

ORDINANCE NO. 03-15 N.S

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF RICHMOND
AMENDING CHAPTER 6.40 OF THE RICHMOND MUNICIPAL CODE
RELATING TO RESIDENTIAL RENTAL DWELLING UNIT
INSPECTION AND MAINTENANCE**

WHEREAS, on August 2, 2005, the City of Richmond (“City”) adopted an ordinance (34-05 N.S.) establishing a procedure for Residential Rental Dwelling Unit Inspection and Maintenance, adding a new Chapter 6.40 to the Richmond Municipal Code (RMC);

WHEREAS, the purpose of Chapter 6.40 of the RMC, Residential Rental Dwelling Unit Inspections and Maintenance, is to insure the availability of affordable and safe residential rental units within the City through a program of regularly scheduled, comprehensive inspections intended to identify and require correction of substandard conditions;

WHEREAS, Chapter 6.40 of the RMC, Residential Rental Dwelling Unit Inspection and Maintenance, regulates the City’s Residential Rental Inspection Program (RRIP);

WHEREAS, the RRIP currently applies to owners with three (3) or more rental dwelling units in the City;

WHEREAS, due to the success of the RRIP, staff hereby proposes an amendment to the current ordinance, expanding the rental inspection program to all residential rental properties and clarifying the ordinance;

WHEREAS, the City and the California Apartments Association worked together to develop the proposed amendments to Chapter 6.40 of the RMC related to Residential Rental Dwelling Unit Inspection and Maintenance;

WHEREAS, on October 21, 2014, the City Council of the City of Richmond held a duly noticed public hearing to consider the proposed amendment and heard testimony in favor of, and in opposition to, the proposed amendment; and

WHEREAS, the City Council reviewed all oral and written information presented at the hearing.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF RICHMOND does ordain as follows:

SECTION I. Chapter 6.40 entitled “Residential Rental Dwelling Unit Inspection and Maintenance” Ordinance of the Richmond Municipal Code is hereby amended as follows:

**Chapter 6.40 RESIDENTIAL RENTAL DWELLING UNIT INSPECTION
AND MAINTENANCE***

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6.40.010 Purpose and intent.

The purpose of this chapter is to safeguard and preserve the housing stock of decent, safe and sanitary residential rental dwelling units within the City and to protect persons entering or residing in them by providing for a regular and comprehensive system of inspection of residential rental dwelling units and, through such inspections and/or owner certifications, identifying and requiring the correction of substandard conditions. Additionally, the Council finds that the safety of rental housing properties is increased through the participation of owners, tenants, the City and the community.

The intent of this chapter is to proactively identify blighted and deteriorated rental housing stock and to ensure the rehabilitation or elimination of rental housing that does not meet minimum Building Code and Housing Code Standards, exterior maintenance standards, and site maintenance standards, or is not safe to occupy. It is further intended to preserve and enhance the quality of life for residents of the City living in those residential rental dwelling units.

6.40.020 Definitions.

As used in this chapter:

"Registration/processing fee" means the flat rate, based on the legal property owner, that is payable each and every year by property owners of three (3) or more residential rental properties within the City or payable on a pre-defined scheduled-by property owners of less than three (3) or more residential rental properties within the City.

"Building official" means the person designated as the building official by the City Manager, or his or her designee.

"City" means the City of Richmond.

"Inspection fee" means the amount charged per unit to be inspected at the beginning of every three (3) year cycle.

"Local law enforcement or governmental entities" means any general law city, charter city, county, or city and county, or the respective departments thereof, in this State.

"Nuisance" shall have the same meaning as set forth in California Civil Code Section 3479 and/or any condition as defined in Chapter 9.22 et seq., this Code, or any condition declared and deemed by the City Council to constitute a nuisance, or any violation of the Richmond Municipal Code.

"Owner" means the person or entity identified and listed as having title by the latest property tax assessment roll maintained by the Contra Costa County Assessor and any authorized agent, trustee, or legal representative thereof.

"Owners of three (3) or more residential rental dwelling units", even if they consist of single-family dwellings at different locations within the City or any combination of dwelling units that create an aggregate of three (3) or more residential rental dwelling units.

"Person" means an individual, corporation, partnership, association or other entity.

