as distinguished from a place of temporary sojourn, to include every separate dwelling unit occupied for residential purposes by one (1) or more persons, contained within any type of building or structure.

Tenant is used to describe an individual who has a contractual relationship giving him / her the right to use or to occupy a particular dwelling / premise that said individual does not own. Specifically, all Residents of rental dwelling units are Tenants, but not all Tenants are Residents.

11-1-4 IMPLEMENTATION, FEES, AND PENALTIES

- (A) All rental properties within the Village of Aviston, as defined specifically as one of four rental property occupancy types in 11-1-3 above, are subject to the provisions of this chapter
- (B) INITIAL INSPECTION AND PERMITTING

1. Initial inspection and approval of duplex, multi-family, and commercial types will be completed at the per unit level.
2. Owners of occupancy units that require Inspection and Permitting per 11-1-1 above should schedule the required inspection by contacting the Village Clerk. The Village Code Official will then contact the Owner to schedule and complete an Initial Inspection.
3. Owners of occupancy units that have been identified by the Village as requiring Inspection and Permitting will be given notice to schedule an initial compliance inspection within 30 calendar days from said notice. Failure to schedule the required inspection are subject to fines up to \$100 per month, per unit until said unit(s) receives initial inspection.
4. Units that pass all elements of the Inspection Checklist shall be issued an Occupancy Permit that is valid for not less than twelve months, except in cases where there is a change in ownership. Occupancy permits are not transferrable.
5. Owners of units having current tenants that fail to obtain an initial Occupancy Permit within 90 days of initial inspection are subject to fines up to \$500 per month, per unit until said unit(s) passes inspection. Unpermitted units that are also unoccupied will not have water service initiated until the permitting process initiated via payment of fee(s) and initial inspection has been scheduled.

(C) REINSPECTIONS

1. Upon receipt of a notice of deficiencies, the applicant shall correct all such deficiencies and advise the Code Official that the deficiencies have been corrected within ninety (90) days. Failure to correct the deficiencies and so advise the Code Official within ninety (90) days shall cause the application to lapse and no re-occupancy or pre-occupancy permit shall be issued until a new application is filed and a new inspection made.
2. When the Code Official has received notice that deficiencies have been corrected, a follow-up inspection shall be completed. If all noted deficiencies have been corrected, an Occupancy Permit will be issued. As stated in 11-1-4 (F) below, the residential inspection permit fee allows for one follow up inspection per unit. Additional inspections required for approval will incur an additional \$20 fee for each.
3. Notwithstanding action correcting deficiencies noted in the original Checklist, the Village shall not issue an occupancy permit where there remains noncompliance with the code where such noncompliance has first occurred following the initial inspection, or was not apparent upon use of reasonable diligence by the inspector upon the first inspection.
4. If, in the view of the applicant, the Code Official has identified items for redress that are beyond the scope of this Chapter, an appeal may be filed in writing with the Aviston Village Clerk.
 - i. Appeals must be filed within two calendar weeks from receipt of the deficiency notice.

- ii. Writing appeals will be forwarded to the Chair of the Property committee of the Village Board.
- iii. The Chairperson of said Committee will review the written appeal and either reject it outright OR schedule a meeting of the Property committee to provide the appeal further review.
- iv. Items in appeal prevent the dwelling unit(s) affected from being permitted for occupancy.

(D) RECURRING INSPECTIONS

- 1. Recurring inspections and approval/permitting of duplex, multi-family, and commercial types are to be completed at the dwelling unit level per the provisions of 11-1-1 above.
- 2. When an occupancy permit has been issued for a unit but change of occupancy has not occurred within twelve (12) months following the approved inspection date, the permit shall expire, and a new occupancy permit shall be required before any occupancy may occur.

(E) PENALTIES

- 1. Any person who violates the terms and provisions of this article shall be subject to individual fines of not more than \$500.00.
- 2. The appeals process is specified in 11-1-4 (C) 4. above.
- 3. All fines will be reviewed and approved by the Village Board President.

