



CITY COUNCIL AGENDA REPORT

DATE: 7/27/2010

AGENDA OF: 8/3/2010

DEPARTMENT: Planning and Community Development

SUBJECT: Amendments to Title 21 of the Santa Cruz Municipal Code Adding Chapter 21.06 Regarding a Citywide Rental Inspection Program. (Environmental Determination: Exempt from CEQA) (City of Santa Cruz, Applicant). (PL)

RECOMMENDATION: Introduction of an ordinance for publication amending Title 21 of the Santa Cruz Municipal Code adding Chapter 21.06 regarding a citywide residential rental inspection and maintenance program.

BACKGROUND: On July 20, 2010 the City Council conducted a public hearing concerning the proposed citywide residential rental inspection and maintenance program. Staff presented the staff report and described the proposed ordinance. Approximately 27 persons spoke concerning the ordinance with a number of others in attendance. Also a number of e-mails were received by the Council. A number of speakers and writers stated that they could support the proposed ordinance if additional changes were made, including the recommendations suggested by the Tri-County Chapter of the California Apartment Association. The City Council continued the public hearing to August 3, 2010 and directed staff to review the suggested recommendations and amend the proposed ordinance if appropriate.

DISCUSSION: Staff has reviewed the changes suggested by the Tri-County Chapter and others and has incorporated the majority of them into the ordinance which is attached in a strikeout/underline version so the Council and the public can see the modifications. The major changes are as follows:

1. Language has been added to the Findings and Purpose section to clarify the purpose and intent of the ordinance.
2. Language clarification was made to the Fees Section 21.06.060 to be clear how and when the fees will be collected.
3. Language clarification was made to the Rental Housing Inspection Certification Section 21.06.070 D that specified the time period of the certifications after successful inspections.

4. Language was added for the Self-Certification Program Section 21.06.080 D such that the owner shall not be in violation if the tenant or occupant refuses to allow the Self-Certification inspection by the owner. Staff also included a requirement that the owner shall provide the City a signed statement from the tenant/occupant that the inspection was refused. If the tenant refuses to sign the statement, the owner shall provide proof, under penalty of perjury, that a request to inspect was served and it was not permitted by the tenant.
5. Language was revised for the Self-Certification Program Section 21.06.080 F that the Self-Certification Checklist be provided to the tenant within five working days upon request of the tenant. This was a change from requiring the owner to give the completed checklist to the tenant at the same time as the checklist is given to the City.
6. Language was added for the Self-Certification Program Section 21.06.080 H that clarified the term “reasonable time” to solve violations and remain in the Self-Certification Program. This time period could be 30 to 90 days, however for immediate life safety violations the time lines will be less to address the urgency of the situation.
7. Section 21.06.120 Public Nuisance has been deleted in its entirety. It was determined that this section is already covered under Title 4 in the Municipal Code and Title 4 is the code enforcement mechanism for the rental inspection ordinance should violations not be corrected in a timely manner. Deleting this section does not take the authority or force away from the current enforcement provisions in other portions of the Municipal code.
8. Language was deleted under Appeals Section 21.06.130 A1 that conflicted with the appeal section of Title 4.

The ordinance has been further modified to clarify the intent to focus on certain rental housing conditions described in the first paragraph of the purpose and finding section, with the intent to focus on meeting the minimum standards contained in the City’s health and safety codes. The primary remaining modification suggested by others that has not been included in the recommended ordinance is to add language which would prevent or restrict the City’s ability to gain compliance with existing codes by limiting inspections only to immediate health safety violations that pose an imminent threat, structural changes, unpermitted dwelling units, or changes that increased habitation areas without permits. It is agreed that it is appropriate for Council to approve the Inspection Checklist(s), at a future date. A draft checklist is provided. Interested parties have offered to work with City staff to finalize the annual inspection and self-certification checklists, whereupon the checklists would return to City Council some time in the future for adoption. In addition, Council may provide policy direction to staff regarding the focus and emphasis of the inspections program and enforcement of this ordinance.

A request was made at the last Council meeting for information on tenant displacement and the current City regulations. The first goal in discovering a code violation is to work with owners to correct the situation, and gain compliance. Reasonable timelines are established for the compliance process. For instances where tenants are discovered living in extremely egregious situations (dangerous electrical systems, no heat, no water, flooding, etc...) orders for displacement are near immediate. Issuances of such orders are very rare for the City. The City’s current relocation ordinance provides for the payment of three (3) months relocation assistance in

the amount of the tenants' actual rent, or the rent established by HUD for fair market value, whichever is greater. This payment is the responsibility of the landlord/owner.

CONCLUSION: The proposed ordinance adds to the City of Santa Cruz ability to protect and promote public health, safety and welfare, particularly with regard to the City's rental housing. A well run program will enable the City to maintain safe rental housing stock for years to come and increase the quality of life in neighborhoods and the community.

Prepared by:

Submitted by:

Approved by:

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Planning Director

Richard C. Wilson
City Manager

ATTACHMENTS:

July 20, 2010 City Council report

Draft Rental Inspection Ordinance

Sample inspection checklist

Letters from the California Apartment Association Tri-County Chapter



CITY COUNCIL AGENDA REPORT

DATE: 7/14/2010

AGENDA OF: 7/20/2010

DEPARTMENT: Planning and Community Development

SUBJECT: Amendments to Title 21 of the Santa Cruz Municipal Code adding Chapter 21.06 regarding a citywide rental inspection program. (Environmental Determination: Exempt from CEQA) (City of Santa Cruz, applicant).

RECOMMENDATION: Introduction of an ordinance for publication amending Title 21 of the Santa Cruz Municipal Code adding Chapter 21.06 regarding a citywide residential rental inspection and maintenance program.

BACKGROUND: For many years there has been increasing concern about the City of Santa Cruz's aging housing stock. As well, there is concern about illegal units and unpermitted construction which could pose health and safety, and neighborhood compatibility problems. The current Housing Element adopted by the City Council in 2009 states that the City should make "a concerted effort to encourage maintenance, rehabilitation, and improvement of housing and to promote sustainable, livable neighborhoods." The implementation of Goal 5.2 of the Housing Element calls for the City to "consider" a self-funding, pro-active inspection program for rental units. This Goal was a carryover from the 2002 Housing Element.

As part of the September 2008 comprehensive settlement agreement between the University of California at Santa Cruz (UCSC), the City of Santa Cruz, the County of Santa Cruz, CLUE and other individuals, it was agreed that the City would more closely regulate residential rental housing in the City. The language from the agreement is as follows:

"2.7(c) The City agrees to propose and enforce City-wide ordinance(s) or municipal code(s) to regulate residential rental properties including, but not limited to, boarding, lodging, or rooming houses. In the event the City does not enact such legislation within two years of the approval of this agreement, UCSC's housing capacity commitment set forth in Section 2.1b above shall be reduced by 450 beds. The City, in consultation with UCSC, further agrees to review with three years of the effective date of this Agreement any such City-wide ordinance(s) or municipal code(s) for effectiveness in regulating residential rental properties and, if necessary, to consider revisions" and

“2.9 In recognition of City-wide zoning, building and municipal code violations in the City’s residential neighborhoods attributable to deficient landlord oversight of rental housing (UC and non-UC affiliated), the City and UCSC agree to jointly and equally fund through 2013 a pilot program for two City Code enforcement positions as a means of improving rental property safety and standards. The pilot program will be reviewed after the first 3 years. After review and mutual agreement, the program may be modified. UCSC’s commitment to fund its 50% share of the program will not accrue until the City enacts and enforces City-wide ordinance(s) or municipal code(s) consistent with Section 2.7(c), above.”

Finally as part of efforts to address code enforcement and nuisance property issues within the City of Santa Cruz, staff and the City Attorney’s Office at the direction of City Council, working with neighborhood groups, have brought forth ordinances over the past few years that the City Council has adopted. While successful in some ways these ordinances have not sufficiently addressed all aspects of the problem. A rental housing inspection ordinance is seen as another tool toward dealing with problems associated with some code enforcement, health and safety, and nuisance property issues.

DISCUSSION: The average age of the housing stock in the City of Santa Cruz is increasing with nearly 50 percent of the City’s housing 50 years or older. Deferred maintenance and code enforcement on some of the City’s rental housing properties are becoming significant issues. The 2000 Census indicated that 53 percent of the City’s population was renters and there were approximately 11,500 rental units in the City. The current reactive code enforcement efforts have proven to be insufficient to address the problems. As stated above it is important at this time that the City take proactive steps to ensure the maintenance and improvement of its rental housing.

The proposed rental housing inspection and maintenance program is relatively simple and requires owners of multiple rental dwelling units within the City of Santa Cruz to register their units with the City. With their registration the owners will be given a choice of signing up to have their units annually inspected by the City or to apply for the self-certification program. Staff anticipates that most owners will apply for self-certification. To qualify for self-certification a property shall not have existing violations of building, housing and sanitation codes or ordinances nor past violations of building, housing and sanitation codes or ordinances within the last three (3) year period.

If a property does not qualify for self-certification the properties/units will be required to be inspected annually to insure they are being maintained. If the properties are maintained without violation for three (3) years they will then qualify for self-certification.