"Property" means any real property interest or estate which may be granted or devised by deed. The term "Property" shall also include: tracts, lots, easements or parcels of land and any and all improvements thereon.

"Residential rental dwelling unit" means a residential dwelling unit, including single-family dwellings, duplexes, triplexes or multi-family (4-units or more) residential buildings, which is not an owner occupied unit, including rooming houses, boarding houses and single room occupancies (as defined by this Code), but excluding: (1) mobile home parks; (2) any dwelling unit in a building that is properly registered as "vacant property" under Chapter 9.48 of this Code; (3) hotel and motels, bed-and-breakfasts, and similar temporary living accommodations; (4) any dwelling unit in a newly constructed building for which a Certificate of Occupancy was issued less than five (5) years prior, unless a complaint of substandard or illegal conditions has been received.

"Substandard dwelling" means any condition which is defined as constituting a substandard building or dwelling as defined by California Health and Safety Code Section 17920.3 et seq. or as defined by the California Building Code.

"This Code" means the Richmond Municipal Code.

6.40.030 Scope.

- (a) The provisions of this chapter shall apply to all existing residential rental dwelling units located within the Richmond City limits including parking lots, driveways, landscaping, accessory structures and fences.
- (b) Provisions of this chapter shall be supplementary and complementary to all of the provisions of this Code, State law, and any law cognizable at common law or equity, and nothing herein shall be construed, read, or interpreted in any manner so as to limit any existing right or power of the City of Richmond to abate and prosecute any and all nuisances or to enforce any other conditions in violation of State or local codes, including, but not limited to, any building, housing, property maintenance and public nuisance ordinances.

6.40.040 Inspections; compliance with Applicable Codes and Standards.

- (a) Inspections. The building official, or his or her designee, hereinafter referred to as the "Inspector," is authorized to inspect all residential rental dwelling units and their associated properties to determine whether such properties comply with applicable provisions of the Municipal Code and with all previous conditions of approval and agreements. Applicable provisions of the Municipal Code include, but are not limited to, the California Code of Regulations and California Model Codes (including the building, housing, fire, plumbing, mechanical, electrical, and swimming pool, spa, and hot tub

codes), Chapter 9.22 of this Code regulating public nuisance standards, and the standards set forth in this chapter.

- (b) Compliance with Codes and Standards. When inspections are made under this chapter, residential rental dwelling units shall be required to be in conformance and maintained in accordance with the code standard that was in effect at the time the residential rental dwelling unit(s) was constructed, altered, remodeled, erected or converted, except for any additional requirements mandated by this Code or state law.
- (c) Additional Exterior Standards. In addition to the codes and standards described above, all residential rental dwelling units shall meet the following exterior maintenance standards:
 - (1) Buildings, and all portions thereof, shall have exterior walls that are weathertight and watertight and kept free of deterioration, holes, breaks, or loose boards or coverings. Roof structures shall be watertight and not have any defects that will allow water to enter into the building;
 - (2) The exterior finish of all buildings shall be maintained. If the exterior finish of a building is paint or stain, the building shall be repainted or restained prior to a time when the exterior finish has substantially deteriorated;
 - (3) All architectural projections such as cornices, moldings, lintels, sills (and similar projections) shall be maintained in good repair and free of defects;
 - (4) All chimneys, antennas, vents, gutter and downspouts, and similar projections or building accessories shall be maintained in a structurally sound condition and in good repair. Such projections shall be properly secured, when applicable, to an exterior wall or roof;
 - (5) Windows and exterior glazing shall be soundly and adequately glazed, free from loose and/or broken glass and cracks that could cause physical injury or allow the elements to enter the structure. Exterior doors shall be maintained in a weathertight, watertight and rodent-proof condition. Exterior doors of residential rental dwelling units shall be solid core or the equivalent and be provided with a deadbolt-locking device that tightly secures the door;
 - (6) All residential rental dwelling units and exterior property shall be maintained free of rodent, insect or vermin infestation, which creates an unsafe or unsanitary environment on the subject or adjacent properties or buildings;
 - (7) All accessory structures shall be maintained in a state of good repair or removed from the subject property. Such structures shall include, but not be limited to, clubhouses, offices, maintenance buildings, carports, retaining walls, fences, garages, swimming pools, spas, hot tubs and miscellaneous sheds;
 - (8) All parking areas serving the residential dwelling unit(s) shall be kept free of potholes, cracks or other deterioration. No dirt, grass or sod parking areas are permitted. All striping and signage for multi-family (4 or more dwelling units) residential units, including parking signage and fire lane or access signage, shall be maintained in good condition and clearly legible; and
 - (9) All landscaped areas serving the residential dwelling unit(s) shall be maintained so as not to constitute a public safety hazard and shall be maintained in compliance with Chapter 9.22 of this Code. Landscape areas are defined as the general landscaping area, rights-of-way and detention or pond areas. Driveways, hardscape parking areas, patios or walks are not included as landscape areas.