(F) FEES

- 1. Fees are established in Table 11-1-4.
- 2. A fee of \$50 for a rental inspection permit will be applicable to each rental unit. This fee will allow for one follow up inspection if there are items to be addressed. Further inspections required for approval will incur an additional \$20 fee for each.
- 3. All fees and/or fines must be paid in full before an Occupancy Permit is issued.
- 4. The Village reserves the right to refuse water service to residential rental properties that are in violation of this Chapter.

TABLE 11-1-4: Fees for permit inspections

<i>Occupancy Type</i>	<i>Fee</i>
Single Family - Occupancy and re-occupancy permit inspections.....	\$50 for each unit
Duplex - Occupancy and re-occupancy permit inspections.....	\$50 for each unit
Multi Family - Occupancy and re-occupancy permit inspections.....	\$50 for each unit
Commercial - Occupancy and re-occupancy permit inspections.....	\$50 for each unit

11-1-5 ROLES AND RESPONSIBILITIES

- (A) It is the responsibility of rental property Owners to initiate contact with the Village for all initial and subsequent inspections to ensure receipt of approved Occupancy Permit status in accordance with the provisions of this chapter.
- (B) Every person who conveys or rents property, and every real estate agent or broker, attorney, or person acting on behalf of a person who conveys or rents property, shall disclose in writing to the person(s) or entity(ies) to whom the property is being conveyed or rented that the property is subject to the requirements of this chapter and that occupancy permits shall be required for residential rental dwelling units. Written disclosure shall be made prior to execution of any written contract for conveyance or rental of the property, or prior to conveyance or rental if no written contract is executed.
- (C) A tenant shall not unreasonably withhold consent to the owner to enter the dwelling unit in case of an emergency, or to make necessary or agreed repairs, decorations, alterations, or improvements; to supply necessary or agreed services; or to enable inspections authorized or required by any government agency, to specifically include Code Official(s) provided through the provisions of this Chapter. The owner shall not abuse the right of access to harass the tenant.
- (D) Dwelling unit owners / landlords provide at least 48-hour notice before entering a unit. Reasonable times are defined as Monday-Friday between 8am and 6pm.
- (E) It is the responsibility of dwelling unit Owners to allow the Village sufficient time to inspect, consider, and ultimately approve an occupancy permit per the provisions of 11-1-4(B). No occupancy permit shall be issued for a unit where discrepancies remain unresolved. Additionally, no permit shall be issued if the owner or occupant, or prospective owner or occupant denies access to the premises for inspection or re-inspection, or fails to take necessary action which has the effect of precluding inspection or re-inspection by the Village.

11-1-6 ADMINISTRATION AND ENFORCEMENT

- (A) Inspections will be completed by an employee of the Village.
- (B) Inspection and Compliance Records will be maintained by the Village Clerk.
- (C) Violations and penalties will be assessed and levied by the Chief of Police.
- (D) Appeals that are filed with the Village Clerk will be considered by the Property Committee of the Village Board.

Article 2 REGULATIONS

11-2-1 INSPECTION ITEMS

It is the responsibility of rental property Owners to initiate discussions with the Village for all initial and subsequent inspections to ensure receipt of approved Occupancy Permit status. The Rental Property Inspection Program allows the village to inspect all rental dwellings defined in this Chapter for a list of items derived from this Chapter. This list is provided as 11-2-11 and includes -but is not limited to- the following:

11-2-2 ILLUMINATION AND ELECTRICITY

Each room must have adequate natural or artificial illumination to permit normal indoor activities and to support the health and safety of the occupants. All common areas such as hallways and stairways must be lighted. The dwelling unit must have sufficient electrical sources so occupants can use essential electrical appliances. Bedrooms shall have a minimum of two working receptacles. Electrical outlets, light switches and fuse or breaker boxes shall be securely mounted, with all covers installed. All circuits within breaker boxes shall be clearly labeled. Electrical wiring shall not be frayed, bare, exposed or have illegal splicing (e.g., splice, termination, or junction not in an enclosed junction box). The use of extension cords to meet the basic requirements of this chapter is not permitted.

