



Office of the City Manager

ACTION CALENDAR
July 15, 2003

To: Honorable Mayor and
Members of the City Council

From: Weldon Rucker, City Manager

Subject: Rental Housing Safety Program Fees (CF 19-03)

RECOMMENDATION

Adopt a Resolution rescinding Resolution No. 62,062–N.S. and establishing a revised fee schedule for housing code inspections, and a revised flat per unit fee of \$17.00 per unit for all residential rental buildings, and \$8.50 per room for residential hotels and boarding houses with five or more rooms in support of the Rental Housing Safety Program.

SUMMARY

At the request of Council, staff has developed a revised Rental Housing Safety Program (RHSP) fee proposal that meets the following objectives: the RHSP remains self-sufficient with projected program revenue approximating projected program expenditures (excluding indirect costs) beginning with FY 2003-2004; inspection fees are eliminated for cases in which the owner corrects all cited code violations before the first re-inspection; and the flat per unit fee is slightly reduced from the amount adopted by Council on May 20, 2003. Since the proposal reduces all fee levels as adopted by Council, no public hearing is required to approve the recommendation.

FISCAL IMPACTS OF RECOMMENDATION

The RHSP remains self-supporting with the proposed fee changes beginning with FY 2003-2004. Adoption of these fees will eliminate the program's reliance on CDBG and General Funds that have been the practice in past years with the exception of approximately \$111,000 in indirect costs as a General Fund contribution. This year's total projected revenue comes to \$569,935, approximating this year's proposed RHSP expenditure budget of \$568,917 excluding indirect costs.

CURRENT SITUATION AND ITS EFFECTS

Attachment A shows a revised FY 2003-2004 budget for the RHSP totaling \$568,917 excluding indirect costs. This budget shows an increase of \$40,000 from the one submitted to Council on May 20, 2003. The earlier version inadvertently excluded .22 fulltime equivalent staff dedicated to the RHSP. These positions were omitted when the RHSP was eliminated from the CDBG budget. Also included in the updated budget is an additional \$5,000 for vehicle-related expenses for the additional Housing Inspector who will be performing the proactive housing code enforcement inspections, and an additional \$10,000 to the amount initially earmarked for the Finance Department's fee collection services bringing the total cost for this service to \$50,000.

Similar to the budget provided on May 20, this revised budget excludes indirect costs that the City can charge the program, approximating 30% of staff salaries.

The revised revenue projection of \$569,935 is also higher than what was reported to the Council last month. The projection was adjusted to include the additional inspection fees that will be generated by the additional Housing Inspector budgeted to conduct proactive rental inspections, and the addition of 1,800 Section 8 and other assisted units, and 2,200 single-family and duplex rental units that will be required to pay the flat per unit fee in support of the RHSP program.

The flat per unit/room fee, when combined with the projected inspection fee collections, is intended to recoup the entire cost of operating the RHSP and share the financial burden of the program among all property owners in Berkeley. The revenues generated from the flat fee support the preparation and distribution of housing safety informational material to both landlords and tenants; maintaining adequate support staff levels to provide customers with basic program information and schedule inspection appointments, and the availability of Housing Inspectors who provide customers with more technical information regarding housing code and related safety issues; and conducting selective as well as random initial inspections of rental units that may or not reveal code violations. The re-inspection fees cover the cost of conducting follow-up inspections necessitated by code violations and the failure to correct them.

The two RHSP components – self-certified safety checklist and the complaint program - are designed to work in concert to improve and maintain the safety of Berkeley's rental housing stock. The annual safety checklist requirement together with the distribution of housing safety material will assist property owners as well as tenants to be more attentive to potential safety hazards and maintenance needs within their units. Staff anticipates that there will be an increase in the number of tenant initiated complaints as tenants become more aware of these safety issues and in those cases in which the owner has failed to comply with the annual checklist requirements.

Staff has also prepared and recommended revisions to sections of the Berkeley Municipal Code (BMC) pertaining to the RHSP for Council consideration on July 8, 2003. One revision eliminates the stipulation requiring property owners to submit certification of safety compliance to the City for each rental unit. Owners will still be required to provide a copy of the completed safety checklist to each of their tenants but will be required to submit copies to the City only if they are unable to certify compliance with all applicable provisions of the checklist. This revision is intended to streamline the process for both property owners and the City. Other BMC revisions are intended to clarify ordinance authority regarding RHSP cost recovery and owner right to appeal the amount of fees charged.

