

Office of the City Manager

ACTION CALENDAR

July 12, 2005

To: Honorable Mayor and  
Members of the City Council

From: PK Phil Kamlarz, City Manager

Subject: Rental Housing Safety Program Fees

RECOMMENDATION

Conduct a public hearing and upon conclusion adopt a Resolution establishing a late payment fee and an administrative lien fee that will be charged to residential rental property owners who are delinquent in paying existing Rental Housing Safety Program (RHSP) fees.

FISCAL IMPACTS OF RECOMMENDATION

The proposed fees are intended to recover the costs of collection activities associated with delinquent RHSP accounts (approximately \$24,000) and to offset a potential program budget deficit (estimated to be \$34,000) by the end of FY 2006. The two new proposed fees are as follows:

- *Late Payment Fee* – Every annual flat fee or re-inspection fee for which full payment is not received by the City within 30 days of the initial billing date shall be considered delinquent. The City shall thereupon assess a penalty of ten percent of the billed amount. Moreover, accounts for which full payment is not received by the City with 60 days from the initial billing date shall be assessed an additional twenty percent of the original amount billed.
- *Administrative Lien Fee* – Accounts which remain outstanding after 60 days from the initial billing date shall be considered delinquent and filed with the County of Alameda as a lien on the property. The amount of the lien shall include an administrative processing fee of \$75 in addition to the initial billing amount and applicable late payment fees.

To further offset the potential FY 2006 year-end deficit, staff is preparing to invoke the City's administrative citation process and assess a fee for violations of the Ordinance governing the RHSP's gas-heating certification program. The additional revenue from this penalty fee is intended to offset the remaining projected budget deficit of \$10,000.

CURRENT SITUATION AND ITS EFFECTS

The City Council's agenda for July 12, 2005 includes an informational item on the RHSP budget status. That report compares actual and projected program revenue and expenditures for the three-year period ending FY 2006. In summary, totals of the three-year period show a projected deficit of \$34,000 when taking into account an accounts receivable fund balance of \$200,000 at the end of FY 2006. The accounts receivable fund balance represents amounts billed to property

owners that are estimated to remain uncollected at the end of the fiscal year. The uncollected balance includes amounts that show in the City's accounts receivables ledger as well as amounts that have already been filed as a lien with the County of Alameda for which the City has yet to receive reimbursement. The accounts receivable balance represents approximately 50 accounts with unpaid re-inspection fees and approximately 1,500 accounts with unpaid annual per unit/room fees.

Administering the RHSP delinquent accounts consume a considerable amount of staff time and resources in both the Finance and Housing Departments. Staff's efforts to collect on delinquent bills include preparing and mailing past-due notices to property owners, office reviews when delinquent accounts are challenged, and collection and deposit of funds received. In addition, delinquent accounts that remain outstanding by the end of the fiscal year are submitted to the County as a property lien for which the County retains 1.7% of the lien amount. This process requires research of property records, verifying amounts owed, and completion and compilation of lien documentation that the County requires. There are currently no established penalty fees to recoup the additional costs to administer these delinquent accounts.

Another potential source of revenue for the RHSP, in addition to late payment penalties, are penalty fees associated with the non-compliance of the gas-heating certification program. Housing staff is prepared to invoke the City's existing administrative citation process to cite property owners for violations of the Ordinance governing the RHSP's gas-heating certification program. (This program and its issues are discussed in detail in a separate item to Council for the meeting of July 12, 2005 in which staff is proposing an amendment to the governing Ordinance.) Invoking the administrative citation process is intended to deter violations of the Ordinance requiring property owners to certify every five years that gas heating appliances in rental units are functioning properly. Staff will be issuing notices to owners who failed to meet the July 1, 2005 due date for submitting the initial gas certification. Further failure to meet the extended deadline will result in the issuance of an administrative citation that will include a \$50 monetary fine, followed by the filing of a lien, if necessary, that will include the additional \$75 administrative lien fee. These fines are within the amounts allowed per Resolution No. 61,763-N.S. which establishes the maximum penalties that may be imposed, and are consistent with the citywide penalty standards established for violations of City ordinances.

#### BACKGROUND

City Council adopted Ordinance No. 6651-N.S. on August 23, 2001, establishing the RHSP. The purpose of the RHSP was to encourage a collaborative effort among property owners, tenants, and the city to improve the safety of rental housing conditions in Berkeley. The RHSP incorporates state-mandated housing code inspections that are conducted in response to tenant complaints, as well as random and selective inspections of tenant-occupied units and buildings to identify existing or potential housing code violations before they compromise the safety and well-being of tenants. The RHSP further requires rental property owners to: 1) annually certify that their units meet housing safety standards; and 2) have their units inspected by the local utility company or a licensed mechanical contractor every five years to certify the proper functioning of gas-heating appliances.

Since its inception, the RHSP has been revised several times with the intent to streamline the program to make it more efficient, and establish a fee structure that promotes self-sufficiency. Revisions included: eliminating the requirement that owners notify the City when there is a change in tenancy; eliminating the requirement that owners provide the City with a copy of the completed annual Safety Certification checklist (tenant must still be given a copy); adding Section 8 and other City-subsidized units as well as tenant-occupied single-family homes and duplexes to the program to ensure more thorough inspections of these units; and extending the due date for submitting gas-heating certifications from three to five years. In addition, the program was made more self-sufficient by establishing an annual per unit and room fee charged to rental property owners and increasing the re-inspection fees to encourage owners to expedite repairs to code violations. (See attached fee resolutions, A: Resolution No. 62,230-N.S. and B: 62,231-N.S. adopted on September 16, 2003.)