6.40.050 Registration, application and implementation.

- (a) It shall be the responsibility of all owners of residential rental dwelling units within the City to register such dwelling units with the Building Regulations Division and submit the registration/processing fee and the inspection fee. For owners of three (3) or more residential rental dwelling units within the City, who wish to participate in the self-certification program, there is an additional obligation to complete a self-certification application and apply for the self-certification program. The registration/processing fee, inspection fee, and self-certification application shall take place within thirty (30) days of the date on which written notification is mailed to the owner of such residential rental dwelling unit(s) by the Building Regulations Division.
- (b) If the owner of residential rental dwellings fails to register or reregister such units in compliance with this chapter, the building official shall register or reregister said units in the name of the owner and set a date and time for initial inspection of said units, and shall send written notification to the owner that the property has been so registered and advising of the date and time set for inspection, accompanied with a bill for the registration/processing fee and the total initial inspection fee for each unit, and include information on the self-certification program.
- (c) The owner shall permit an inspection of the required number of residential rental dwelling units by the Inspector, the number to be determined by whether owner self-certification is sought, or if the unit does not qualify for the self-certification program, or a complaint has been received, in order to determine whether any substandard condition exists within such dwelling unit(s) or the premises.
- (d) Initial implementation of residential rental dwelling unit inspections may be completed in stages over a three (3) year period. Inspection of residential rental dwelling units may occur on a random basis and/or on a complaint basis, or if the inspector has reasonable cause to believe the unit is substandard.
 - (1) Notwithstanding any provisions of this chapter, any structure and/or premise that does not fully comply with the provisions of the chapter shall be subject to inspection of all residential rental dwelling units and required to pay all applicable fees as set forth in the Master Fee Schedule Resolution.
 - (2) The City shall not charge any tenant for an inspection based on a complaint of Housing Code violations made by the tenant or any other person.

6.40.060 Notification of inspection and procedures.

- (a) A notice of inspection shall be mailed to the owner of the property stating the date and time of the inspection.
- (b) The notice of inspection shall provide a minimum of 14-days notice. It shall be the responsibility of the owner to provide actual notice to the individual tenants to facilitate access to the units to be inspected.
- (c) If an inspection is cancelled or rescheduled by the inspector, a notice shall be mailed to the owner at least 3 days prior to the scheduled inspection date.
- (d) If an inspection is cancelled or rescheduled by the owner, the new inspection date must be within 14-days of the prior scheduled inspection date.
- (e) In the event an owner or tenant in possession of the property refuses to allow access to conduct the inspection, the City Attorney may use all legal remedies permitted by law per Section 6.40.110 of this chapter, including issuance of a warrant to cause an inspection to take place, provided reasonable cause exists to believe that a violation of the Municipal Code or State law exists on the subject property. Inspections for the purpose of this

chapter are a “necessary service” and for which entry by the owner, upon proper notice, is allowed per Civil Code 1954.

6.40.070 Registration/processing fee.

Owners of all residential rental dwelling units subject to inspection under this chapter shall pay a registration/processing fee on a pre-determined schedule in the amount set forth in the Master Fee Schedule (Resolution Establishing Fees and Charges for Various Municipal Services). The fee will be used to finance the cost of processing and maintaining current ownership and property information and program records by City staff. If the owner fails to pay the required fee, the City shall recover it, plus accrued interest and penalties, utilizing all remedies provided by law, including placing a special assessment lien against the property. This fee shall be known as the Residential Rental “Registration/Processing Fee”.