To ensure maximum compliance to the RHSP flat per unit fee provisions, staff is prepared to implement strategies that will allow us to obtain and update the most comprehensive list of rental units in Berkeley and to impose fines for those owners who do not comply. First, the RHSP will be accessing the Finance Department's database of all properties with three or more rental units. The Finance Department maintains this database to annually bill and track the business license tax which owners of properties with three or more rental units in one contiguous parcel are

obligated to pay. Secondly, the RHSP will obtain a listing from the County tax records to identify those single-family homes and duplexes for which the owners have not claimed a homeowners' exemption. Owners who do not claim this exemption can be presumed to be renting these units and will receive the requisite bill. For owners of duplexes who have claimed the homeowner exemption, we intend to send them a notice requesting that they advise us if one or both units are being rented, allowing us to update our database accordingly.

Another strategy that staff is exploring is the feasibility of initiating a ballot measure for November 2004 to revise the Rent Stabilization Ordinance to permit the City to access the Rent Stabilization Board (RSB) database of rental units and owners. (The Ordinance currently prohibits its use to implement other City programs.) Gaining this access will help to facilitate locating rental units and owners for billing purposes and promote a more efficient billing system if the RHSP and RSB can coordinate their respective billing tasks.

Lastly, the City is preparing to formalize the process for the issuance of administrative citations pursuant to Chapter 1.28 of the Berkeley Municipal Code which authorizes administrative penalties and Resolution No. 61,763-N.S. which establishes the maximum penalties that may be imposed for violation of a City ordinance. The RHSP, adopted by City ordinance, will be included in this process. Pursuant to the Resolution, the maximum fine per violation that does not pose an immediate danger to health or safety is \$1000. Staff intends to develop procedures for your consideration that would institute a fine structure that increases penalties for failure to correct violations starting with the fourth re-inspection. The issuance of administrative citations is in addition to the RHSP enabling ordinance, which authorizes the City to place a lien on the property for non-payment of both the inspection fee as well as the flat per unit/room fee.

The RHSP intends to continue the practice of conducting both office reviews and free courtesy inspections to assist property owners understand the corrective actions required to bring their units in compliance. These services, conducted at no charge to the owner, provide the opportunity for the owner to better understand what is needed to correct the violations, including requisite building permits and potential costs. These inspections also provide the opportunity to discuss the potential need to relocate tenants in order to perform the necessary repairs to the unit. In FY 2002-2003, RHSP staff conducted a total of 149 office reviews and 397 courtesy inspections. These courtesy inspections were in addition to approximately 400 non-fee generated initial inspections and approximately 1200 fee generated inspections conducted by the two Housing Inspectors and the Supervising Housing Inspector.

BACKGROUND

City Council adopted Ordinance No. 6651-N.S. on August 23, 2001, establishing the RHSP. Its basic program components include outreach to tenants and owners on how to increase the safety of rental housing; annual certification by owners that their units meet safety requirements; and periodic inspections by the City's Housing Inspectors to ensure housing code compliance. The RHSP also encompasses the State-mandated complaint-driven component that responds to tenant complaints of possible code violations and seeks to expedite property owner correction of these violations.

Following a public hearing on May 20, 2003, the City Council adopted a revised RHSP fee structure that is intended to generate sufficient revenue to eliminate the program's reliance on CDBG and General Funds. That fee structure included a flat rate of \$18 per unit for residential rental buildings (including City and federal-assisted units, single-family and duplex rental units), and \$9 per room for residential hotels and boarding houses with five or more rooms. The fee schedule includes a graduated fee for housing code enforcement inspections and re-inspections as follows:

- Initial inspection with one or more housing code violations \$100.00
- First re-inspection whether unit is cleared or not \$200.00
- All other re-inspections whether unit is cleared or not \$300.00

At the May 20 meeting, Council members also requested staff to explore other fee options that reward property owners who promptly correct cited housing code violations while continuing to penalize those who do not. Council members were also in favor of reducing the flat per unit/room fee, if possible, while maintaining a self-supporting RHSP budget.

RATIONALE FOR RECOMMENDATION

The recommended fee revisions to the RHSP program reward property owners who correct code violations before the first re-inspection by eliminating the \$100 fee for the initial inspection and the \$200 fee for the subsequent re-inspection. This revision will benefit the conscientious property owner as well as the tenant whose safety may be compromised if repairs to the rental unit are delayed. Moreover, this fee revision addresses the concern expressed by property owners that they are unduly penalized with a fee for the first inspection in situations they cannot control. Examples include the following: tenants do not always notify owners in advance of any habitability problems with their unit; repairs to units are in progress at the time the initial inspection is conducted; and tenants may refuse or delay entry into the unit prohibiting the owner to effect timely repairs. In addition, some owners voluntarily request inspections to help them determine needed repairs, even when a tenant has not complained, or when a unit is vacant. Under the new fee schedule, owners will not be charged for the initial inspection even if housing code violations are found.

Property owners will also benefit from the slight reduction proposed for the flat per unit/room fee.

The fee proposal recoups the entire RHSP expenditure budget (not including indirect costs) proposed for next fiscal year as shown in Attachment A. That budget includes \$50,000 set aside for fee collection costs.

