

RESOLUTION NO. 2006-37

**RESOLUTION OF THE CITY COUNCIL OF THE CITY OF PINOLE,
COUNTY OF CONTRA COSTA, STATE OF CALIFORNIA,
ADOPTING ADMINISTRATIVE REGULATIONS
IMPLEMENTING THE RESIDENTIAL HEALTH AND SAFETY
RENTAL INSPECTION PROGRAM CODIFIED IN CHAPTER 8.30 OF THE
PINOLE MUNICIPAL CODE**

WHEREAS, Section 8.30.170 of the Residential Health Rental Inspection Program codified in Chapter 8.30 of the Pinole Municipal Code authorizes and directs the City Building Official to promulgate administrative regulations pertaining to the implementation and enforcement of Chapter 8.30; and

WHEREAS, Section 8.30.170 of the Pinole Municipal Code further provides that administrative regulations promulgated pursuant to that section shall not take effect unless and until they are approved by a resolution duly adopted by the City Council following a public hearing thereon; and

WHEREAS, a report concerning the fee for recovery of the cost of the Residential Rental Inspection Program is Attachment A of this staff report; and

WHEREAS, the City Council of the City of Pinole hereby finds that the report contained in Attachment A establishes that the Residential Rental Inspection Program fee does not exceed the reasonable cost of providing the service for which the fee is charged and that the fee is reasonable, fair, equitable and proportionately representative of the costs incurred by the City in operating the Residential Health and Safety Rental Inspection Program; and

WHEREAS, the fee for recovery of the cost of the Residential Rental Inspection will be stayed for the first ninety (90) days of the Program's operation to encourage voluntary Program participation by residential dwelling unit owners, to allow the City's inspector(s) time to become familiar with the Program and the City's housing stock and to serve the public purpose of ensuring that the Program is efficiently implemented to provide safe housing stock within the City; and

WHEREAS, after considering the report concerning the Residential Health and Safety Rental Inspection Program fee, the testimony received at this noticed public hearing, the agenda statement, any background documents, and all correspondence received, the City Council of the City of Pinole approves and adopts such report and incorporates such report herein and further finds that imposition of the fee recommended in such report is necessary to recover the cost of providing the service for which the fee is to be charged.

NOW, THEREFORE, the City Council of the City of Pinole does hereby resolve as follows:

Section I. Administrative Regulations Adopted.

The purpose of the Residential Health and Safety Rental Inspection Program as codified in Chapter 8.30 of the Pinole Municipal Code is to improve the residential housing environment and provide for neighborhood stability throughout the City of Pinole through periodic inspection of residential housing units and hotels and motels in the City to ensure that such premises conform to the City's Housing Code and other applicable laws. Accordingly, in accordance with the purpose of Chapter 8.30 and Section 8.30.170, which directs the City Building Official to promulgate administrative regulations subject to adoption by the City Council, the following administrative regulations shall apply to the implementation and enforcement of Chapter 8.30:

1. Applications for Certificates of Compliance shall be processed and Certificates of Compliance shall be issued in accordance with applicable provisions of Chapter 8.30.

2. The fee to recover the cost of the Residential Health and Safety Inspection Program shall be \$102.25 per inspection per unit in accordance with the report attached as Attachment A of this staff report. Unit owners shall be charged a \$102.25 fee for every re-inspection after the first re-inspection.

3. The fee to recover the cost of the Residential Health and Safety Inspection Program shall be stayed for the first ninety (90) days of the Program's operation. The stay is designed to encourage voluntary Program participation by residential dwelling unit owners and to allow the City's inspector(s) time to become familiar with the Program and the City's housing stock. All other aspects of the Residential Health and Safety Rental Inspection Program Ordinance and all other administrative regulations as stated herein shall be in full force and effect during the ninety (90) day stay period, and shall continue to be in effect at the conclusion of the ninety (90) day stay period.

4. If the Owner fails to pay the inspection or re-inspection fees, the City may recover the unpaid fees, plus accrued interest at the maximum rate permitted by law, from the owner in a civil action in which the City may be entitled to recover its reasonable attorneys fees. Alternatively, the City may record a lien against the property to which the fees relate in the manner provided in Sections 8.24.140 – 8.24.220 of the Pinole Municipal Code.