6.40.080 Inspection fee and compliance re-inspection fees.

Upon an initial inspection, the inspector may require the owner of a residential rental dwelling unit to perform work, take action, or refrain from an action to ensure compliance with applicable codes. The initial inspection fee includes the cost of the initial inspection and the first (1st) compliance re-inspection and/or the below described affidavit in lieu of the first (1st) compliance re-inspection. In those cases where the inspector has determined (based on violations designated as minor on the inspection checklist) that the violations are of a minor nature, in lieu of the compliance re-inspection, the owner shall submit a sworn declaration attesting to the repair of all listed violations within the specific time frame provided in the notice. If the owner fails to correct the violations by the second (2nd) compliance re-inspection, or fails to submit a sworn declaration attesting to repair of the minor violations within the time provided, the owner shall pay a re-inspection fee for that second (2nd) compliance re-inspection and for each additional re-inspection thereafter, as set forth in the Master Fee Schedule. If the owner fails to pay the required fee, the City shall recover it, plus accrued interest and penalties, utilizing all remedies provided by law, including placing a special assessment lien against the property.

6.40.090 Exemptions.

- (a) Newly Constructed Buildings. Newly constructed buildings shall be exempt from this chapter for a period of five (5) years. That five (5) year period begins to run on the date the certificate of occupancy was issued by the Building Regulations Division.
- (b) Subsidized Residential Rental Buildings. Those properties where the rents and tenant incomes on 100% of the units, excluding the on-site manager units, are restricted by federal, state or local government programs for a period of not less than thirty (30) years, and the restricting agency inspects a minimum of thirty (30%) percent of the units at least annually, shall be exempt from this chapter. In the event the thirty (30%) percent requirement is preempted by State or Federal law, that requirement for exemption shall not apply.
- (c) Self-Certification Program
 - (1) Owners of three (3) or more residential rental dwelling units with well-maintained properties with no existing violations of the California Code of Regulations, including the California Building Code, Health and Safety Code Section 17920.3 et seq. (State Housing Code), Code for Abatement of Dangerous Buildings, California Plumbing, Electrical, Fire and Mechanical Codes or Richmond Municipal Codes, may qualify to participate in the Residential Rental Dwelling Unit Inspection and Maintenance Self-Certification Program (“Self-Certification Program”).
 - (2) For qualifying participants of the Self-Certification Program, the number of inspections will be limited to twenty (20) percent of the total residential

rental dwelling units owned within the City and no less than one (1) residential rental dwelling unit including multiple single-family dwellings at separate locations. Such inspections are scheduled once every three (3) years provided that the conditions do not deteriorate during that time to the extent that the properties would no longer meet the program eligibility standards. The owner shall conduct a self-inspection of each unit annually. The owner shall then complete, date and sign the self-certification checklist for each unit, and retain the completed checklist.

- (3) In order to be eligible for the Self-Certification Program, the owner must own three (3) or more residential rental dwelling units within the City and the owner (or his or her designee) shall conduct a self-inspection of all residential rental dwelling units, including exterior conditions and site conditions, and:
 - (1) certify that conditions at the property achieve the minimum standards listed on the Self-Certification Program Checklist;
 - (2) complete the self-certification application and affidavit packet;
 - (3) pay the total inspection fee (based on twenty (20) percent of the total residential rental dwelling units owned within the City) as set forth in the Master Fee Schedule and;
 - (4) pay the registration/processing fee as set forth in the Master Fee Schedule.
 - (A) Upon receipt of the request to participate in the Self-Certification Program and the payment of the self-certification application fee, the registration/processing fee and the twenty (20) percent of the total inspection fee, the City will inspect 20% of the total units.
 - (B) The residential rental property owner, or his or her designee, is required to notify the individual tenants of any inspection and facilitate access to said units, including those that will be randomly selected for an inspection by the City of Richmond.
 - (C) If the Director of the department responsible for implementation and enforcement of this chapter ("Director"), or his or her designee, determines that the residential rental property is qualified to participate in the Self-Certification Program, the property owner will not be required to pay the remaining 80% inspection fee for said unit. The property owner will thereafter be required to conduct an annual self-inspection and complete the re-certification application form for the next two (2) subsequent years.
 - (D) Each residential rental property owner and/or property management company shall be required to maintain the annual signed and dated Self-Certification Program Checklist for each unit for a minimum of three (3) years, and provide said list within 24-hours upon request of any Inspector, Code Compliance Officer or other City official. Failure to maintain complete checklists shall result in disqualification from the Self-Certification Program for all rental properties of that owner for a minimum of six years (2-complete inspection cycles).
- (4) If the Director, or his or her designee, determines that the owner of any residential dwelling unit included in this chapter is not eligible to participate in the Self-Certification Program, each residential rental dwelling unit shall be inspected and the property owner shall be assessed the full inspection fee in the amount set forth in the Master Fee Schedule for each unit.
- (5) Nothing in this chapter, including the above-listed exemptions, shall be construed or interpreted as limiting the City's authority to investigate and compel the abatement of any violation of the Richmond Municipal Code and/or the California Code of Regulations or other duly enacted law.
- (6) 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 checklist. Upon removal from the program, the full inspection fee shall be due and payable. The Self-Certification Program checklist shall be created by the department responsible for the