11-2-3 STRUCTURE AND MATERIALS

The dwelling unit must be structurally sound and protect the occupants, using proper maintenance and construction practices. Address numbers at least four inches high and contrasting with their background shall be placed on the building, for each permitted space. The unit must be reasonably weather-proofed and guard against vermin infiltration. Walls, ceilings, floors, doors, etc., shall be in good repair. Foundation walls shall be maintained free from open cracks and breaks, and shall be kept in such condition so as to prevent the entry of rodents and other pests.

11-2-4 MECHANICAL SYSTEMS

Laundry rooms must have GFCI appliance receptacles. All furnace and water heater units must be properly vented, with exhaust flues properly assembled with 3 screws per joint. A readily accessible gas shut-off valve is required at all gas appliances.

11-2-5 INTERIOR AIR QUALITY

The dwelling unit must be free of air pollutant levels that threaten the occupants' health. All dwelling units shall have an approved and functioning smoke detector in all sleeping areas, with at least one on each level. Per Illinois Public Act 094-0741, as of January 1, 2007, all homeowners, landlords, and building owners are required to install carbon monoxide (CO) detectors within 15 feet of rooms used for sleeping. This law applies only to those occupancies that use fossil fuel to cook, heat, or produce hot water, or occupancies that are connected to an enclosed garage.

11-2-6 EXTERIOR SURFACES

Surfaces must be properly installed, structurally sound, weather resistant and free from obvious rodent access points. Sidewalk, steps, and driveways shall be properly maintained and free of hazards. Handrails and guardrails will also be inspected. Yard areas and fence/gates will be checked for proper maintenance and hazards. Exterior walls or structures must be in good repair, e.g., all painted surfaces should be free from signs of long-term neglect (unaddressed rot and/or widespread peeling on two or more sides of the structure. Chimneys shall be in good repair, with no loose brick. Accessory structures shall be properly maintained and free from obvious rodent access points.

11-2-7 SANITARY FACILITIES

The dwelling unit must include a sanitary facility (bathroom) within the unit. The facilities must have hot and cold running water and must be properly trapped and vented. Each bathroom must have GFCI receptacles, at least one light fixture, and exhaust capability through either an operational window or ventilation fan that directs exhaust outside. The facilities must utilize an approved public or private disposal system, to include a locally approved septic system. All plumbing fixtures, drains and piping must be maintained in good working order, and kept free of obstructions, leaks, and obvious defects. Common hallways, stairs, basements, and mechanical areas must be in good repair and free of any hazardous or unsanitary conditions.

11-2-8 FOOD PREPARATION AND REFUSE DISPOSAL

All dwelling units must have suitable space and equipment to store, prepare and serve food in a sanitary manner. All required equipment must be in proper operating condition. According to the rental agreement or lease, equipment may be supplied by either the owner or the family. The kitchen sink must have hot and cold running water and drain into an approved public or private system. Kitchens require GFCI receptacles within six feet of the sink. Waste and refuse storage facilities may include trash cans or dumpster facilities. Refuse and recycling containers must be provided to properly store refuse and recyclables between collection days and refuse areas must be clean and adequately sized.

11-2-9 SPACE AND SECURITY

As defined 11-1-3, all dwelling units within rental properties shall consist of two (2) or more rooms designed or used as living quarters. A "dwelling unit" always includes a bathroom and kitchen. Kitchens must include a stove, refrigerator and sink within the unit.

The dwelling unit must provide adequate space and security for tenants / residents; minimum unit floorspace for a single tenant is 300 square feet. For the purposes of determining occupancy load, every bedroom occupied by one person shall contain a closet within at least 75 70 square feet of floor area, and every bedroom occupied by more than one person shall contain at least 50 square feet of floor area for each occupant thereof. Dwelling units shall not be occupied by more occupants than permitted by the minimum area requirements of Table 11-2.

11-2-10 SAFETY AND EGRESS

Per the Illinois Residential Code R310.1, Emergency Escape and Rescue Opening, every sleeping room shall have not less than one operable emergency escape and rescue opening. Where basements contain one or more sleeping rooms, an emergency escape and rescue opening shall be required in each sleeping room, or it cannot be counted as such for purposes of this RPIP.

Specifically, regarding egress openings, all window and door surfaces (including the frames) must be in sufficient condition to support the proper operation of windows, doors, and their locking mechanism. Additionally, all doors required as public or common area exits or as a means of egress shall be capable of being opened from the inside without the use of a key.