For properties that are eligible for self-certification, the owner/operator will conduct an annual self-inspection of all the residential rental dwelling units, including exterior conditions and site conditions, and certify under penalty of perjury that the conditions at the property achieve the minimum standards listed on the Self-Certification Program Checklist. The City rental inspectors will review the checklist in the office and sign-off on the self-certification for that year. The properties under self-certification may be inspected but the inspections will be limited in a five (5) year period to twenty (20) percent of the total units or to one-unit total in residential rental dwelling units consisting of three (3) units, including multiple single family dwellings at separate locations, provided the residential rental dwelling units’ conditions do not deteriorate during that

five (5) year time period to the extent that the property would no longer meet the property eligibility standards.

When the City rental inspectors visit properties/units, they will be inspecting for compliance with state and local laws involving housing, building and zoning codes and property maintenance. A checklist would be followed similar to the self-certification checklist; a draft example of which is attached. Interior and exterior inspections would be conducted with the owner or operator. The owner/operator will coordinate with tenants for access to the units. Tenants are welcome to be home for the inspection but not required to be there. Once the inspection is completed, the owner/operator will be notified of any deficiencies found and asked to correct them in a timely manner. Structures and units will be required to be maintained at a level consistent with the codes of the period in which they were constructed. However, construction of new improvements or unpermitted construction must coincide with current codes as adopted by the City of Santa Cruz. It is important to note that existing codes allow for certain exceptions for qualifying projects under the Historic Building Code.

If the inspection reveals no building, housing or sanitation code or ordinance violations, or permit violations, a rental housing inspection certification will be issued. If the inspection reveals there are building, housing or sanitation code or ordinance violations, or permit violations, on the property the owner will be notified of the specific code violations which prevent the City rental inspector from issuing a rental housing inspection certification. The notification will provide a specific time period in which the violations are to be corrected. The City rental inspectors will be available to answer any questions of the owner/operator to help them successfully complete the repairs. The City rental inspectors will return on the stated correction date to re-inspect the property to verify compliance. If corrections have not been made the owner/operator will be charged for the additional staff time and expense in handling the violations.

Upon the successful completion of the initial inspection, subsequent inspection or re-inspection of the residential rental dwelling unit establishing that the property and its occupancy are in compliance with all applicable building, housing and sanitation code and ordinance requirements, the City will issue to the owner or operator a rental housing inspection certification. The certificate indicates code/ordinance compliance and specifies the time period during which the certification will remain valid and during which the residential rental dwelling unit will not be scheduled for a subsequent inspection. The rental housing inspection certification shall not preclude code enforcement or investigation on the property, if during the rental housing inspection certification period, a code violation on the property is reported to the City or otherwise observed by the City on the property.

In developing the attached rental inspection ordinance described above staff reviewed dozens of existing rental housing inspection ordinances enacted by other cities and counties in California. Staff also has met with interested parties such as the Board of Realtors, California Apartment Association Tri-County Chapter, Property Managers, rental property owners and Santa Cruz Neighbors representatives. The ordinance being proposed is substantially different from earlier drafts. This reflects the substantial input staff received from these groups. That being said there is still concern by some about the need, the cost and other aspects of the program.

The need of the program has been discussed above. It has been suggested that the creation of a rental inspection program would reduce property values and increase rents because of the costs. The proposed fees for the program are outlined as follows along with a breakdown of what the costs would be yearly and monthly for a variety of rental projects:

- The annual registration fee for each applicable property would be \$45.
- With the initial registration fee payment property owners may apply for Self-Certification Program. If accepted the annual self-certification fee would be an additional \$20 per unit for 20 percent of the units at each property. The annual self-certification fee covers review of the self-inspection form(s) and inspection by the City of 20 percent of the units during the five (5) year period.
- If not accepted in the Self-Certification Program the annual inspection fee would be an additional \$20 per unit at each property. This annual fee will cover the first inspection of each unit and one re-inspection if a correction notice is issued.
- If further re-inspections are required the fee is \$120 per hour.
- Continued failure to correct any noticed violations will be dealt with through administrative civil penalties found under Title 4 of the SCMC.

Cost Examples:

1 single family rental home or condo –

Yearly cost - \$45 plus \$20 = \$65 (Monthly cost - \$5.42)

3 single family rental homes -

Yearly cost under Self-Certification - \$135 (\$45 per property x 3) plus \$20 x 1 unit = \$155
(Monthly cost per unit - \$4.30)

Yearly cost for non-Self-Certification - \$135 (\$45 per property x 3) plus \$20 x 3 units = \$195
(Monthly cost per unit - \$5.42)

Fourplex –

Yearly cost under Self-Certification - \$45 plus \$20 x 1 unit = \$65 (Monthly cost per unit - \$1.35)

Yearly cost for non-Self-Certification - \$45 plus \$20 x 4 units = \$125 (Monthly cost per unit - \$2.60)

15 unit apartment building –

Yearly Cost under Self-Certification - \$45 plus \$20 x 3 units = \$105 (Monthly cost per unit - \$0.58)

Yearly Cost for non-Self-Certification - \$45 plus \$20 x 15 units = \$345 (Monthly cost per unit - \$1.91)

40 unit rented condos (under single ownership) –

Yearly cost under Self-Certification - \$45 plus \$20 x 8 units = \$205 (Monthly cost per unit – \$.43)

Yearly cost for non-Self-Certification - \$45 plus \$20 x 40 units = \$845 (Monthly cost per unit - \$1.76)

240 apartment units

Yearly cost under Self-Certification - \$45 plus \$20 x 48 unit = \$1005 (Monthly cost per unit - \$.35)

Yearly cost for non-Self-Certification - \$45 plus \$20 x 240 units = \$4845 (Monthly cost per unit - \$1.68)

As the above numbers indicate the monthly cost per unit is not excessive especially if an owner was in the self-certification program. Many cities throughout California have rental inspections programs with no sign of excessive rent increases and loss of property values. Some cities such as Pasadena and Santa Ana have had inspection programs for 20 years and the programs have been a success for tenants and property owners.

To help the program have a successful start and deal with some of the concerns of property owners, during the first three (3) years of the Residential Rental Inspection Program compliance inspections by City rental inspectors will be conducted only on residential rental dwelling units which are in violation of building, housing or sanitation codes or ordinances or on residential rental dwelling units requested for inspection by the owner. During this three (3) year initial phase of the Program all other provisions of the ordinance, including but not limited to registration requirements, Program fees, self-certification procedures will be in effect. No inspections of self-certified units would begin until 2014 unless complaints were received about the property or units. The hope with this three (3) year Program initial phase roll out is to develop a complete and accurate data base of the relevant rental properties in the City and focus on the properties that do not qualify for self-certification and that currently are known problem properties.

CONCLUSION: The proposed ordinance takes the City of Santa Cruz to the next level of protection and promotion of public health, safety and welfare. A well run program will enable the City to maintain safe housing stock and increase the quality of life in neighborhoods and the community.

ENVIRONMENTAL REVIEW: The proposed ordinance has been determined to be exempt from the California Environmental Quality Act (CEQA) in that the activity is covered under the general rule that CEQA applies only to projects, which have the potential for causing significant effect on the environment. The ordinance is consistent with and serves to implement a goal of the Housing Element of the City's General Plan. In fact, the ordinance strengthens current provisions of the Municipal Code relating to code enforcement and housing and provide better protection to the citizens of the City of Santa Cruz. Where it can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment, the activity is exempt from CEQA per Section 15061 (b)(3). Additionally, establishing fees for the purposes of meeting operating expenses by a public agency is statutorily exempt per CEQA Section 15273. And inspections activities are categorically exempt from CEQA per Section 15309.

FISCAL IMPACT: Staffing of this ordinance will require two full time inspectors and one full time administrative assistant, as well as supervisory support and support from staff from other departments (such as Finance and Fire). The direct staffing and operating costs are expected to be approximately \$322,000. This expenditure breakdown is follows:

Two building inspectors or code enforcement specialists =	\$200,000
One Administrative Assistant =	\$64,000
Capital outlay =	<u>\$58,000</u>
Expenditure Total =	\$322,000

As part of the UCSC/City agreement both parties agreed to jointly and equally fund the Program through the first three (3) years. After that period of time the joint funding would be subject to further discussion. Both the City and UCSC have included their share of the above expenditures in their FY 2011-12 budgets. The estimated annual revenue from the program with the \$45 registration fee per property and \$20 per unit for both annual registration and self-certification would be approximately \$327,000. Depending upon capital outlay after the first year the program may be very close to being self-supporting. Staff will monitor the revenues and expenditures to be sure the program is self-supporting and the fees are appropriate.