ALTERNATIVE ACTIONS CONSIDERED

One alternative which also balances projected revenue with expenditures is to maintain the variable housing code inspection fee as adopted by Council on May 20, 2003 while reducing the per unit/room fee that was adopted from \$18.00 per unit/\$9.00 per room to \$13.00 per unit/\$6.50 per room. Reducing the per unit/room fee is possible after revising revenue projections to take

into account the additional fee-generated inspections that will be conducted by the one Housing Inspector added to the budget to perform proactive inspections, as well as the additional per unit fees that will be collected from Section 8 and other assisted units, and single family and duplex rental units. The following compares the fees under this option with the one proposed.

<u>Inspection Type</u>	<u>Alternate Option</u>	<u>Proposed Option</u>
Initial inspection: no code violation found	No Fee	No Fee
Initial inspection: code violation found	\$100.00	No Fee
First re-inspection: all violations cleared	\$200.00	No Fee
First re-inspection: all violations not cleared	\$200.00	\$200.00
Second and add'l re-inspections: all violations cleared	\$300.00	\$300.00
Second and add'l re-inspections: all violations not cleared	\$300.00	\$300.00
Flat per unit fee: all residential units	\$ 13.00	\$ 17.00
Flat per room fee: hotel/boardng houses, 5 or more rooms	\$ 6.50	\$ 8.50

Both options are expected to generate sufficient revenues to balance with the RHSP expenditure budget in FY 2003-2004 with the exclusion of indirect cost considerations. While showing higher flat per unit/room fees, the proposed option benefits the owner who corrects all cited housing code violations by the first re-inspection.

CONTACT PERSON

Stephen Barton, Housing Director, 981-5401

Approved:



Stephen Barton, Housing Director

Attachments

**RENTAL HOUSING SAFETY PROGRAM BUDGET
FY 2003-2004**

<u>Staff</u>	<u>FTE</u>	<u>Amount</u>
Director, Housing Department	0.05	5,862
Manager, Housing Services	0.05	4,813
Comm. Dev. Proj. Coordinator	0.10	6,184
Supervising Housing Inspector	0.90	67,000
Housing Inspector	3.00	194,000
Office Specialist II	1.00	42,410
Sr. Mgmt. Analyst	0.10	7,826
Accountant II	0.10	5,500
Mgr. Building & Safety	0.20	21,142
Programmer	0.20	15,000
<u>Subtotals</u>	5.70	\$369,737
Fringe Benefits		\$119,180
Operating Costs		\$30,000
Fee Collection Costs		\$50,000
<u>TOTAL (*)</u>		<u>\$568,917</u>

(*) Excludes Indirect Costs as a City General Fund contribution of \$110,921 which is equivalent to 30% of staff salaries.

RESOLUTION NO. -N.S.

ESTABLISHING A REVISED FEE SCHEDULE FOR HOUSING CODE INSPECTIONS AND A REVISED FLAT PER UNIT FEE FOR ALL RESIDENTIAL RENTAL UNITS IN BERKELEY IN SUPPORT OF THE RENTAL HOUSING SAFETY PROGRAM AND RESCINDING RESOLUTION NO. 62,062-N.S.

WHEREAS, the Rental Housing Safety Program (RHSP) was established by Council per Ordinance No. 6651 on August 23, 2001; and

WHEREAS, the current housing inspection and flat per unit fees for the RHSP was established by Council per Resolution No. 62,062-N.S. on May 20, 2003; and

WHEREAS, the City's goal is to make the RHSP self-sufficient.

NOW THEREFORE, BE IT RESOLVED by the Council of the City of Berkeley that Resolution No. 62,062-N.S. is hereby rescinded.

BE IT FURTHER RESOLVED that a revised fee schedule for housing code inspections and a revised flat per unit fee for residential rental units are hereby adopted as set forth in Exhibit A, attached hereto, with an effective date of 60 days from the adoption of the Resolution.

EXHIBIT A

**RENTAL HOUSING SAFETY PROGRAM
FEE SCHEDULE**

HOUSING CODE INSPECTIONS

The following fee schedule applies to all residential units and buildings that are inspected for possible housing code violations:

<u>Inspection Type</u>	<u>Fee Amount</u>
Initial inspection: no code violation found	No Fee
Initial inspection: code violation found	No Fee
1 st re-inspection: all cited violations cleared	No Fee
1 st re-inspection: all cited violations not cleared	\$200.00
All other re-inspections: all cited violations cleared	\$300.00 each
All other re-inspections: all cited violations not cleared	\$300.00 each

FLAT PER UNIT FEE

The following fee schedule applies to residential rental units, and residential hotel and boarding house rooms:

<u>Residential Structure</u>	<u>Fee Amount</u>
Residential Rental Buildings	\$ 17.00 per unit
Residential Hotels and Boarding Houses With Five or More Rooms	\$ 8.50 per unit