Inspections of Rental Property for Day Care or Foster Care Use Policy

Purpose
To obtain permission to inspect rental properties from a legally authorized person.

Applies to
All State Fire Marshal Division (SFMD) inspection personnel, inspection supervisors and code/plans specialists.

Policy
The following policies and procedures apply to requests for inspection of non-owner occupied properties. There are slightly different policies for apartment buildings versus one- and two-family dwellings.

Apartment buildings
Building areas to be inspected if an apartment building is being requested for use as a day care or foster care operation:

- Dwelling unit for proposed day care or foster care.
- All common areas of the building (hallways, meeting rooms, lobbies, recreational areas etc.).
- Maintenance areas.
- Mechanical areas.
- Storage areas.

Other dwelling units are not to be included in the inspection.

Fire code violations and hazards that are observed shall be cited and corrective action taken in accordance with SFMD Policy INS-02 (July 2019) titled, *Time for Correction of Fire Code Orders.* Arrangements must be made to obtain the owner's permission by the following methods:

- Written consent from the owner or owner's representative (NOTE: a tenant is not authorized to represent the owner) OR
- Have the owner or owner's representative present at the time of the inspection (NOTE: it is advisable to have the owner sign the inspection/exit interview form).

If the owner or the owner's representative refuses to give permission to inspect the apartment building, the inspector shall leave the premises and consider the request as invalid.

If deficiencies are found in the dwelling unit, the orders shall be written for the correction to apply to all dwelling units. For example, if egress windows are not found in the sleeping rooms in the dwelling unit, orders shall be written to provide egress windows from sleeping rooms in all dwelling units.

Single family dwellings or duplexes

For inspections of one and two-family dwellings in response to a request for day care or foster care licensure, permission or attendance of the owner is not required. The dwelling is required to meet the applicable requirements for dwellings in addition to specific day care/foster care requirements. Fire code violations and hazards that are observed shall be cited and corrective action taken in accordance with SFMD Policy INS-02 (July 2019) titled, *Time for Correction of Fire Code Orders.*

If only one half of a duplex is used for day care or foster care, only the unit used for the day care or foster care need be inspected when no openings exist between the two units.

Rationale

Occupants of one- and two-family dwellings have the legal authority to give permission for inspections of these types of buildings. The owner must understand that any violations observed must be cited and corrected, even if the potential day care or foster care provider decides not to pursue licensing or moves out of the building.

The entire building needs to be inspected based on concerns that a fire originating anywhere in the building can impact the occupants. The individual tenant does not have the legal authority to allow a fire inspection to take place in other areas of the building. In addition, the owner may be needed to provide access to locked or secured areas in the building.

Legal opinion

This policy was reviewed and approved by the Department of Public Safety staff attorney on Oct. 30, 2020