



CITY OF HAYWARD
AGENDA REPORT

AGENDA DATE 10/12/99
AGENDA ITEM 7
WORK SESSION ITEM _____

TO: Mayor and City Council
FROM: Director of Community and Economic Development
SUBJECT: Review of Proposed Amendments to the Residential Rental Inspection Program

RECOMMENDATION:

It is recommended that the City Council adopt the attached resolution which would conceptually approve an annual five dollar (\$5.00) per unit inspection fee.

BACKGROUND:

On January 19 and July 27 of this year, Council held work sessions on the Residential Rental Inspection Program. A major focus of this review was modifying the inspection list sent to landlords prior to the initial inspection or survey, to reduce the number of inspection items and to make the list easier to understand and more friendly in tone. In response to Council and public input, the list has been revised to address these concerns, while not compromising the goal of improving the City's housing stock.

Enclosed for Council's information is a copy of the final version of the revised list which has been 1) reduced from five to three pages, 2) rewritten in a conversational style, 3) reformatted to list violations by the type of violation and 4) incorporates modifications raised by Council members at the July meeting (e.g., mention is made for the need to obtain a permit to install a water heater and a prohibition on storage of hazardous liquids has been added).

At the July 27 meeting Council reviewed a report which discussed the merits of adopting a uniform (flat) inspection charge of \$10.00 per unit, restructuring the current violation based fee schedule to one based on an annual per unit fee basis. The advantages of this alternative method are several: (1) provide certainty of inspection costs and eliminate the need to pay for repairs and inspection at the same time, (2) eliminate concern that citations are prompted by need to justify staff salaries, (3) stabilize program revenue, and (4) reduce staff time and expense for billing and complaint resolution. The new fee would cover the cost of initial survey and one reinspection. For those who don't complete the required corrective work in a timely manner penalty fees would be applied, as is now the case.

The majority of Council indicated they were interested in considering this idea further after obtaining input from potentially interested parties. Subsequently, staff sent referrals to the Alameda County Housing Authority, Eden Council for Hope and Opportunity (ECHO), Eden Information and Referral (EI&R), Southern Alameda County Association of Realtors (SACOR), and the Rental Housing Owners Association of So. Alameda County (RHOA). Staff also met with RHOA representatives on two separate occasions.

Aside from RHOA and one property owner, no other comments have been received on the proposal. Generally speaking, the comments received to date have focused on a concern that the proposed fee would cost property owners with substantial holdings more than the current system. That is, the \$10.00 fee would result in a higher cost to owners of large projects where the majority of units do not have code violations, and consequently are not charged for the costs of inspection.

The RHOA also reiterated its long-standing concern that the rental inspection program does not adequately distinguish between property owners who maintain their complexes in conformance with applicable regulations and those who fail to do so. While this observation may have some merit, it is worth noting that the changes to the list of corrective measures combined with the suggested revision to the fee structure partially address this concern.

Based on the RHOA's comments concerning the financial impact of imposing a charge of \$10.00 per unit, staff and the RHOA explored a compromise rate which blends aspects of the current fee structure with a lower per unit amount. While the RHOA prefers continuation of the status quo, it did indicate it would accept a fee of \$5.00 per unit, to cover the initial visit and one reinspection. Should it be necessary to return to a property thereafter, subsequent reinspections would be charged the fees currently in effect. Staff is supportive of this compromise and recommends it to you.

DISCUSSION:

A State Appellate Court in Los Angeles ruled that the rental inspection fees are incidents of property ownership and therefore subject to proposition 218 requirements. The City of Los Angeles is appealing this decision to the State Supreme Court. In addition, the City Attorney's Department of the League of California Cities is requesting that the Court decertify the case, and that it not be binding on any other jurisdiction. Pending this, or a reversal of the decision, Hayward would not be able to implement the proposed flat fee schedule.

In the absence of a final decision on this case, staff is recommending that the Council conceptually approve the new fee structure and authorize the City Manager to prepare the enabling documents for Council's approval, subsequent to the resolution of the Los Angeles case.

Prepared by:

Marvin Carash

Marvin Carash, Development Inspection Services Administrator

Recommended by:

Sylvia Ehrenthal

Sylvia Ehrenthal, Director of Community and Economic Development

Approved by:

Jesús Armas

Jesús Armas, City Manager

Attachments: Resolution
Inspection List
Comparison – Current and Proposed Fees

JPB 10/2/99

HAYWARD CITY COUNCIL

RESOLUTION NO. _____

Introduced by Council Member _____

RESOLUTION AUTHORIZING THE COLLECTION OF AN ANNUAL UNIT-BASED FEE FOR THE CITY OF HAYWARD RESIDENTIAL RENTAL INSPECTION PROGRAM

WHEREAS, the City Council of the City of Hayward has reviewed the City's Residential Rental Inspection Program and considered changing the fee structure of the program by substituting an annual unit-based fee in the amount of \$5.00 for the existing violation-based fee structure, as further described in the staff report discussing this item, a copy of which is attached hereto; and