Prepared by:
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Submitted by:
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Planning Director

Approved by:
Richard C. Wilson
City Manager

ATTACHMENTS:
Draft Rental Inspection Ordinance
Sample inspection checklist



City of Santa Cruz

DRAFT

**RESIDENTIAL RENTAL DWELLING UNIT INSPECTION MAINTENANCE PROGRAM
INSPECTION CHECKLIST**

Planning and Community Development Department
831-420-5100

***Exterior Inspection – PART I: Unit Identification** (Print legibly)

Property Name: _____

Property Address: _____

Check the box next to each item ONLY if the item is found to be in compliance

<i>Exterior Checklist</i>	<i>Comments</i>
<input type="checkbox"/> <u>Legible and Visible address number and unit identification</u> (Minimum 4 in. high – numbers and letters)	
<input type="checkbox"/> <u>Storage of Junk and rubbish and/or overgrown vegetation</u> (Household trash, tires, scrap wood, scrap metal, other items not intended for outdoor use – Property must be clear from any overgrown vegetation and/or weeds)	
<input type="checkbox"/> <u>Dumpsters</u> (Must be properly enclosed and free from trash overflow)	
<input type="checkbox"/> <u>Inoperable/Unregistered Vehicles</u> (Inoperable vehicles must be stored within a fully enclosed structure)	
<input type="checkbox"/> <u>Foundation Vent Screens/Crawl Space Covers</u> (Spaces must be properly covered. Screens must be in good working condition)	
<input type="checkbox"/> <u>Roof/Ceiling</u> (Must be free from any holes, leaks, etc.)	
<input type="checkbox"/> <u>Stairways – Landings/treads/risers/balusters</u> (Must not be rotting, deteriorating, loose, etc.)	
<input type="checkbox"/> <u>Fire Extinguishers – Multi-Family Only</u> (Must be properly serviced, labeled, and stored – minimum size 2A10-BC)	
<input type="checkbox"/> <u>Fire Sprinkler System</u> (Inspection required every 5 years – certification provided)	
<input type="checkbox"/> <u>Exterior Lighting</u> (Must function properly and must have cover/no exposed wiring)	
<input type="checkbox"/> <u>Infestation of vectors or rodents</u> (Property must be clear of all vector or rodent infestations)	
<input type="checkbox"/> <u>Electrical/Gas Meters – Multi-Family Only</u> (Must have proper labeling, be properly protected, and must not be tampered with. Utilities in an exterior closet or room may require signage)	
<input type="checkbox"/> <u>Electrical Panel</u> (Must have a panel cover and be labeled with appropriate identification)	
<input type="checkbox"/> <u>Exterior Walkways/Exit Passageways/Common Areas</u> (Must remain clear at all times and in a safe and sanitary condition)	
<input type="checkbox"/> <u>Water Heaters</u> (Must have proper strapping, proper drain lines, venting, and a finalized building permit)	
<input type="checkbox"/> <u>Existing Fire Lanes clearly marked</u> (Signage or paint or both needed)	

* **Zoning Code issues may be identified during the inspection**

I certify that I have inspected the aforementioned unit and that the information above is true and correct to the best of my knowledge. (Please provide a copy of this form to the tenant and keep a copy for your files.)

Name (Please print): _____ Signature: _____

Relationship to the Property: _____

Phone Number: _____ Date: _____



***Interior Inspection – PART II: Unit Identification** (Print legibly)

Property Name:	
Property Address:	Unit Number:
Tenant Name:	Phone Number:

Check the box next to each item ONLY if the item is found to be in compliance

<i>Interior Checklist</i>	<i>Comments</i>
<input type="checkbox"/> Hot/Cold Running Water (Unit must have hot and cold running water)	
<input type="checkbox"/> Electrical Power (Unit must have electrical power)	
<input type="checkbox"/> Heat (Unit must have a functioning adequate heating source – This excludes portable heating units)	
<input type="checkbox"/> Sewage System (Unit must have a proper sewage system and must be clear of any surfacing sewage indoors or outdoors)	
<input type="checkbox"/> Entry Doors (Must be in good condition – Locks on doors must not exceed 48” in height, unless otherwise allowed. There must not be any double key locks on any doors throughout the unit)	
<input type="checkbox"/> Exits (One door per unit or window per room)	
<input type="checkbox"/> Vector Infestation or Rodent Harborage (Unit must be clear of any infestations)	
<input type="checkbox"/> Smoke Detectors (Must be working and located in hallways leading to rooms used for sleeping or installed and maintained in compliance with Code in effect at time of installation)	
<input type="checkbox"/> Mechanical (All mechanical equipment in the unit must properly function including: appliances, venting systems, thermostats, smoke detectors, air conditioning unit – if provided, etc.)	
<input type="checkbox"/> Electrical (All wiring must be in good working condition – no spliced wiring, no exposed wiring, and all outlets and switch plates must have appropriate coverings/GFCI in bath and kitchen)	
<input type="checkbox"/> Plumbing (Unit must have proper plumbing throughout unit – no leaks, must have P-traps, must have proper caulking, toilets must be secured to ground and sinks must be secured to walls, etc.)	
<input type="checkbox"/> Counter and Sink Surfaces (Are required)	
<input type="checkbox"/> Windows (All windows must have proper weather protection, be in good condition, have proper locking mechanisms and properly function without use of key or special knowledge* - this includes window bars and screens)	
<input type="checkbox"/> Flooring (Floors must be in good condition, free from holes, missing pieces)	
<input type="checkbox"/> Foundation/Sub-flooring (Must be in good condition, must not be buckling or sagging)	
<input type="checkbox"/> Walls (Walls must be clear of holes, missing sections, etc.)	
<input type="checkbox"/> Roof/Ceiling (Must be free from holes and in good repair, must not be collapsing, buckling or sagging)	

* Zoning Code issues may be identified during the inspection

ORDINANCE NO. 2010-

AN ORDINANCE OF THE CITY OF SANTA CRUZ AMENDING TITLE 21,
ADDING CHAPTER 21.06 TO THE SANTA CRUZ MUNICIPAL CODE
PERTAINING TO REGULATION OF RESIDENTIAL RENTAL INSPECTION AND
MAINTENANCE PROGRAM, AND REPEALING CHAPTER 21.01.020

BE IT ORDAINED By The City Of Santa Cruz As Follows:

Section 1: Chapter 21.06 is hereby added to the Santa Cruz Municipal Code to read as follows:

Chapter 21.06
Residential Rental Dwelling Unit Inspection and Maintenance Program

Sections:

- 21.06.010 Findings and Purpose.
- 21.06.020 Definitions.
- 21.06.030 Scope.
- 21.06.040 Residential Rental Dwelling Unit Inspection Program Registration.
- 21.06.050 Residential Rental Dwelling Unit Inspection Program Initial Phase.
- 21.06.060 Residential Rental Dwelling Unit Inspection Program Fees.
- 21.06.070 Inspections.
- 21.06.080 Self-Certification Program.
- 21.06.090 Refusal to Permit Inspection.
- 21.06.100 Retaliatory Eviction.
- 21.06.110 Change of Ownership.
- ~~21.06.120 Public Nuisance.~~
- 21.06.120 Regulations Nonexclusive.
- 21.06.130 Appeals.
- 21.06.140 Conflicts.

21.06.010 Findings and Purpose. The City Council finds and declares that there exist in the City substandard, over-crowded and/or unsanitary residential rental buildings and dwelling units, the physical conditions and characteristics of which violate state and local building, housing and sanitation codes and ordinances and render them unfit or unsafe for human occupancy and habitation. These residential rental buildings and units are detrimental to or jeopardize the health, safety, and welfare of their occupants and of the public and serve to seriously compromise the integrity and residential quality of City neighborhoods through such factors as deferred property maintenance, overcrowding, a proliferation of vehicles attributable to the multiple tenants who rent these properties and the accumulation of excess trash and debris on or about the properties. It has been observed by City staff performing code enforcement functions that in general the most egregious violations of health and safety codes and negative impacts as a result of overcrowding are experienced in rental housing.

The City Council further finds and declares that the existence of such substandard residential rental buildings and dwelling units threatens the social stability and economic integrity of the neighborhoods which host these buildings; necessitates disproportionate expenditures of public funds for code enforcement and remedial action; impairs the efficient and economical exercise of governmental powers and functions; and disrupts peaceful and quiet enjoyment of residential areas and neighborhoods.

The City Council further finds and declares the desire to safeguard the stock of decent, safe and sanitary rental housing in the City through a partnership of owners, tenants, the City and the community. The Santa Cruz Housing Element calls for consideration of a self-funding, pro-active inspection program for rental units.

The rental inspection program required by this chapter is intended to address the conditions described in the first paragraph of this section. The purpose of this chapter is to proactively identify such substandard and unsafe residential buildings and dwelling units and to ensure the rehabilitation or elimination of those buildings and dwelling units that do not meet minimum building code and housing code standards, or are not safe to occupy or do not comply with zoning codes. It is intended that structures will be required to be maintained in a safe and sanitary condition at the level consistent with the codes of the period in which they were constructed. However, unpermitted additions and alterations must ~~coincide~~ comply with current codes adopted by the City of Santa Cruz unless otherwise allowed by the Historic Building Code. This chapter is further intended to preserve and enhance the quality of life for residents living in such rental buildings and dwelling units and the neighborhoods which host these structures.

21.06.020 Definitions.

As used in this chapter, the following terms and phrases are defined as follows:

A. "Building, housing and sanitation codes or ordinances" shall refer to: the current adopted codes specified in Title 18 of the Santa Cruz Municipal Code, the California Fire Code and International Fire Code, all as modified, adopted and codified in the Santa Cruz Municipal Code. The phrase "building, housing and sanitation codes or ordinances" shall also refer to the City of Santa Cruz Zoning Ordinance as codified at Title 24 of the Santa Cruz Municipal Code, the City of Santa Cruz Subdivision Ordinance as codified at Title 23 of the Santa Cruz Municipal Code, and all provisions of California statutory law and the Santa Cruz Municipal Code pertaining to property-related sanitation, health, safety and nuisance, as well as state regulations promulgated pursuant to California statutory law, for which the City has enforcement authority.