oversight, implementation and enforcement of this chapter as designated by the City Manager.

6.40.100 Violations.

(a) Notice of Violation.

- (1) Content. Whenever it is determined by the Inspector that a violation of this chapter exists, the Inspector shall issue a written notice of violation. The notice shall contain a description of the violation, the specific action required to correct the violation and a demand that the violations be corrected within the specific time period listed in the notice. The notice shall contain the scheduled re-inspection date and time, or in the event the violations are minor as designated on the inspection checklist, the notice shall contain a date by which the owner must provide the inspector with a sworn declaration (attached to a copy of the checklist showing the violations), that each minor item has been repaired as directed.
- (2) Time for Correction. The notice shall provide a reasonable time for correction, the time shall depend on the Inspector's opinion of the time it would take a reasonably diligent person to complete the required action, the potential harm to the public welfare, health and safety, the harm to the tenant or nearby properties and the extent of the corrections required. The Inspector may grant a one-time extension of the initial time to abate the violations upon written request of the owner, if (1) substantial work has been satisfactorily completed (at least 85% of the violations identified in the notice of violation); and (2) the violation is not a life safety issue. In no event shall the initial time to correct exceed one hundred twenty (120) days, nor shall any extension of time exceed sixty (60) days. Certain imminently dangerous life-safety violations may require immediate correction and are not subject to an extension of time to correct and are subject to the relocation requirements of Section 6.40.170 of this chapter.
- (3) Service of Notice. The notice of violation may be served personally on the owner, or if the owner is not present, a copy of the notice may be posted on the property and/or by deposit in the United States mail, in a sealed envelope, postage prepaid, addressed to such person to be notified at his last known business or residence address as the same appears in the public records of the City or other records pertaining to the matter to which such notice is directed. Service by mail shall be deemed to have been completed at the time of deposit in the post office.

It is unlawful and a misdemeanor for any person to remove, deface or cause the removal or defacing of any notice of violation posted on premises pursuant to this chapter.

- (4) Compliance Re-inspections. Compliance re-inspections shall be conducted to verify that the violations identified on the notice of violation have been abated, unless the violations are minor in nature (as designated by an asterisk on the inspection checklist), and the owner has submitted a sworn declaration of repair. Violations that were not noted on the initial notice of violation, but are discovered during any re-inspection due to subsequent activities, damage or deterioration, shall be subject to correction.

6.40.110 Enforcement; penalties.

If, after a notice of violation has been issued, the owner fails to abate the violations, the City may proceed with all remedies available under the Municipal Code to compel compliance, including, but not limited to, issuing Administrative Citations, abatement proceedings, civil injunction and/or criminal prosecution, or any combination of remedies.

The City may also utilize the provisions of the Revenue and Taxation Code Section 24436.5 to encourage the elimination of substandard conditions in rental housing. The City is also authorized to bring an action under the Business and Professions Code for unfair business practices.