5. The City Building Division shall send a notice to Rental Unit Owners subject to Chapter 8.30 at least ninety (90) days prior to the expiration of an existing Certificate of Compliance for any Rental Unit. A certificate of compliance application shall be included with such notices

6. Rental Unit Owners must submit completed Certificate of Compliance renewal applications to the Building Division along with the current inspection fee at least 60 days prior to the expiration of the existing Certificate of Compliance.

7. The Building Division shall issue notices to Rental Unit Owners subject to Chapter 8.30 that fail to timely complete a renewal application or to cooperate concerning

inspection of the Unit, and to other Unit Owners not in compliance with Chapter 8.30, as well as state Building Codes or Health and Safety Codes. Such notices shall specify applicable obligations under Chapter 8.30 and that if such obligations are not satisfied within sixty (60) days from the issuance of the notice the City may use any and all applicable legal rights and remedies to gain compliance with Chapter 8.30, including, but not limited to, obtaining an inspection warrant pursuant to Section 1822.50 and following of the California Code of Civil Procedure, denial or revocation of a business license pursuant to Title 5 of the Pinole Municipal Code, abatement proceedings pursuant to Chapter 8.24 of the Pinole Municipal Code, as well as other civil or criminal proceedings.

8. If Owners to whom notices are sent pursuant to section 4, above, do not comply with Chapter 8.30 requirements by the time specified in the notice, the Building Division may seek to enforce Chapter 8.30 requirements by any lawful means, including, but not limited to those means specified in the notice.

9. Unit Owners concerning whose Units inspection pursuant to Chapter 8.30 discloses Deficiencies must coordinate with the Building Division to arrange for re-inspection of the Unit within sixty (60) days to verify that the Deficiencies have been corrected. The first re-inspection to verify that the Deficiencies have been corrected will be free of charge. If Deficiencies are not corrected by the time of the first re-inspection, such Units shall be categorized as Non-Compliant Units and shall be subject to re-inspection within each successive sixty (60) day period. Every subsequent re-inspection will result in the Non-Compliant Unit's Owner being charged a fee for the subsequent re-inspection. The fee to recover the cost of the subsequent re-inspections shall be \$102.25 per re-inspection per Non-Compliant Unit in accordance with the report attached as Attachment A. Following the correction of the Deficiencies, such Non-Compliant Units shall be subject to an annual inspection until such Non-Compliant Units demonstrate that no Deficiencies exist for two (2) consecutive annual inspection cycles. The fee to recover the cost of the subsequent annual inspections shall be \$102.25 per annual inspection per Non-Compliant Unit in accordance with the report attached as Attachment A.

10. In accordance with Pinole Municipal Code Sections 8.30.030(J) and 8.30.030(C), units whose Owners have filed a Statement of Unavailability for Rent with the Building Official shall be exempt from chapter 8.30 requirements. Statements of Unavailability for Rent shall be forms prepared by the Building Division. Such forms shall provide that Units listed in the form are not offered or available for rent as Rental Units, and that prior to offering such Units as Rental Units, the Owner shall apply for a Certificate of Compliance for such Units pursuant to Chapter 8.30 and this resolution. Owners must sign Statements of Unavailability for Rent under penalty of perjury.

Section II. Severability.

If any provision of this resolution or the application thereof to any person or circumstance is held invalid, the remainder of this resolution, including the application of such part or provision to other persons or circumstances shall not be affected thereby and shall continue in full force and effect. To this end, provisions of this resolution are severable. The City Council of the City of Pinole hereby declares that it would have passed each section, subsection, subdivision, paragraph, sentence, clause, or phrase hereof irrespective of the fact that any one or more sections, subsections, subdivisions, paragraphs, sentences, clauses, or phrases be held unconstitutional, invalid, or unenforceable.

Section III. Effective Date.

This resolution shall take effect and be in force upon the same effective date as the Ordinance Adding Chapter 8.30 to the Pinole Municipal Code Establishing a Residential Health and Safety Rental Inspection Program.

PASSED AND ADOPTED at a regular meeting of the City Council of the City of Pinole held on the 4th day of APRIL 2006, by the following vote:

AYES: ALEGRIA, BOYLE, COLE, HORTON, MURRAY

NOES: NONE

ABSENT: NONE

ABSTAIN: NONE

Patricia Athenour, City Clerk

APPROVED AS TO FORM:

Benjamin T. Reyes, II, City Attorney

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