B. "Director" shall refer to the City's Director of Planning and Community Development.

C. "Owner" shall mean any person who owns one (1) or more residential rental dwelling units.

D. "Person" means and includes any individual, partnership of any kind, corporation, limited liability company, association, joint venture or other organization or entity, however formed, as well as trustees, heirs, executors, administrators, or assigns, or any combination of such persons. The terms "person", "owner", "operator," and "landlord" may herein be used interchangeably.

E. "Residential Rental Dwelling Unit" shall mean a building or portion of a building that is rented or leased to tenants for residential purposes on a non-transient basis (when one or more tenants reside on the property or rents or leases the property for thirty consecutive days or longer) and which is owned in whole or in part by a landlord. This shall include but not be limited to single family residences, duplexes, triplexes, apartment houses, townhouse dwellings, condominiums, boarding houses, lodging houses, rooming houses, single room occupancy units, small ownership units, hotel and motel units, sober living facilities, fraternities, sororities, and dormitories in the City of Santa Cruz.

21.06.030 Scope.

A. The provisions of this Chapter shall apply to all owners of one (1) or more residential rental dwelling units located within the City of Santa Cruz.

B. The provisions of this Chapter shall not apply to: legal accessory dwelling units; rooms rented to single individuals in an owner-occupied single family residence; hotel or motel units subject to the transient occupancy tax ordinance codified at Chapter 3.28 of this Code; units inspected by another governmental authority for housing and safety standards; newly constructed multiple dwelling units (including townhouse dwelling groups and condominiums projects that are rented) for a period of five (5) years from the issuance of Certificate of Occupancy; and mobile home parks.

21.06.040 Residential Rental Dwelling Unit Inspection Program Registration.

A. Each owner or operator, on behalf of the owner, shall initially register for the residential rental dwelling unit inspection program on a form provided by the City's Planning and Community Development Department. Initial registration of residential rental dwelling units which are subject to this Chapter shall be due within sixty (60) days of January 1, 2011. Registration of residential rental dwelling units which become subject to this Chapter after the effective date of this Chapter shall be due within sixty (60) days of the date that the residential rental dwelling unit was acquired or converted into a residential rental dwelling unit after January 1, 2011.

B. All registrations shall be subject to verification by the Director. All information on said registrations shall be submitted under penalty of perjury. Any person who makes a false statement in the registration or submits false information in connection with a registration shall be guilty of an infraction.

C. Each owner or operator, on behalf of the owner, may apply for the Residential Rental Dwelling Unit Inspection and Maintenance Self-Certification Program (“Self-Certification Program”) on a form provided by the City’s Planning and Community Development Department.

21.06.050 Residential Rental Dwelling Unit Inspection Program Initial Phase. During the first three (3) years of the Residential Rental Dwelling Unit Inspection Program compliance inspections by City inspectors will be conducted only on residential rental dwelling units which are in violation of any building, housing or sanitation codes or ordinances consistent with Section 21.06.030 above, or on residential rental dwelling units requested for inspection by the owner. During this three (3) year Program Initial Phase all other provisions of this Chapter, including but not limited to registration requirements, Program fees, Self-Certification procedures will be in effect.

21.06.060 Residential Rental Dwelling Unit Inspection Program Fees.

A. Each annual registration for the residential rental dwelling unit inspection program shall be accompanied by a non-refundable fee in the amount established by resolution of the City Council. The fee shall be used to defray the costs of the administration and enforcement of this Chapter.

B. If a residential rental dwelling unit is approved in the Self-Certification Program an annual ~~non-refundable~~ self-certification fee in the amount established by resolution of the City Council will be required. The fee shall be used to defray the costs of the administration and enforcement of the Program. If a residential rental dwelling unit is not approved in the Self-Certification Program an annual ~~non-refundable~~ inspection fee for an annual inspection in the amount established by resolution of the City Council will be required. The annual inspection fee includes the cost of the annual inspection and one compliance reinspection, if necessary. If the owner fails to correct any found violations by the first compliance reinspection, the owner shall pay a reinspection fee for the second and subsequent compliance reinspections in the amount established by resolution of the City Council. All fees are non-refundable.

C. The annual residential rental dwelling unit program fee shall be levied for the calendar year and each applicant must pay the full fee for the calendar year upon submission of the application for that year’s residential rental dwelling unit registration. For residential rental dwelling units which become subject to this Chapter after July 1 of the calendar year, program fees shall be reduced by one-half.

D. The residential rental dwelling unit program fee required by this Chapter is in addition to and not in lieu of any general business license tax that might be required by Chapter 5.04 of this Code.

E. Penalty.

1. Failure to Pay Annual Fee. In addition to any remedies the City may elect to pursue pursuant to Title 4 of this Code, for failure to pay the annual residential rental dwelling unit program fee when due, the Director of Finance shall add a penalty of twenty (20) percent of the permit fee on the first day of the month following the due date and ten (10) percent for each month thereafter while the fee remains unpaid, provided that the amount of the penalty shall not exceed fifty (50) percent of the amount of the fee due.

2. Failure to Register. If an owner fails to register for the residential rental dwelling unit inspection program as required by this Chapter the fee due shall be that amount due and payable from the first date when the person engaged in the residential rental business in the City after the effective date of this Chapter, together with the penalty prescribed in subsection (D)(1).

21.06.070 Inspections.

A. In accordance with the requirements of this Section the City shall be authorized to periodically conduct an inspection of residential rental dwelling units to assure compliance with all applicable building, housing and sanitation codes and ordinances. Owners shall provide access to all required areas of a residential rental property for inspection within twenty-one (21) calendar days of an inspection request from the City's Planning and Community Development Department. This time period may be extended upon the approval of the Director or his or her designee. If the residential rental dwelling unit is legally occupied by a tenant or other occupant, the owner shall notify the tenant or occupant and request that the tenant or occupant allow the inspection. The owner shall not be in violation of this Section if the tenant or occupant refuses to allow the inspection.

B. Frequency of Inspections.

1. Initial Inspections.

a. It is the intent of the City that all residential rental dwelling units subject to this Chapter as of the effective date of this Chapter and not eligible for the Self-Certification Program will receive an annual inspection, subject to the twenty-one (21) day notice required by subsection A., commencing the first year of program after January 1, 2011.

b. Well-maintained properties eligible to participate in the Self-Certification Program will have reduced inspections as outlined in Section 21.06.080 for a period of five (5) years as long as the residential rental dwelling units' condition do not deteriorate during that time to the extent that the property would no longer meet the Self-Certification eligibility standards.

c. Any residential rental dwelling unit which becomes subject to this Chapter after January 1, 2011 shall receive an inspection within ninety (90) days of the date of registration, if not eligible for Self-Certification Program.

2. Subsequent Inspections.

a. If during the inspection or any subsequent inspection there are building, housing or sanitation code or ordinance violations, or permit violations, on the property which prevent the City inspector from issuing a rental housing inspection certification one or more reinspections of the property may be required before a rental housing inspection certification is issued.

C. Code Enforcement. When during an inspection a building, housing or sanitation code or ordinance violation is noted, as a courtesy prior to undertaking formal code enforcement action, the City inspector shall document the violation, advise the owner or operator of the violation and of the action which must be undertaken and completed in order to remedy the violation and schedule a re-inspection to verify correction of the violation. If upon re-inspection the violation has not been corrected, the City inspector may report the violation for code enforcement pursuant to Title 4 of this Code. If upon receipt of the courtesy notice from the City inspector, the owner or operator advises that he or she will not proceed to correct the violation, the violation shall then be immediately reported for code enforcement.

D. Rental Housing Inspection Certification. Upon the successful completion of an inspection, subsequent inspection or re-inspection of the residential rental dwelling unit establishing that the property and its occupancy are in compliance with all applicable building, housing and sanitation code or ordinance requirements, the City shall issue to the owner or operator a rental housing inspection certification verifying code/ordinance compliance and specifying ~~the~~ a one or, for properties which qualify for the Self-Certification Program, a five year time period during which the certification will remain valid and during which the residential rental dwelling unit shall not be subject to a subsequent inspection. Notwithstanding the foregoing a rental housing inspection certification shall not preclude code enforcement or investigation on the property if during the rental housing inspection certification period a code violation on the property is reported to the City or otherwise observed by the City on the property.

21.06.080 Self-Certification Program

A. Well-maintained properties with no existing violations of building, housing and sanitation codes or ordinances or no past violations of building, housing and sanitation codes or ordinances within the past three (3) year period may qualify to participate in the Residential Rental Dwelling Unit Inspection and Maintenance Self-Certification Program (“Self-Certification Program”).

B. For qualifying participants, the number of inspections will be limited to twenty (20) percent of the total units on each property or limited to an inspection of one-

unit total in residential rental dwelling units consisting of three (3) units, including multiple single family dwellings at separate locations, ~~for a period~~ not more often than once every of five (5) years, provided the residential rental dwelling units' conditions do not deteriorate during that time to the extent that the property would no longer meet the property eligibility standards. If violations are found, more or all of the owner's units may be inspected. The owner shall be required to pay an annual non-refundable Self-Certification Fee and conduct an annual self-inspection of each residential rental dwelling unit as discussed below.

