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ARTICLE 5

RESIDENTIAL RENTAL INSPECTION

SEC. 9-5.101 TITLE. These regulations shall be known as the Residential Rental Inspection Ordinance of the City of Hayward, may be cited as such, and will be referred to herein as "this code."

SEC. 9-5.102 PURPOSE. The purpose of this code is to safeguard the stock of decent, safe, and sanitary rental housing units within the City and to protect persons entering or residing in them by providing for inspection of rental housing units and the common areas when certain indicators show that violations of the Hayward Housing and Building Codes may exist in a unit or pursuant to a systematic area-wide inspection program.

SEC. 9-5.103 SCOPE. The provisions of this code shall apply to all rental housing units and to all hotel and motel units as herein defined.

DEFINITIONS

SEC. 9-5.201 GENERAL. For the purpose of this code, certain words, phrases, and terms, and their derivatives shall be construed as specified herein. Words, phrases, and terms used in this code, but not specifically defined herein, shall have the meanings stated therefore in the Building Code and the Housing Code of the City of Hayward with the Building Code controlling should there be a conflict. Where not defined in this code or in the Building or Housing Codes of the City of Hayward, such words, phrases, and terms shall have the meaning generally prescribed by dictionary definition.

SEC. 9-5.202 ENFORCEMENT OFFICIAL. Enforcement Official shall mean the City Manager or his/her designee authorized to administer the provisions of this code.

SEC. 9-5.203 HEARING OFFICER. Hearing Officer shall mean the City Manager or his/her designee authorized to conduct hearings pursuant to this code.

SEC. 9-5.204 HOTEL AND MOTEL. A hotel or motel of common Ownership on a single parcel is any structure or group of attached or detached structures containing six or more guest rooms intended or designed to be used, or which are used, rented or leased to be occupied, or which are occupied for sleeping purposes by guests. For the purpose of this definition, common Ownership shall be deemed to exist whenever a single individual or entity has any kind of Ownership interest whether as an individual, partner, joint venturer, stock Owner, or some other capacity.

SEC. 9-5.205 IMMINENT HAZARD. All buildings or portions thereof which are determined after inspection by the Building Official to be unsafe, substandard, or dangerous as defined in Chapter 10 of the 1997 Uniform Housing Code, Substandard Buildings, are hereby declared to be public nuisances and shall be abated by repair, rehabilitation, demolition, or removal as specified in the Building Abatement Ordinance.

SEC. 9-5.206 RENTAL HOUSING UNIT. A rental housing unit is any residential dwelling in a single structure, or in a group of attached or detached structures containing one or more such dwelling units on the same parcel of land under common Ownership that (a) contains one or more rooms with a single kitchen designed for living and sleeping purposes as an independent housekeeping unit, and (b) is occupied or intended to be occupied on a rental basis. For the purposes of this section, the following types of dwelling units or facilities are not considered rental housing units:

- a. Accommodations in any hospital, extended care facility, convalescent home, nonprofit home for the aged, or dormitory that is owned and operated by an educational institution.
- b. Accommodations in a nonprofit cooperative that is owned, occupied, and controlled by a majority of the residents.

For the purpose of this section, common Ownership shall be deemed to exist whenever a single individual or entity has any kind of Ownership interest whether as an individual, partner, joint venturer, stock Owner, or some other capacity.

SEC. 9-5.207 OWNER. Shall mean any person owning rental property as shown on the last equalized assessment roll for City taxes or his/her designee.

GENERAL RESPONSIBILITIES

SEC. 9-5.301 ADMINISTRATION. The City Manager, or his/her designee, hereinafter known as the Enforcement Official, is authorized to administer the provisions of this code.

SEC. 9-5.302 MANDATORY INSPECTION PROGRAM. The City of Hayward hereby institutes a systematic code enforcement program that will ensure that residential rental units, hotels, and motels are inspected over time. The program will include mandatory inspection of all units in selected focus areas and random sampling of units in other areas of the City. Focus areas will be selected based on factors including, but not limited to: Age of rental housing stock, condition of rental housing stock, and history of previous code violations. The Mandatory Inspection Program is a part of the City of Hayward overall effort to encourage conservation of existing rental housing units, motels, and hotels. Owners of these types of structures will be required to bring these units to Housing and Building Code standards. Owners, managers and tenants shall allow for the inspection of these units. If an Owner, manager or tenant refuses to permit an inspection, the Enforcement Official is authorized to procure an inspection warrant.