6.40.120 Relocation of tenant.

If any residential rental dwelling unit is found to be unsafe to occupy, or is unfit to occupy pursuant to Health and Safety Code Section 17920.3, or the unit is posted by the building official with an order not to enter or occupy as authorized by the California Code of Regulations, Title 24, or the Uniform Code for Abatement of Dangerous Buildings, the costs and expenses of relocation of any tenant from that unit shall be the responsibility of the owner pursuant to applicable state and federal law.

6.40.130 Appeal.

The owner of a residential rental dwelling unit or a party with a legal property interest in the dwelling unit may appeal to the City's Code Enforcement Appeals Hearing Officers' in the manner provided in the California Building Code, except that all appeals must be submitted (1) in writing; and (2) provide a factual statement as to why the owner believes the Inspector's determination of a violation is incorrect.

6.40.140 Retaliatory eviction prohibited.

It is unlawful for a landlord to recover possession of a residential rental dwelling unit in retaliation against a tenant for exercising his or her rights pursuant to state law.

6.40.150 Recovery of Attorneys' fees.

In an action, administrative proceeding, or special proceeding to abate a violation of this chapter, the prevailing party may recover Attorneys' fees pursuant to Government Code Section 38773.5. Recovery of Attorneys' fees is limited to those individual actions or proceedings in which the City elects, at the initiation of that individual action or proceeding, to seek recovery of its own Attorneys' fees. An award of Attorneys' fees to a prevailing party shall not exceed the amount of reasonable Attorneys' fees incurred by the City in an action, administrative proceeding, or special proceeding.

6.40.160 Delinquent fees; late fee penalties.

The registration/processing fee shall be collected by an invoice sent to each residential rental property owner on a pre-determined schedule. Inspection fees shall be collected once every three (3) years by an invoice sent to the residential rental property owner. If an owner of a residential rental property subject to inspection under this chapter fails to pay either fee within thirty (30) days of the date of the invoice, the owner shall be required to pay a penalty. The penalty shall be calculated as follows:

TABLE INSET:

| (Failure to Pay Registration/Processing Fee and/or Inspection Fee After Due Date | Penalty |
|--|------------------------|
| 31—60 days after due date | 20% of the balance due |
| 61—90 days after due date | 40% of the balance due |
| 91 days or more after due date | 50% of the balance due |

6.40.170 Review by City Council.

After this chapter has been in effect for one (1) year, the City Council shall review the administration of this chapter in order to determine and assess whether it has achieved its stated purpose and intent. The building official shall refer this matter to the Council for its review within a reasonable time after the chapter has been in effect for one (1) year and thereafter annually for the next four (4) years.

(Source: Ordinance No. 34-05 N.S.)

SECTION II. Any provisions of the Richmond Municipal Code, or appendices thereto, or any other ordinances of the City inconsistent herewith, to the extent of such inconsistencies and no further, are hereby repealed.

SECTION III. Severability. If any section, subsection, paragraph, sentence, clause or phrase of this Ordinance is for any reason held by a court of competent jurisdiction to be unconstitutional or invalid, the remaining portions of this Ordinance shall remain in full force and effect. The City Council hereby declares that it would have passed each section, subsection, paragraph, sentence, clause or phrase of this Ordinance irrespective of the unconstitutionality or invalidity of any section, subsection, paragraph, sentence, clause or phrase.

SECTION IV. Effective Date. This ordinance shall become effective thirty (30) days after its final passage and adoption.



First read at a regular meeting of the Council of the City of Richmond held December 16, 2014, and finally passed and adopted at a regular meeting thereof held January 20, 2015, by the following vote:

- AYES: Councilmembers Bates, Beckles, Martinez, McLaughlin, Vice Mayor Myrick, and Mayor Butt.
- NOES: None.
- ABSTENTIONS: None.
- ABSENT: None.

DIANE HOLMES
CLERK OF THE CITY OF RICHMOND

(SEAL)

Approved:

TOM BUTT
Mayor

Approved as to form:

BRUCE GOODMILLER
City Attorney

State of California }
County of Contra Costa } : ss.
City of Richmond }

I certify that the foregoing is a true copy of **Ordinance No. 03-15 N.S.**, finally passed and adopted by the City Council of the City of Richmond at a regular meeting held on January 20, 2015.