C. Upon receipt of the request to participate in the Self-Certification Program, the Director shall determine if the residential rental dwelling units have not had any code violations over the past three (3) years. If the application qualifies the owner or operator, on behalf of the owner, shall pay the Self-Certification Program annual non-refundable fee and the Director shall schedule the reduced inspections as outlined in B. above for the next five (5) years.

D. In order to maintain eligibility in the Self-Certification Program, the owner or operator, on behalf of the owner, shall conduct an annual self-inspection of all the residential rental dwelling units, including exterior conditions and site conditions, and certify under penalty of perjury that the conditions at the property achieve the minimum standards listed on the Self-Certification Program Checklist. All information on said Self-Certification Checklist shall be submitted under penalty of perjury. Any person who makes a false statement in the Self-Certification Checklist or submits false information in connection with a Self-Certification Checklist shall be guilty of an infraction. The owner shall not be in violation of this section if the tenant or occupant refuses to allow the Self-Certification inspection by the owner. The owner shall provide the City a signed statement from the tenant/occupant that the inspection was refused. If the tenant refuses to sign the statement, the owner shall provide proof, under penalty of perjury, that a request to inspect was served and it was not permitted by the tenant.

E. If the Director determines that a residential rental dwelling unit is not eligible to participate in the Self-Certification Program, then all the residential rental dwelling units on a same property shall be inspected and the owner shall be assessed the full annual inspection fee established by resolution of the City Council.

F. Each owner or operator, on behalf of the owner, shall be required to maintain a copy of the annual signed and dated Self-Certification Program Checklist for each unit for the five (5) year period and provide said list within seventy-two (72) hours upon request of the Director or his/her designee. Failure to maintain complete signed checklists may result in disqualification from the Self-Certification Program for all rental properties of that owner for a period of up to three (3) years. A copy of the annual signed and dated Self-Certification Program Checklist shall also be provided to the tenant(s) of each residential rental dwelling unit inspected ~~at the time of submittal to the City of the Self-Certification Program Checklist~~ within five (5) working days upon request of the tenant(s).

G. Nothing in the Self-Certification Program shall be construed or interpreted as limiting the City's authority to investigate and compel the abatement of any building, housing and sanitation codes or ordinance violations.

H. Any property that participates in the Self-Certification Program may be removed from the program for three (3) years, at any time if that property fails to meet all of the interior and exterior standards designated on the Self-Certification Program Checklist or fails to meet building, housing and sanitation codes or ordinances as defined in this Chapter. Each owner or operator, on behalf of the owner, will be given reasonable time by the Director to correct the violations and remain in the Self-Certification Program. This time period could be 30 to 90 days, however for immediate life safety violations the time lines will be less to address the urgency of the situation. Upon removal from the program, the difference between the Self-Certification Program fee and full annual program fee shall be due and payable.

21.06.090 Refusal to Permit Inspection.

A. If an inspection is scheduled and entry is thereafter refused or cannot be obtained, the inspector shall have recourse to every remedy provided by law to secure lawful entry and inspect the premises, including but not limited to securing an inspection warrant pursuant to California Code of Civil Procedure Sections 1822.50 through 1822.57. The inspector shall provide notice that a warrant has been issued to both the owner/operator and the tenant or occupant at least twenty-four (24) hours before the warrant is executed, unless the judge finds that immediate execution is reasonably necessary under the circumstances shown.

B. Notwithstanding the foregoing, if the inspector has reasonable cause to believe that the residential rental dwelling unit is so hazardous, unsafe or dangerous as to require immediate inspection to safeguard the public health or safety, the inspector shall have the right to immediately enter and inspect the premises and may use any reasonable means required to effect the entry and make an inspection.

21.06.100 Retaliatory Eviction. It shall be unlawful for a landlord to recover possession of a residential rental dwelling unit in retaliation against a tenant for exercising his or her right to file a complaint with the City advising that a building, housing or sanitation code or ordinance violation or permit violation may exist on the property.

21.06.110 Change of Ownership. When ownership of a residential rental dwelling unit changes, either the prior owner shall notify the Director of this event prior to the consummation of the sale or recordation of an instrument of conveyance with the Santa Cruz County Recorder's office or the new owner within sixty (60) days after consummation of the sale or recordation of an instrument of conveyance with the Santa Cruz County Recorder's office. If the Director is not so notified, the existing rental housing inspection certification for the residential rental dwelling unit shall automatically terminate and be null and void. The new owner will not have to pay the program fees

until the following calendar year provided all fees were paid by for the residential rental dwelling unit.

~~**21.06.120 Public Nuisance.** Any residential rental dwelling unit operated, conducted, or maintained in violation of the provisions, requirements, and regulations of any building, housing or sanitation codes or ordinances, or any permit conditions, shall be, and the same is hereby declared to be harmful to the public health and safety, unlawful and a public nuisance. The City may, in addition to or in lieu of prosecuting a criminal action, commence an action or proceeding for the abatement, removal, and enjoinder thereof, in the manner provided by law, and may take such other steps to obtain the relief necessary to abate or remove such violations and restrain and enjoin any person from operating, conducting, or maintaining a residential rental property contrary to the provisions, requirements, or regulations of said building, housing or sanitation codes or ordinances, or permit conditions. The remedies prescribed herein are in addition to, not in lieu of, any other remedies provided for in state or federal law or in this Code including, but not limited to, Title 4 of this Code.~~

21.06.120 Regulations Nonexclusive. The provisions of this Chapter regulating residential rental dwelling unit are not intended to be exclusive and compliance with this Chapter shall not excuse noncompliance with any other applicable provision, requirement, or regulation of this Code or any applicable state and federal law. Nothing in this Chapter shall limit or preclude inspection conducted by the Fire Department inspectors for compliance with Fire Codes.

21.06.130 Appeals.

A. Any appeal of a decision by a City inspector or other City official that a residential rental dwelling unit is in violation of a building, housing or sanitation codes or ordinances is appealable pursuant to the procedures set forth in this subsection. The appeal must be in writing and filed within ten (10) calendar days from the date of the decision with the appeal fee established by resolution of the City Council. The appeal shall specifically identify the decision which is the subject of that appeal and the reasons why, in the appellant's opinion, the decision is clearly erroneous. Failure of the Director to receive a timely notice of appeal constitutes a waiver of the right to contest any such decision. In this event, the decision is final and binding. Appeals under this subsection shall be heard as follows:

1. The hearing shall be conducted by an Administrative Hearing Officer in accordance with the procedures outlined in Chapter 4.20 and 4.22 of this Code. The Hearing Officer shall consider all relevant evidence including, but not limited to, applicable staff reports, and objections or protests relative to the decision. ~~The appellant shall be burdened to demonstrate that the decision was clearly erroneous.~~

2. Upon the conclusion of the hearing, the Hearing Officer shall, on the basis of the evidence presented at the hearing, determine whether the decision should be

Mayor

ATTEST: _____
City Clerk

PASSED FOR FINAL ADOPTION this day of , 2010 by the
following vote:

AYES: Councilmember:

NOES: Councilmember:

ABSENT: Councilmember:

DISQUALIFIED: Councilmember:

APPROVED: _____
Mayor

ATTEST: _____
City Clerk

This is to certify that the above
and foregoing document is the
original of Ordinance No. 2010-_____
and that it has been published or
posted in accordance with the
Charter of the City of Santa Cruz.

City Clerk

ORDINANCE NO. 2010-

AN ORDINANCE OF THE CITY OF SANTA CRUZ
AMENDING TITLE 21, ADDING CHAPTER 21.06 TO THE SANTA CRUZ MUNICIPAL
CODE PERTAINING TO REGULATION OF RESIDENTIAL RENTAL INSPECTION AND
MAINTENANCE PROGRAM, AND REPEALING CHAPTER 21.01.020

BE IT ORDAINED By The City Of Santa Cruz As Follows:

Section 1: Chapter 21.06 is hereby added to the Santa Cruz Municipal Code to read as follows:

Chapter 21.06
Residential Rental Dwelling Unit Inspection and Maintenance Program

Sections:

- 21.06.010 Findings and Purpose.
- 21.06.020 Definitions.
- 21.06.030 Scope.
- 21.06.040 Residential Rental Dwelling Unit Inspection Program Registration.
- 21.06.050 Residential Rental Dwelling Unit Inspection Program Initial Phase.
- 21.06.060 Residential Rental Dwelling Unit Inspection Program Fees.
- 21.06.070 Inspections.
- 21.06.080 Self-Certification Program.
- 21.06.090 Refusal to Permit Inspection.
- 21.06.100 Retaliatory Eviction.
- 21.06.110 Change of Ownership.
- 21.06.120 Regulations Nonexclusive.
- 21.06.130 Appeals.
- 21.06.140 Conflicts.

21.06.010 Findings and Purpose. The City Council finds and declares that there exist in the City substandard, over-crowded and/or unsanitary residential rental buildings and dwelling units, the physical conditions and characteristics of which violate state and local building, housing and sanitation codes and ordinances and render them unfit or unsafe for human occupancy and habitation. These residential rental buildings and units are detrimental to or jeopardize the health, safety, and welfare of their occupants and of the public and serve to seriously compromise the integrity and residential quality of City neighborhoods through such factors as deferred property maintenance, overcrowding, a proliferation of vehicles attributable to the multiple tenants who rent these properties and the accumulation of excess trash and debris on or about the properties. It has been observed by City staff performing code enforcement functions that in general the most egregious violations of health and safety codes and negative impacts as a result of overcrowding are experienced in rental housing.