SEC. 9-5.303 CAUSE FOR INSPECTIONS. A rental housing unit, motel, or hotel shall be inspected for violations of the Building and Housing Codes of the City of Hayward as part of the City of Hayward mandatory inspection program or whenever information from the following sources indicates that a pertinent code violation may exist therein:

- a. Complaints from the tenant of a rental housing unit, motel unit or hotel unit that a code violation may exist;
- b. Records maintained by the Enforcement Official which were established during previous apartment inspection programs and which reflect the prior existence of code violations and/or the absence of correction of such violations;

- c. Direct referrals for inspection from other City officials with code enforcement responsibility or from officials of a federal, state, or local agency, or from officials with a public or private utility; or
- d. Reports that the exterior condition of a rental housing unit, motel, or hotel reflects the existence of code violations.

SEC. 9-5.304 NOTICE TO TENANTS. Owners of rental units covered under the provisions of this code shall be required to provide notice of the availability of the Residential Rental Inspection Program and its complaint procedures to each tenant upon execution of a lease or rental agreement. Such notice shall be in a form set forth by the City and made available to each Owner of rental housing by the City.

SEC. 9-5.305 RETALIATION. No landlord may retaliate against a tenant for exercising his or her right under Section 9-5.303 of this code to file a complaint with the City that a code violation may exist. In any action by or against the tenant, evidence of the exercise by the tenant of his/her right under Section 1942.5 of the Civil Code occurring within six months of the alleged retaliation shall create a presumption that the landlord's conduct was in retaliation for the tenant's exercise of rights under this code.

SEC. 9-5.306 NOTICE AND ENTRY. The City shall serve written notice of the date and time of any inspection, including initial inspections and any follow-up inspections, to be conducted pursuant to this code, by mailing such notice at least fourteen (14) calendar days prior to the date of the inspection. Notice shall be mailed to the owner or the owner's designated representative at their last known address. In the case of multiple owners of the same property, notice to any one of the Owners is sufficient. The City shall also mail a copy of the inspection notice to the rental housing units on the property.

It shall be the responsibility of the Owner or the Owner's designated representative to make a good faith effort to obtain the consent of the tenants to inspect the subject rental housing units or otherwise obtain legal access to the units. If consent to enter on to any rental housing property or any rental housing unit is refused or otherwise cannot be obtained, the Enforcement Official is authorized to seek an inspection warrant from a court of competent jurisdiction.

The Owner or the Owner's designated representative shall be present at the rental housing property at the time of the inspection. The time of the inspection shall be at the time indicated in the notice issued pursuant to this code, or the time that the inspection was properly rescheduled in accordance with the provisions of this code. Violations of this paragraph may result in a re-scheduling fee.

An inspection may be rescheduled once by the Owner or the Owner's designated representative by giving notice to the Enforcement Officer at least five (5) calendar days prior to the scheduled inspection date. An inspection may only be rescheduled to a date within fourteen (14) calendar days of the previously scheduled inspection date. Violations of this paragraph may result in a re-scheduling fee.

SEC. 9-5.307 CORRECTION NOTICE. Whenever the Enforcement Official determines that a rental property is being maintained in violation of one or more of the provisions of the Housing or Building Code, the Enforcement Official shall give written notice to the Owner of said property stating the section(s) being violated. The notice shall set forth a reasonable time limit

for the Owner to correct the condition, which shall be no less than 10 calendar days from the date of the notice, and which may also set forth suggested methods of correcting the violation(s). The notice shall direct the property Owner either to correct the violation(s) or request an Administrative Hearing to show cause why the condition(s) does not constitute a violation(s).

SEC. 9-5.308 ADMINISTRATIVE HEARING. An Owner may file a written request with the Enforcement Official for an Administrative Hearing within 10 days from the date of service of a correction notice. If the notice period is less than 10 days due to health and safety concerns, an Owner may request an administrative hearing at any time prior to the expiration of that notice. The purpose of an Administrative Hearing is to allow the Owner to dispute the factual findings of the violation(s). If a Hearing is requested, at the time fixed for the Administrative Hearing, the Hearing Officer shall hear and consider all relevant evidence, objections, or protests offered on behalf of the Owner which show why the condition should not be corrected. The Hearing Officer may also consider rebuttal evidence offered by the City. If, at the conclusion of the hearing, based upon the record, the Hearing Officer is satisfied that the violation exists and concludes that it should be corrected, he/she shall issue a written decision setting forth his/her finding and shall cause the same to be served upon the Owner and the persons attending the hearing. The right to Judicial Review shall be governed by section 1-7.13 Administrative Citation – Right to Judicial Review.

SEC. 9-5.309 ENFORCEMENT: REPORT TO FRANCHISE TAX BOARD. The Enforcement Official shall take appropriate action to cause the correction, repair, or abatement of violations that are found as a result of any inspection required by this code. In addition to employing the applicable enforcement measures that are or may hereafter be provided by law, including but not limited to the enforcement provisions of the following codes: Building Code, Housing Code, the International Property Maintenance Code as adopted by the City of Hayward; and Article 3, Chapter 9 of the Hayward Municipal Code. The Enforcement Official shall also comply with the provisions of sections 17299(c) and 24436.5(c) of the Revenue and Taxation Code of the State of California.