~~There must be at least one operable window in both the living room and each sleeping room.~~

~~Rooms designated as sleeping rooms in the RPIP application that do not have two forms of egress (door and external door OR door and operable window) cannot be counted as bedrooms for purposes of this RPIP. Required egress windows must not be painted or nailed shut. Screens, where present, shall be in good repair.~~

TABLE 11-2: Bedroom Space Requirements - Minimum Area in square feet

<i>Sleeping Area(s)</i>			
	One occupant	70 SQ FT	7' X 10' – 0" or larger
	Two or more occupants	50 SQ FT per	50 SQ FT per or larger

11-2-11 INSPECTION CHECKLIST

See attached Property Inspection Checklist.

=====
----- VILLAGE OF AVISTON PROPERTY INSPECTION CHECKLIST -----
=====

ADDRESS _____ PROPERTY OWNER _____

OCCUPANCY TYPE * _____ DATE OF INSPECTION _____ INITIAL RETURN

* SINGLE FAMILY // DUPLEX // MULTI-FAMILY // COMMERCIAL

INTERIOR (11-2-2; 11-2-3; 11-2-4; 11-2-5; 11-2-10)

- Interior ceilings and walls in good repair: _____
Working Smoke detectors at every level, in all sleeping areas: _____
Working CO detector per 11-2-5 above: _____
All egress window hardware and glass in good working order: _____
Window screens for ventilation of habitable rooms and / or food preparation shall be maintained and in good shape: _____
No extension cords used for permanent power: _____
Electric cover plates installed: _____
Fuse/breaker box clear of defects and circuits are labeled: _____
Laundry receptacles GFCI or single use and grounded if within 6 ft of a sink: _____
Heat/Wat. Heat units properly vented and 3 screws per joint: _____
Gas shut-off at all appliances: _____
Ingress and Egress clear path to the outside. Doors to the exterior operable: _____
Exterior door locks operable from the inside without the use of a key: _____

LIVING / FAMILY ROOM Size _____

BATHROOMS (11-2-7)

- All receptacles GFCI protected (NEC210.8A): _____
Water on, no leaks: _____
At least one operational light fixture: _____
Operational Ventilation Fan, or window: _____

KITCHEN / DINING ROOM (11-2-8)

- Includes stove (Gas / Electric) _____ Includes refrigerator _____ Includes sink _____
Receptacles GFI protected (within 6' of sink): _____
Water on, no leaks: _____

BEDROOMS (11-2-2; 11-2-10)

- Master or #1 - Size _____ Meets Egress (Y / N)
- #2 - Size _____ Meets Egress (Y / N) - #3 - Size _____ Meets Egress (Y / N)
- #4 - Size _____ Meets Egress (Y / N) - #5 - Size _____ Meets Egress (Y / N)
- Two outlets in each bedroom: (1) ____ (2) ____ (3) ____ (4) ____ (5) ____
- Egress windows operable: (1) ____ (2) ____ (3) ____ (4) ____ (5) ____

GARAGE (11-2-3; 11-2-10)

____ Garage door safety sensors, if in place, operational: _____

EXTERIOR (11-2-3; 11-2-6)

- ____ House numbers visible and 4" tall min: _____
- ____ Outside appearance maintained: _____
- ____ No dead or obviously diseased/dying trees on the property: _____
- ____ Landscaping must not obscure 50% or more of any outside wall of unit(s): _____
- ____ Gutters/downspouts in good repair & discharge away from structure: _____
- ____ Foundation/exterior walls in good repair: _____
- ____ Handrails and guard rails secure: _____
- ____ Accessory structures in good repair: _____
- ____ Decks, porches, balconies maintained: _____
- ____ Chimneys in good repair: _____
- ____ Ext. receptacles GFCI protected (Readily accessible only) (NEC210.8(A)): _____
- ____ Sump pump discharges to outside (not the sanitary sewer system): _____
- ____ Driveway/sidewalk in good repair: _____

NOTES:

Inspected By: _____ Date: _____
____ Approved ____ Not Approved ____ Occupancy Load