The City Council further finds and declares that the existence of such substandard residential rental buildings and dwelling units threatens the social stability and economic integrity of the neighborhoods which host these buildings; necessitates disproportionate expenditures of public funds for code enforcement and remedial action; impairs the efficient and economical exercise of

governmental powers and functions; and disrupts peaceful and quiet enjoyment of residential areas and neighborhoods.

The City Council further finds and declares the desire to safeguard the stock of decent, safe and sanitary rental housing in the City through a partnership of owners, tenants, the City and the community. The Santa Cruz Housing Element calls for consideration of a self-funding, proactive inspection program for rental units.

The rental inspection program required by this chapter is intended to address the conditions described in the first paragraph of this section. The purpose of this chapter is to proactively identify such substandard and unsafe residential buildings and dwelling units and to ensure the rehabilitation or elimination of those buildings and dwelling units that do not meet minimum building code and housing code standards, or are not safe to occupy or do not comply with zoning codes. It is intended that structures will be required to be maintained in a safe and sanitary condition at the level consistent with the codes of the period in which they were constructed. However, unpermitted additions and alterations must comply with current codes adopted by the City of Santa Cruz unless otherwise allowed by the Historic Building Code. This chapter is further intended to preserve and enhance the quality of life for residents living in such rental buildings and dwelling units and the neighborhoods which host these structures.

21.06.020 Definitions.

As used in this chapter, the following terms and phrases are defined as follows:

A. "Building, housing and sanitation codes or ordinances" shall refer to: the current adopted codes specified in Title 18 of the Santa Cruz Municipal Code, the California Fire Code and International Fire Code, all as modified, adopted and codified in the Santa Cruz Municipal Code. The phrase "building, housing and sanitation codes or ordinances" shall also refer to the City of Santa Cruz Zoning Ordinance as codified at Title 24 of the Santa Cruz Municipal Code, the City of Santa Cruz Subdivision Ordinance as codified at Title 23 of the Santa Cruz Municipal Code, and all provisions of California statutory law and the Santa Cruz Municipal Code pertaining to property-related sanitation, health, safety and nuisance, as well as state regulations promulgated pursuant to California statutory law, for which the City has enforcement authority.

B. "Director" shall refer to the City's Director of Planning and Community Development.

C. "Owner" shall mean any person who owns one (1) or more residential rental dwelling units.

D. "Person" means and includes any individual, partnership of any kind, corporation, limited liability company, association, joint venture or other organization or entity, however formed, as well as trustees, heirs, executors, administrators, or assigns, or any combination of such persons. The terms "person", "owner", "operator," and "landlord" may herein be used interchangeably.

E. "Residential Rental Dwelling Unit" shall mean a building or portion of a building that is rented or leased to tenants for residential purposes on a non-transient basis (when one or more tenants reside on the property or rents or leases the property for thirty consecutive days or

longer) and which is owned in whole or in part by a landlord. This shall include but not be limited to single family residences, duplexes, triplexes, apartment houses, townhouse dwellings, condominiums, boarding houses, lodging houses, rooming houses, single room occupancy units, small ownership units, hotel and motel units, sober living facilities, fraternities, sororities, and dormitories in the City of Santa Cruz.

21.06.030 Scope.

A. The provisions of this Chapter shall apply to all owners of one (1) or more residential rental dwelling units located within the City of Santa Cruz.

B. The provisions of this Chapter shall not apply to: legal accessory dwelling units; rooms rented to single individuals in an owner-occupied single family residence; hotel or motel units subject to the transient occupancy tax ordinance codified at Chapter 3.28 of this Code; units inspected by another governmental authority for housing and safety standards; newly constructed multiple dwelling units (including townhouse dwelling groups and condominiums projects that are rented) for a period of five (5) years from the issuance of Certificate of Occupancy; and mobile home parks.

21.06.040 Residential Rental Dwelling Unit Inspection Program Registration.

A. Each owner or operator, on behalf of the owner, shall initially register for the residential rental dwelling unit inspection program on a form provided by the City's Planning and Community Development Department. Initial registration of residential rental dwelling units which are subject to this Chapter shall be due within sixty (60) days of January 1, 2011. Registration of residential rental dwelling units which become subject to this Chapter after the effective date of this Chapter shall be due within sixty (60) days of the date that the residential rental dwelling unit was acquired or converted into a residential rental dwelling unit after January 1, 2011.

B. All registrations shall be subject to verification by the Director. All information on said registrations shall be submitted under penalty of perjury. Any person who makes a false statement in the registration or submits false information in connection with a registration shall be guilty of an infraction.

C. Each owner or operator, on behalf of the owner, may apply for the Residential Rental Dwelling Unit Inspection and Maintenance Self-Certification Program ("Self-Certification Program") on a form provided by the City's Planning and Community Development Department.

21.06.050 Residential Rental Dwelling Unit Inspection Program Initial Phase. During the first three (3) years of the Residential Rental Dwelling Unit Inspection Program compliance inspections by City inspectors will be conducted only on residential rental dwelling units which are in violation of any building, housing or sanitation codes or ordinances consistent with Section 21.06.030 above, or on residential rental dwelling units requested for inspection by the owner. During this three (3) year Program Initial Phase all other provisions of this Chapter, including but not limited to registration requirements, Program fees, Self-Certification procedures will be in effect.

21.06.060 Residential Rental Dwelling Unit Inspection Program Fees.

A. Each annual registration for the residential rental dwelling unit inspection program shall be accompanied by a non-refundable fee in the amount established by resolution of the City Council. The fee shall be used to defray the costs of the administration and enforcement of this Chapter.

B. If a residential rental dwelling unit is approved in the Self-Certification Program an annual self-certification fee in the amount established by resolution of the City Council will be required. The fee shall be used to defray the costs of the administration and enforcement of the Program. If a residential rental dwelling unit is not approved in the Self-Certification Program an annual inspection fee for an annual inspection in the amount established by resolution of the City Council will be required. The annual inspection fee includes the cost of the annual inspection and one compliance reinspection, if necessary. If the owner fails to correct any found violations by the first compliance reinspection, the owner shall pay a reinspection fee for the second and subsequent compliance reinspections in the amount established by resolution of the City Council. All fees are non-refundable.

C. The annual residential rental dwelling unit program fee shall be levied for the calendar year and each applicant must pay the full fee for the calendar year upon submission of the application for that year's residential rental dwelling unit registration. For residential rental dwelling units which become subject to this Chapter after July 1 of the calendar year, program fees shall be reduced by one-half.

D. The residential rental dwelling unit program fee required by this Chapter is in addition to and not in lieu of any general business license tax that might be required by Chapter 5.04 of this Code.

E. Penalty.

1. Failure to Pay Annual Fee. In addition to any remedies the City may elect to pursue pursuant to Title 4 of this Code, for failure to pay the annual residential rental dwelling unit program fee when due, the Director of Finance shall add a penalty of twenty (20) percent of the permit fee on the first day of the month following the due date and ten (10) percent for each month thereafter while the fee remains unpaid, provided that the amount of the penalty shall not exceed fifty (50) percent of the amount of the fee due.

2. Failure to Register. If an owner fails to register for the residential rental dwelling unit inspection program as required by this Chapter the fee due shall be that amount due and payable from the first date when the person engaged in the residential rental business in the City after the effective date of this Chapter, together with the penalty prescribed in subsection (D)(1).

21.06.070 Inspections.

A. In accordance with the requirements of this Section the City shall be authorized to periodically conduct an inspection of residential rental dwelling units to assure compliance with all applicable building, housing and sanitation codes and ordinances. Owners shall provide

access to all required areas of a residential rental property for inspection within twenty-one (21) calendar days of an inspection request from the City's Planning and Community Development Department. This time period may be extended upon the approval of the Director or his or her designee. If the residential rental dwelling unit is legally occupied by a tenant or other occupant, the owner shall notify the tenant or occupant and request that the tenant or occupant allow the inspection. The owner shall not be in violation of this Section if the tenant or occupant refuses to allow the inspection.

B. Frequency of Inspections.

1. Initial Inspections.

a. It is the intent of the City that all residential rental dwelling units subject to this Chapter as of the effective date of this Chapter and not eligible for the Self-Certification Program will receive an annual inspection, subject to the twenty-one (21) day notice required by subsection A., commencing the first year of program after January 1, 2011.

b. Well-maintained properties eligible to participate in the Self-Certification Program will have reduced inspections as outlined in Section 21.06.080 for a period of five (5) years as long as the residential rental dwelling units' condition do not deteriorate during that time to the extent that the property would no longer meet the Self-Certification eligibility standards.

c. Any residential rental dwelling unit which becomes subject to this Chapter after January 1, 2011 shall receive an inspection within ninety (90) days of the date of registration, if not eligible for Self-Certification Program.

2. Subsequent Inspections.

a. If during the inspection or any subsequent inspection there are building, housing or sanitation code or ordinance violations, or permit violations, on the property which prevent the City inspector from issuing a rental housing inspection certification one or more reinspections of the property may be required before a rental housing inspection certification is issued.