WHEREAS, the City Council finds and determines that utilization of an annual unit-based fee to support the program would best serve the citizens of Hayward in that it will provide certainty and consistency to property owners while continuing to support the program goals of identifying and correcting substandard rental housing stock; and

WHEREAS, the process by which an annual program fee may be imposed is currently the subject of a pending court action in the case of *Apartment Association of Los Angeles County, Inc., et al., v. City of Los Angeles*, (1999) No. B1130243.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Hayward that the fee structure of the Rental Housing Inspection Program is hereby modified to impose a \$5.00 annual unit-based fee on rental properties consistent with the program described in the staff report, and that the City Manager is directed to prepare all necessary implementing documents at such time as the process for imposing the fee is clarified by a final decision in the above-referenced court case.

IN COUNCIL, HAYWARD, CALIFORNIA _____, 1999

ADOPTED BY THE FOLLOWING VOTE:

AYES:

NOES:

ABSTAIN:

ABSENT:

CITY OF HAYWARD
DEPARTMENT OF COMMUNITY AND ECONOMIC DEVELOPMENT
RENTAL INSPECTION PROGRAM

INSPECTION LIST/CORRECTIVE MEASURES

- A. *Inspection for code compliance is based on the Building, Housing, Electrical, Plumbing and Mechanical Code in effect at the time of original construction or subsequent additions or repairs. The following standard list of items will be cited if uncorrected. However, if the inspection reveals the existence of other serious code violations they must also be corrected.*
- B. *Pursuant to City regulations, the owner of a rental unit is only allowed to pull a building permit. Electrical, plumbing or mechanical permits must be pulled by a State licensed contractor*
- C. *The 1998 California Building Code (Section 310.9) requires owners of residential dwellings to install smoke detectors whenever a building permit is issued for additions, alterations or repairs and the valuation of the work exceeds \$1,000. Therefore, smoke detectors (where not existing) must be installed in each sleeping room and at a point centrally located in the corridor or area giving access to each sleeping area.*
- D. *For questions about this list, the inspection process, or fees, please contact your housing inspector (see page 1 of letter).*

BUILDING CODE ITEMS

- Replace damaged areas of roof rafter tails, eaves or soffit that contain significant dryrot and paint new construction. **Building permit required.**
- Repair or replace substantially deteriorated wall or siding. **Building permit may be required depending on extent of damage.**
- Replace missing or defective underfloor or roof eave vents and screens.
- Repair or replace defective stairways or railings.
- Repair or replace defective, loose or deteriorated balcony support posts, railings or deck.
- Replace substantially deteriorated roof. **Building permit required.**
- Repair or replace deteriorated fence or fence post(s).
- Replace damaged shower wall. **Building permit required.**
- Repair or replace damaged subfloor, underlayment or vinyl covering. **Building permit may be required depending on extent of damage.**
- Repair or replace improperly modified or damaged window to conform to code and to operate easily.
- Remove door between bedroom and garage and replace with approved wall. **Building permit is required.**
- Repair wall damage and tape all joints on one-hour firewall adjoining garage.
- Install missing self-closer on door between living area and garage.

- Remove non-solid core door between living area and garage and install solid core door (1 3/8" minimum thickness).
- Reconvert unauthorized living area back to a functioning garage. **Building permit required.**
- Remove patio cover, shed or other external or interior improvements built without permit(s), or obtain necessary permits and zoning approval.
- Replace inside keyed deadbolt lock on front exit door with thumb-operated lock.

HOUSING CODE ITEMS

- Repair or replace substantially damaged front or rear exit door.
- Replace defective or missing gutter/downspouts with galvanized or aluminum replacements.
- Replace missing light cover adjacent to front and/or rear exit door.
- Replace missing unit, building or property street address number(s).
- Repaint exterior areas that are severely peeling, flaking or otherwise deteriorated so that weather protection is compromised.
- Repair significantly cracked or chipped sink or basin or replace.
- Repair or replace inoperable exhaust fan and/or missing grease screen.
- Repair or replace defective lock, handle, rollers or cracked glass in sliding door.
- Eliminate insect or rodent infestation to prevent potential health and/or safety problems.
- Tighten floor bolts and/or install new wax ring to eliminate toilet leak.
- Repair or replace leaking sink trap, water supply valve and/or missing sink, tub, shower or toilet valve handle.
- Replace missing or defective smoke detector.
- Clean track, install glides and/or repair bedroom window (emergency exit) so it easily opens.
- Repair or replace and paint substantially damaged sheetrock or ceiling.
- Remove all flammable and non-flammable materials and liquids stored in water heater room or closet.

ELECTRICAL CODE ITEMS

- Replace missing circuit breaker tie bar, breaker cover or door cover.
- Correctly label circuit breakers or fuses.
- Install spacers to cover unused openings in electrical panel.