RATIONALE FOR RECOMMENDATION

Establishing the late payment and the administrative lien fees is intended to promote timely payment of RHSP fees. In addition, consistent with past RHSP fee proposals and adoptions, staff's proposal is intended to place the burden of program costs to owners of rental properties who require more staff time to administer program regulations.


ALTERNATIVE ACTIONS CONSIDERED

To meet the goal of program self-sufficiency and recoup the costs associated with collection of delinquent RHSP billing, one option would be to increase the existing fees for the annual per unit/room and the re-inspection fees. However, this option would penalize all rental property owners including the majority who comply with program requirements and remit their payments in a timely fashion.

CONTACT PERSON

Stephen Barton, Housing Director, (510) 981-5401  
Carlos Romo, Supervising Housing Inspector, (510) 981-5440

Approved:

  
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Stephen Barton, Housing Director

Attachment:

- A. Resolution, Proposed
- B. Resolution No. 62,230-N.S.
- C. Resolution No. 62,231-N.S.

RESOLUTION NO.            –N.S.

ESTABLISHING A LATE PAYMENT FEE AND AN ADMINISTRATIVE LIEN FEE THAT WILL BE CHARGED TO RESIDENTIAL RENTAL PROPERTY OWNERS WHO ARE DELINQUENT IN PAYING EXISTING RENTAL HOUSING SAFETY PROGRAM FEES

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

WHEREAS, Council adopted the current housing code re-inspection fee and annual flat per unit/room fee for residential rental units, hotels and boarding houses per Resolutions Nos. 62,230-N.S. and 62-232-N.S. adopted on September 16, 2003; and

WHEREAS, the City's goals are to place the burden of program costs associated with the maintenance of delinquent accounts with those who fail to make timely payments, and make the RHSP program financially self-sufficient.

NOW THEREFORE, BE IT RESOLVED by the Council of the City of Berkeley that new fees for the RHSP are hereby adopted as set forth below with an effective date of 60 days from the adoption of the Resolution.

- *Late Payment Fee* – Every annual flat fee or re-inspection fee for which full payment is not received by the City within 30 days of the initial billing date shall be considered delinquent. The City shall thereupon assess a penalty of ten percent of the billed amount. Moreover, accounts for which full payment is not received by the City with 60 days from the initial billing date shall be assessed an additional twenty percent of the original amount billed.
- *Administrative Lien Fee* – Accounts which remain outstanding after 60 days from the initial billing date shall be considered delinquent and filed with the County of Alameda as a lien on the property. The amount of the lien shall include an administrative processing fee of \$75 in addition to the initial billing amount and applicable late payment fees.

## RESOLUTION NO. 62,230-N.S.

ESTABLISHING A NEW FEE SCHEDULE FOR HOUSING CODE INSPECTIONS IN SUPPORT OF THE RENTAL HOUSING SAFETY PROGRAM AND RESCINDING RESOLUTION NO. 62,186-N.S.

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

WHEREAS, current housing code inspection fees for the City's Code Enforcement Program are set by Resolution No. 62,186-N.S. established by Council on July 15, 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. 62,186-N.S. is hereby rescinded.

BE IT FURTHER RESOLVED that a revised fee schedule for housing code inspections is hereby adopted as set forth below with an effective date of 60 days from the adoption of the Resolution.

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

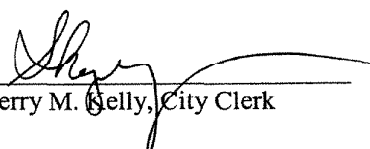
<u>Inspection Type</u>	<u>Fee Amount</u>
First re-inspection in which all cited housing code violations have not been corrected.	\$300.00
Second re-inspection whether or not unit is cleared of all cited code violations.	\$300.00
All other re-inspections whether or not unit is cleared of all cited code violations.	\$400.00

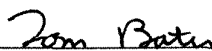
The foregoing Resolution was adopted by the Berkeley City Council on September 16, 2003 by the following vote:

Ayes: Councilmembers Breland, Hawley, Maio, Shirek, Spring, Wozniak and Mayor Bates.

Noes: Councilmembers Olds and Worthington.

Absent: None.

Attest:   
Sherry M. Kelly, City Clerk

  
Tom Bates, Mayor

RESOLUTION NO. 62,231-N.S.

RE-ESTABLISHING A FLAT PER UNIT FEE FOR ALL RESIDENTIAL RENTAL UNITS, AND A FLAT PER ROOM FEE FOR ALL RESIDENTIAL HOTELS AND BOARDING HOUSES IN BERKELEY IN SUPPORT OF THE RENTAL HOUSING SAFETY PROGRAM

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

WHEREAS, Council adopted the flat per unit fee for residential rental units, and per room fee for residential hotels and boarding houses per Resolution No. 62,186-N.S. that was rescinded by Council on July 15, 2003; and

WHEREAS, the City desires to re-establish the flat per unit and room fees at the amounts previously established by Resolution No. 62,186-N.S.

NOW THEREFORE, BE IT RESOLVED by the Council of the City of Berkeley that a flat per unit fee for all residential rental units and a flat per room fee for all residential hotels and boarding houses in Berkeley are hereby re-established as set forth below.

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

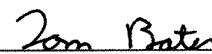
<u>Residential Structure</u>	<u>Fee Amount</u>
Residential rental buildings	\$17.00 per unit
Residential hotels and boarding houses with five or more rooms	\$8.50 per room

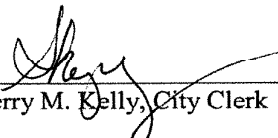
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Ayes: Councilmembers Breland, Hawley, Maio, Shirek, Spring, Wozniak and Mayor Bates.

Noes: Councilmembers Olds and Worthington.

Absent: None.

  
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Tom Bates, Mayor

Attest:   
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Sherry M. Kelly, City Clerk