C. Code Enforcement. When during an inspection a building, housing or sanitation code or ordinance violation is noted, as a courtesy prior to undertaking formal code enforcement action, the City inspector shall document the violation, advise the owner or operator of the violation and of the action which must be undertaken and completed in order to remedy the violation and schedule a re-inspection to verify correction of the violation. If upon re-inspection the violation has not been corrected, the City inspector may report the violation for code enforcement pursuant to Title 4 of this Code. If upon receipt of the courtesy notice from the City inspector, the owner or operator advises that he or she will not proceed to correct the violation, the violation shall then be immediately reported for code enforcement.

D. Rental Housing Inspection Certification. Upon the successful completion of an inspection, subsequent inspection or re-inspection of the residential rental dwelling unit establishing that the property and its occupancy are in compliance with all applicable building, housing and sanitation

code or ordinance requirements, the City shall issue to the owner or operator a rental housing inspection certification verifying code/ordinance compliance and specifying a one or, for properties which qualify for the Self-Certification Program, a five year time period during which the certification will remain valid and during which the residential rental dwelling unit shall not be subject to a subsequent inspection. Notwithstanding the foregoing a rental housing inspection certification shall not preclude code enforcement or investigation on the property if during the rental housing inspection certification period a code violation on the property is reported to the City or otherwise observed by the City on the property.

21.06.080 Self-Certification Program

A. Well-maintained properties with no existing violations of building, housing and sanitation codes or ordinances or no past violations of building, housing and sanitation codes or ordinances within the past three (3) year period may qualify to participate in the Residential Rental Dwelling Unit Inspection and Maintenance Self-Certification Program (“Self-Certification Program”).

B. For qualifying participants, the number of inspections will be limited to twenty (20) percent of the total units on each property or limited to an inspection of one-unit total in residential rental dwelling units consisting of three (3) units, including multiple single family dwellings at separate locations, not more often than once every of five (5) years, provided the residential rental dwelling units’ conditions do not deteriorate during that time to the extent that the property would no longer meet the property eligibility standards. If violations are found, more or all of the owner’s units may be inspected. The owner shall be required to pay an annual non-refundable Self-Certification Fee and conduct an annual self-inspection of each residential rental dwelling unit as discussed below.

C. Upon receipt of the request to participate in the Self-Certification Program, the Director shall determine if the residential rental dwelling units have not had any code violations over the past three (3) years. If the application qualifies the owner or operator, on behalf of the owner, shall pay the Self-Certification Program annual non-refundable fee and the Director shall schedule the reduced inspections as outlined in B. above for the next five (5) years.

D. In order to maintain eligibility in the Self-Certification Program, the owner or operator, on behalf of the owner, shall conduct an annual self-inspection of all the residential rental dwelling units, including exterior conditions and site conditions, and certify under penalty of perjury that the conditions at the property achieve the minimum standards listed on the Self-Certification Program Checklist. All information on said Self-Certification Checklist shall be submitted under penalty of perjury. Any person who makes a false statement in the Self-Certification Checklist or submits false information in connection with a Self-Certification Checklist shall be guilty of an infraction. The owner shall not be in violation of this section if the tenant or occupant refuses to allow the Self-Certification inspection by the owner. The owner shall provide the City a signed statement from the tenant/occupant that the inspection was refused. If the tenant refuses to sign the statement, the owner shall provide proof, under penalty of perjury, that a request to inspect was served and it was not permitted by the tenant.

E. If the Director determines that a residential rental dwelling unit is not eligible to participate in the Self-Certification Program, then all the residential rental dwelling units on a

same property shall be inspected and the owner shall be assessed the full annual inspection fee established by resolution of the City Council.

F. Each owner or operator, on behalf of the owner, shall be required to maintain a copy of the annual signed and dated Self-Certification Program Checklist for each unit for the five (5) year period and provide said list within seventy-two (72) hours upon request of the Director or his/her designee. Failure to maintain complete signed checklists may result in disqualification from the Self-Certification Program for all rental properties of that owner for a period of up to three (3) years. A copy of the annual signed and dated Self-Certification Program Checklist shall be provided to the tenant(s) of each residential rental dwelling unit inspected within five (5) working days upon request of the tenant(s).

G. Nothing in the Self-Certification Program shall be construed or interpreted as limiting the City's authority to investigate and compel the abatement of any building, housing and sanitation codes or ordinance violations.

H. Any property that participates in the Self-Certification Program may be removed from the program for three (3) years, at any time if that property fails to meet all of the interior and exterior standards designated on the Self-Certification Program Checklist or fails to meet building, housing and sanitation codes or ordinances as defined in this Chapter. Each owner or operator, on behalf of the owner, will be given reasonable time by the Director to correct the violations and remain in the Self-Certification Program. This time period could be 30 to 90 days, however for immediate life safety violations the time lines will be less to address the urgency of the situation. Upon removal from the program, the difference between the Self-Certification Program fee and full annual program fee shall be due and payable.

21.06.090 Refusal to Permit Inspection.

A. If an inspection is scheduled and entry is thereafter refused or cannot be obtained, the inspector shall have recourse to every remedy provided by law to secure lawful entry and inspect the premises, including but not limited to securing an inspection warrant pursuant to California Code of Civil Procedure Sections 1822.50 through 1822.57. The inspector shall provide notice that a warrant has been issued to both the owner/operator and the tenant or occupant at least twenty-four (24) hours before the warrant is executed, unless the judge finds that immediate execution is reasonably necessary under the circumstances shown.

B. Notwithstanding the foregoing, if the inspector has reasonable cause to believe that the residential rental dwelling unit is so hazardous, unsafe or dangerous as to require immediate inspection to safeguard the public health or safety, the inspector shall have the right to immediately enter and inspect the premises and may use any reasonable means required to effect the entry and make an inspection.

21.06.100 Retaliatory Eviction. It shall be unlawful for a landlord to recover possession of a residential rental dwelling unit in retaliation against a tenant for exercising his or her right to file a complaint with the City advising that a building, housing or sanitation code or ordinance violation or permit violation may exist on the property.

21.06.110 Change of Ownership. When ownership of a residential rental dwelling unit changes, either the prior owner shall notify the Director of this event prior to the consummation of the sale or recordation of an instrument of conveyance with the Santa Cruz County Recorder's office or the new owner within sixty (60) days after consummation of the sale or recordation of an instrument of conveyance with the Santa Cruz County Recorder's office. If the Director is not so notified, the existing rental housing inspection certification for the residential rental dwelling unit shall automatically terminate and be null and void. The new owner will not have to pay the program fees until the following calendar year provided all fees were paid by for the residential rental dwelling unit.

21.06.120 Regulations Nonexclusive. The provisions of this Chapter regulating residential rental dwelling unit are not intended to be exclusive and compliance with this Chapter shall not excuse noncompliance with any other applicable provision, requirement, or regulation of this Code or any applicable state and federal law. Nothing in this Chapter shall limit or preclude inspection conducted by the Fire Department inspectors for compliance with Fire Codes.

21.06.130 Appeals.

A. Any appeal of a decision by a City inspector or other City official that a residential rental dwelling unit is in violation of a building, housing or sanitation codes or ordinances is appealable pursuant to the procedures set forth in this subsection. The appeal must be in writing and filed within ten (10) calendar days from the date of the decision with the appeal fee established by resolution of the City Council. The appeal shall specifically identify the decision which is the subject of that appeal and the reasons why, in the appellant's opinion, the decision is clearly erroneous. Failure of the Director to receive a timely notice of appeal constitutes a waiver of the right to contest any such decision. In this event, the decision is final and binding. Appeals under this subsection shall be heard as follows:

1. The hearing shall be conducted by an Administrative Hearing Officer in accordance with the procedures outlined in Chapter 4.20 and 4.22 of this Code. The Hearing Officer shall consider all relevant evidence including, but not limited to, applicable staff reports, and objections or protests relative to the decision.

2. Upon the conclusion of the hearing, the Hearing Officer shall, on the basis of the evidence presented at the hearing, determine whether the decision should be upheld, or whether the decision was clearly erroneous and therefore should be modified or reversed. The determination of the Hearing Officer shall be final.

3. A copy of the Hearing Officer's decision shall be served upon the owner or operator of the residential rental dwelling unit by United States mail or by personal delivery.

B. Any appeal of technical building or fire code decisions or determination made by a City inspector or other City official after consultation with the chief building official and/or fire marshal shall be conducted by the Board of Building and Fire Appeals in accordance with the provisions and procedures set forth in Chapter 18.41 of this Code.

SEC. 21.06.010 FINDINGS AND PURPOSE

AMEND LAST PARAGRAPH AS FOLLOWS:

The purpose of this chapter is to proactively identify such substandard and unsafe residential buildings and dwelling units and to ensure the rehabilitation or elimination of those buildings and dwelling units that do not meet minimum building code and housing code standards, or are not safe to occupy or do not comply with zoning codes. It is intended that structures will be required to be maintained at the level consistent with the codes of the period in which they were constructed. However, unpermitted additions and alterations that are a threat to health and safety or that create or facilitate the creation of residential rental dwelling units must coincide with current codes adopted by the City of Santa Cruz unless otherwise allowed by the Historic Building Code. This chapter is further intended to preserve and enhance the quality of life for residents living in such buildings and dwelling units and the neighborhoods which host these structures.