SEC. 9-5.310 NOTICES. The notice informing a property Owner of a mandatory inspection or any follow-up inspection shall be by first class mail. All other notices, including notices of Administrative and Lien/Special Assessment Hearing, shall be provided in accordance with state law. Delivery will be made to the Owner's address as it appears on the last equalized assessment roll or as known to the Enforcement Official. The failure of any person to receive notice properly given shall not affect the validity of any proceedings hereunder.

FEES/PENALTY CHARGES

SEC. 9-5.401 FEES/PENALTY CHARGES. The annual fee and fees or penalty charges for any inspection or re-inspection performed pursuant to the provisions of this code shall be established from time to time by resolution of the City Council. Payment of such fees shall be made by Owner of the rental housing unit or hotel or motel upon demand by the City.

RECOVERY OF FEES/PENALTY CHARGES

SEC. 9-5.501 NOTICE OF LIEN/SPECIAL ASSESSMENT: Pursuant to Government Code Sections 38773.1 and 38773.5, prior to placing any liens or special assessments against a property for unpaid inspection fees, charges or penalties, all Owners shall be properly notified in writing of past due amounts, and of the right to have a Lien/Special Assessment Hearing as described herein.

SEC. 9-5.502 LIEN/SPECIAL ASSESSMENT HEARING. Any owner may request a Lien/Special Assessment Hearing by written request within 10 days of receipt of the notice of lien/special assessment. The purpose of the Lien/Special Assessment Hearing is to provide an opportunity for any objections which may be raised by any person liable to be charged for the work of abating cited code violations and related charges associated with his or her property. The Enforcement Officer shall attend said Lien/Special Assessment Hearings with his or her record thereof, and upon the hearing, the Hearing Officer may make the modifications in the proposed lien/special assessment as deemed necessary. When a Lien/Special Assessment Hearing is requested, the amount of the cost of abating cited code violations that are upheld by the Hearing Officer, including inspection charges and administrative expenses, shall, after being confirmed by the City Council, constitute a lien or special assessment on the property for the amount of the charges until paid. The right to Judicial Review shall be governed pursuant to Section 1ain -7.13 Administrative Citation – Right to Judicial Review.

SEC. 9-5.503 REPORT ON FEES/PENALTY CHARGES. The Enforcement Official shall keep an itemized account of the fees and penalty charges incurred in administering the provisions of this code. Once a year the Enforcement Official shall prepare and file with the City Clerk a report specifying the date and nature of the inspections performed, the amount of unpaid program and other fees and penalty charges imposed in the prior year, and the names and addresses of the Owner of the rental housing unit or hotel or motel, and any mortgagee or beneficiary under a deed of trust of the property, as such names and addresses appear on the last equalized assessment roll of Alameda County or as known to the Enforcement Official. The City Council shall review and confirm the annual report and lien/special assessment list, amended as necessary, by way of resolution.

SEC. 9-5.504 NOTICE OF REPORT. The City Clerk shall post a copy of the report and lien and special assessment list on the bulletin board designated for the posting of agendas for City Council meetings together with a notice of filing thereof and of the time and place when and where it will be submitted to the City Council for confirmation by way of resolution. A notice shall also be published once in a newspaper of general circulation that is published and circulated within the City. The posting and first publication of the notice shall be made and completed at least 10 days before the time the report is considered by the City Council.

SEC. 9-5.505 COLLECTION ON TAX ROLL. After City Council confirmation of the fees charged, the same shall become a lien or special assessment against the property affected. A copy of the report and lien/special assessment list shall be given to the City Finance Director, who may receive payment thereon until a list of unpaid assessments shall have been sent annually to the County Auditor for effecting collection on the tax roll at the time and in the manner of ordinary municipal taxes. The descriptions of the property reported shall be those used for the same property on the County Assessor's map books for the current year. All laws and ordinances applicable to the levy, collection, and enforcement of City taxes are hereby made applicable to the assessment hereby imposed, and the special assessment shall have priority of the taxes with which it is collected.

SEC. 9-5.506 ANNUAL REPORT OF ENFORCEMENT OFFICIAL. The Enforcement Official shall prepare a report each year concerning the administration of this code. The annual report shall describe the number of units inspected, whether the inspection was mandatory or complaint generated, the nature of violations observed, enforcement measures taken, and the status of all billings for fees that have been made. The Enforcement Official shall submit the annual report to the City Manager each calendar year at such a time that it may be submitted to the City Council with the proposed City budget for the following fiscal year.