- Rewire defective front or rear light fixture. **Electrical permit required.**
- Replace ungrounded three prong electrical receptacles with 2 prong receptacles, equipment grounding conductors or GFCI.
- Remove illegal wiring and/or unpermitted extension cords.
- Replace missing weatherproof outlet cover(s).
- Repair or replace defective range top, burner unit or oven.
- Repair or replace defective electrical switch, receptacle or missing cover.

PLUMBING CODE ITEMS

- Replace missing or improperly installed water heater temperature and pressure relief drainline with a 3/4" hard drawn copper or galvanized pipe extended to exterior. (Line must point down and terminate within 6" above grade.) **Plumbing permit required to install new water heater.**
- Install one strap at top and one at bottom of water heater to conform to seismic standards.
- Replace broken water heater shut-off valve.
- Install missing dishwasher air gap.
- Install missing garbage disposal cable connector and/or secure unclamped wire.
- Replace plastic drain assemblies (p-trap) with copper or metallic pipe.

MECHANICAL CODE ITEMS

- Secure water heater flue joint(s) to provide proper ventilation.
- Clear material blocking passage of air through water heater or furnace combustion air vent(s) or install new vents (minimum size 50 sq. in. per vent).
- Replace or secure missing or loose wall heater cover.
- Replace broken wall heater shut-off valve/handle.

RENTAL INSPECTION FEES

CURRENT

a. Request for 1 st extension to postpone initial inspection (survey)	No charge
Request for 2 nd extension to postpone initial inspection (survey)	\$50.00 penalty
b. Inspection report, and enforcement actions pursuant to Hayward Municipal Code, Chapter 9, Article 5	
1. Initial inspection (survey) of a parcel containing two or more rental housing units, hotel or motel. (No per unit charge for a complaint involving one unit.)	\$100.00 per parcel + \$40.00 per unit or motel/hotel room containing a code violation
2. Re-inspections	
First two re-inspections	\$100.00 per parcel + \$40.00 per unit or motel or hotel room found to contain a code violation during the prior inspection.
Third re-inspection	Same as above + \$100.00 penalty
Fourth re-inspection	Same as above + \$200.00 penalty
Fifth and subsequent re-inspections	Same as above + \$300.00 penalty
3. Initial inspection (survey) of a parcel containing one single family rental housing unit (including a condominium or other common-wall dwelling unit, e.g., townhouse) or one rental housing unit in one duplex.	\$100.00
Concurrent inspection of two or more single-family dwelling units owned by the same owner in the same development	\$100.00 + \$40.00 per unit containing a violation
4. Re-inspections	
First two re-inspections	\$100.00 each
Third re-inspection	\$100.00 + \$100.00 penalty
Fourth re-inspection	\$100.00 + \$200.00 penalty
Fifth and subsequent re-inspections	\$100.00 + \$300.00 penalty
Concurrent re-inspections of two or more single-family dwelling units owned by the same owner in the same development	\$100.00 + \$40.00 per unit found to contain a code violation during the prior inspection
5. Inspection (survey) – No Access	
No access 1 st time	No charge
No access 2 nd time	\$100.00 penalty
No access 3 rd time	\$200.00 penalty
No access 4 th time	\$300.00 penalty
6. Re-inspection/Progress Check – No Access	
No access 1 st time	No charge
No access 2 nd time	\$100.00 penalty
No access 3 rd time	\$200.00 penalty
No access 4 th time	\$300.00 penalty
c. Inspection for rent control derogation pursuant to Ord. No. 83-023, as amended	
1. Initial inspection (survey) and one re-inspection	\$200.00 per unit
2. Concurrent initial inspection and one re-inspection of two or more units owned by the same owner in the same development	\$200.00 for first unit + \$40.00 for each additional unit
3. Additional non-current re-inspections	\$100.00 per unit
d. Lien (per parcel)	\$100.00

PROPOSED

a. No Change	No Change
b. Inspection report, and enforcement actions pursuant to Hayward Municipal Code, Chapter 9, Article 5	
1. Initial inspection (survey) and one re-inspection of a parcel containing one rental housing unit (single family dwelling, apartment, condominium or townhouse or rental unit in a duplex) or hotel or motel unit or room	\$5.00 per unit
2. Re-inspections	
Second re-inspection	\$100.00 per parcel + \$40.00 per unit containing a violation
Third re-inspection	\$100.00 per parcel + \$40.00 per unit containing a violation + \$100.00 penalty
Fourth re-inspection	\$100.00 per parcel + \$40.00 per unit containing a violation + \$200.00 penalty
Fifth and subsequent re-inspection	\$100.00 per parcel + \$40.00 per unit containing a violation + \$300.00 penalty
3. Not Applicable	Not Applicable
4. Not Applicable	Not Applicable
5. No Change	No Change
6. No Change	No Change
c. No Change	No Change
d. No Change	No Change