SECTION 21.060.070

ADD A NEW PARAGRAPH AS FOLLOWS:

By resolution of the city council, the City shall establish a checklist (the "Inspection Checklist") of property components which shall be the subject of the city inspection and of the Self-Certification Program. The Inspection Checklist shall be limited to those components necessary to determine whether (1) the property is in compliance with applicable state or municipal health, safety or sanitation codes; (2) the property contains an unpermitted dwelling unit; and, (3) one or more areas of the property not permitted for habitation are used as a residential rental dwelling unit. A component of the property which does not conform with the Inspection Checklist shall be subject to code enforcement as provided in this Chapter. Notwithstanding the foregoing, nothing in this Chapter shall be construed or interpreted as limiting the City's authority to investigate and compel the abatement of any building, housing and sanitation codes or ordinance violations.

AMEND PARAGRAPH B(1)(b) AS FOLLOWS:

~~Well-maintained~~The frequency of inspections for well-maintained properties eligible to participate in the Self-Certification Program ~~will have reduced inspections~~shall be as provided as outlined in Section 21.06.080 ~~for a period of; i.e., not more frequently than once every~~ five (5) years as long as the residential rental dwelling units' condition do not deteriorate during that time to the extent that the property would no longer meet the Self-Certification eligibility standards.

AMEND PARAGRAPH D AS FOLLOWS:

Rental Housing Inspection Certification. Upon the successful completion of an inspection, subsequent inspection or re-inspection of the residential rental dwelling unit establishing that the property and its occupancy are in compliance with all applicable building, housing and sanitation

code or ordinance requirements, the City shall issue to the owner or operator a rental housing inspection certification verifying code/ordinance compliance and specifying ~~the~~ a one or, for properties which qualify for the Self-Certification Program, a five year time period during which the certification will remain valid and during which the residential rental dwelling unit shall not be subject to a subsequent inspection. Notwithstanding the foregoing a rental housing inspection certification shall not preclude code enforcement or investigation on the property if during the rental housing inspection certification period a code violation on the property if during the rental housing

SECTION 21.06.080

AMEND PARAGRAPH B AS FOLLOWS:

For qualifying participants, the number of inspections will be limited to twenty (20) percent of the total units on each property or limited to an inspection of one-unit total in residential rental dwelling units consisting of three (3) units, including multiple single family dwellings at separate locations, ~~for a period of~~ not more often than once every five (5) years, provided the residential rental dwelling units' conditions do not deteriorate during that time to the extent that the property would no longer meet the property eligibility standards. If violations are found, more or all of the owner's units may be inspected. The owner shall be required to pay an annual non-refundable Self-Certification Fee and conduct an annual self-inspection of each residential rental dwelling unit as discussed below.



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The CAA Network

- California Apartment Association
- Apartment Association of Greater Inland Empire
- CAA Central Valley
- CAA Contra Costa
- CAA Greater Fresno
- CAA Los Angeles
- CAA Napa/Solano
- CAA Tri-County
- Income Property Association of Kern
- Marin Income Property Association
- North Coast Rental Housing Association
- Rental Housing Association of Northern Alameda County
- Rental Housing Association of Sacramento Valley
- Rental Housing Owners Association of Southern Alameda County
- San Diego County Apartment Association
- San Francisco Apartment Association
- San Joaquin County Rental Property Association
- South Coast Apartment Association



July 19, 2010

Via Electronic Mail Only

Juliana Rebagliati
Director, Department of Planning & Community Development
City of Santa Cruz
809 Center Street, Room 107
Santa Cruz, California 95060

Re: Proposed Inspection Ordinance –July 15, 2010 Draft

Dear Ms. Rebagliati:

On behalf of owners and managers of residential rental property in the City of Santa Cruz, the California Apartment Association Tri-County Division (“CAA Tri-County”) wants to thank you for giving us continued opportunities to provide input and insights on the City’s proposed Inspection Ordinance.

We have reviewed the July 15, 2010 draft of the Ordinance and appreciate all of your efforts to incorporate our feedback. However, some minor revisions to the Ordinance are necessary to ensure the inspections of rental properties are (a) predictably scheduled; (b) clearly intended to correct health and safety violations and to discourage the renting of unpermitted structures and spaces; and (c) not creating unintended consequences that may be abused by both property owners and their residents. CAA Tri-County and the affiliated local property owners will accept the Ordinance with the revisions outlined below.

21.06.010 Findings & Purpose

Because of the age of the City's housing stock, there may be unpermitted alterations that do not conform with current codes but are not structural in nature or have no substantive effect on health and safety. While bringing those alterations up to current code may be desirable, the cost is often prohibitive. In some cases, the current owner is unaware that prior owners made the alteration. It is our understanding that the City did not intend to use this ordinance to identify and correct those types of alterations. To clarify that intent, this section should be modified to state that only alterations that are structural or that pose a threat to health and safety must coincide with current codes.

20.06.060 Fees

This section uses three (3) different terms for the non-refundable fees---program fees, self-certification fees, and inspection fees. It appears that inspection fees and

program fees are really the same. In order to avoid duplicate fee requirements, this section should be reviewed so that it is clear how and when these fees will be collected and used.

21.06.070 Inspections

Subparagraph D. - Rental Housing Inspection Certification – It is unclear who decides the time period for the certification; one could argue that the timeline for certification could be an arbitrary decision of an inspector or program administrator.

21.06.080-Self-Certification Program

For properties that qualify for self-certification, the schedule for compliance inspections should be clarified. Our understanding is that the City does not intend to conduct its first inspection of qualified properties for five (5) years from the start of the program and, thereafter, to inspect no more than every five (5) years, as long as a property continues to qualify for self-certification. We think that the ordinance should clarify that schedule as outlined in the staff report.

For properties that qualify for self-certification, the purposes of the city compliance inspection should be clearly enumerated. Based on our conversations with staff and council members, it is our understanding that the inspection would be limited to the following items:

- the requirements of the Self-Certification Program Checklist;
- applicable state or municipal health, safety or sanitation code;
- “building, housing and sanitation codes or ordinances,” as that term is defined in the Ordinance, where there is an imminent threat to health and safety;
- unpermitted dwelling units;
- the use as a residential rental dwelling unit of any area of a property not permitted for habitation.

Subparagraph D-Consistent with Section 21.060.070. language should be added to this Section that clarifies that the owner shall not be in violation of this Section if the tenant or occupant refuses to allow the inspection. Currently, the Ordinance only provides this if the occupant refuses to allow a city compliance inspection. Including this language in under this Section ensures that a property owner is not forced to violate California Civil Code Section 1954 to participate in the Self-Certification Program.

Subparagraph F-Requiring copies of the annual signed and dated Self-Certification Program Checklist be provided to the tenant of each unit can provide a cumbersome and redundant task on property owners. In order to meet the operational needs of property owners while providing disclosure to the tenants, we suggest the last sentence of this paragraph be worded as follows, “A copy of the annual signed and dated Self-Certification Checklist shall be provided to the tenant(s) of each residential rental dwelling unit within five (5) working days upon request of the tenant.”

Subparagraph H-While we appreciate the opportunity for rental property owners to be given time to cure violations and remain in the Self-Certification Program, the phrase “reasonable time” is subjective. It is suggested that at least ninety (90) days be given for violations to be corrected or work to correct the violations commences within this timeframe if the work to cure the violation would take longer than ninety (90) days to correct.

21.06.120-Public Nuisance

As it currently reads, this Section provides that **any** code violation, or failure to comply with any permit condition, no matter how minor, "shall be and the same is hereby declared to be harmful to the public health and safety, unlawful **and** a public nuisance." This provision is extreme. For example, a missing screw on a light switch plate may be a violation of a code, but certainly not a public nuisance. To avoid opportunities for significant frivolous litigation and confusion, we suggest that this section be re-worded. At the very least, this provision should only apply to unresolved code or permit violations and should clarify that this provision is not intended to eliminate any procedures or appeal and hearing rights currently provided in the Municipal Code. In addition, there should be an express provision that this Section does not create a private right of action for nuisance by a tenant/occupant. Finally, there should be some provision that limits an owner's liability and continues to afford the opportunity to remain in the Self-Certification Program for damage or violations discovered during the course of an inspection but were caused by the occupant of the unit.

21.06.140-Appeals

Subparagraph A.-Under this paragraph it states that a rental property owner has ten (10) days from the date of decision to file an appeal. However, there is no requirement in this subsection for the City to mail or give the owner notice before the ten (10) day time period starts. We suggest this paragraph be amended to read, "The appeal must be in writing and filed within ten (10) business days from the date the owner receives the decision..." Also in this Section, in Paragraph 1, the last sentence reverses the burden of proof provisions in the Municipal Code and should be struck.

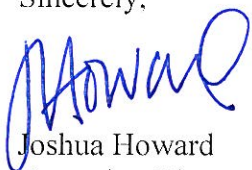
Self-Certification Checklist

Based on our meeting of July 15, 2010, the Self-Certification Checklist is in "draft" form. The checklist, in its current form, is overly broad and in certain cases not applicable to certain types of rental housing. We welcome the opportunity to continue working with you to refine the checklist to ensure it meets the City's goals while providing a template that can be easily and clearly used by all rental property owners.

Conclusion

We are very close to reaching an amiable compromise on this issue. With the proposed modifications, clarifications, and commitment to continue working together, CAA Tri-County believes the City will have the tools it is seeking to ensure quality housing for all Santa Cruz renters.

Sincerely,



Joshua Howard
Executive Director
CAA Tri-County

CC: Mayor & City Council