

ORDINANCE NO. 2006-01

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF PINOLE
ADDING CHAPTER 8.30 TO THE PINOLE MUNICIPAL CODE
ESTABLISHING A RESIDENTIAL HEALTH AND SAFETY RENTAL
INSPECTION PROGRAM**

WHEREAS, the City of Pinole has lacked a housing code enforcement program to provide for periodic inspection of residential rental dwelling units, hotels and motels throughout the City; and

WHEREAS, the lack of such a housing code enforcement program has permitted portions of the City's residential housing inventory to become substandard and deteriorated through the lack of maintenance or through alterations and/or uses in violation of law; and

WHEREAS, substandard and deteriorated housing has a detrimental effect upon the stability of neighborhoods, is environmentally undesirable and therefore detrimental to City residents and to neighboring communities; and

WHEREAS, improving the residential housing environment and providing for neighborhood stability throughout the City requires 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; and

WHEREAS, in order to provide for such needed periodic inspection of residential housing units, hotels and motels this ordinance establishes a Residential Health and Safety Rental Inspection Program to protect occupants from substandard housing and to maintain neighborhood stability and to provide for an environmentally desirable community for all residents; and

WHEREAS, the fees imposed pursuant to this ordinance shall not exceed the reasonable cost of providing the service for which such fees are charged and shall be reasonable, fair, equitable and proportionately representative of the costs incurred by the City in providing such services; and

WHEREAS, such fees imposed to recover the cost of the Residential Health and Safety Rental Inspection Program are imposed not on property ownership per se but rather on the carrying on of the business of renting residential property subject to this ordinance; and

WHEREAS, in accordance with the holding of the California Supreme Court in the case of *Apartment Association of Los Angeles County, Inc., v. City of Los Angeles (2001) 24 Cal. 4th 830*, fees that are imposed by public agencies to recover the cost of providing services such as the Residential Health and Safety Rental Inspection

Program which fees are imposed on specified property uses rather than on property ownership per se are neither fees or charges imposed as an incident of property ownership nor property-related services that have a direct relationship to property ownership pursuant to Section 3 of Article XIID of the California Constitution, and such fees are therefore exempt from the requirements of Article XIID of the California Constitution; and

WHEREAS, this ordinance is not intended to require that existing buildings or structures within the City comply with uniform codes currently in effect where such buildings or structures at the time they were constructed conformed to such codes then in effect, unless otherwise required by other laws and ordinances or unless a failure to comply with codes currently in effect endangers the life, limb, health, property, safety or welfare of such building or structure or occupants or members of the public;

WHEREAS, nothing in this ordinance shall limit the City's ability to inspect properties and issue citations for property-related conditions that may constitute an immediate health or safety threat.

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

Section 1. Pinole Municipal Code Chapter 8.30 Added.

Pinole Municipal Code Chapter 8.30 entitled "Residential Health and Safety Rental Inspection Program" is hereby added to read as follows:

8.30.010 Short Title. This chapter shall be cited as the "Residential Health and Safety Rental Inspection Ordinance."

8.30.020 Declaration of Purpose. The City Council finds that the establishment of a periodic housing inspection program for rental units is necessary to protect the public health, safety, and welfare by ensuring the proper maintenance of such housing, by identifying and requiring correction of substandard housing conditions, and by preventing conditions of deterioration and blight that could adversely affect economic conditions and the quality of life in the City.

8.30.030 Definitions. The following words and phrases, whenever used in this chapter shall be construed as defined in this section:

- A. "Applicable Laws" includes, but is not limited to, the City's Housing Code, the City Zoning Ordinance, other City ordinances, and other laws or regulations relating to the health or safety of City residents or the public.
- B. "Building Official" means the City of Pinole Building Official.
- C. "Certificate of Compliance" means the certificates issued evidencing compliance with the requirements of this chapter.

- D. "City" means the City of Pinole, California.
- E. "Deficiency" means any failure by a Unit subject to this chapter to comply with Applicable Laws.
- F. "Occupant" means an individual, partnership, corporation or association or agent of any of them lawfully residing in a Unit.
- G. "Unit" means a dwelling unit within the City, including single-family homes, duplexes, and multi-family dwellings, motels, hotels and similar living accommodations.
- H. "Owner" means the owner of record as shown on the last equalized assessment roll or such Owner's authorized agent.
- I. "Rental Unit" means a Unit occupied by or intended for occupancy by other than the Owner of the Unit.
- J. "Unit Unavailable for Rent" means a Unit whose Owner has filed with the Building Official a statement signed under penalty of perjury in accordance with administrative regulations adopted pursuant to this chapter which statement provides that such Unit is not offered or available for rent as a Rental Unit, and that prior to offering or making available such Unit for rent as a Rental Unit, the Owner will apply for a Certificate of Compliance for such Unit pursuant to this chapter and any applicable administrative regulations adopted pursuant to this chapter.

8.30.040 **Applicability.** The provisions of this chapter shall apply to all Rental Units, except, however, that the provisions of this chapter shall not apply to:

- A. Owner or manager-occupied rental units.
- B. Units that are owned, operated or managed by a government agency other than the City or which are exempt from municipal regulation pursuant to state or federal law or regulations, but only so long as such government ownership, operation or management or exemption from municipal regulation continues in effect.
- C. Units Unavailable for Rent.

8.30.050 **Compliance With Business License Requirements.** Every Owner of Rental Units carrying on the business of operating Rental Units subject to this chapter or on whose behalf the business of operating such Rental Units is carried out must comply with the business license requirements of Title 5 of the Pinole Municipal Code, including, but not limited to, the business license tax requirements prescribed in that title.

8.30.060 **Certificate of Compliance Requirement.** Owners of Units, including Rental Units, subject to this chapter must file a written application with the Building Official and obtain a valid Certificate of Compliance for each Rental Unit prior to applying for a business license pursuant to Title 5 of this code. Applications for Certificates of Compliance may be obtained from the City Building Division. To be considered for approval applications for Certificates of Compliance must be complete in accordance with this chapter and any applicable regulations adopted pursuant to this chapter and include the current fee specified in regulations adopted pursuant to this chapter.

8.30.070 **Initial Inspection.** Within 20 working days of the time an application for Certificate of Compliance submitted to the Building Official is complete in accordance with this chapter, the Building Official shall cause the Unit or Units specified in the application to be inspected. The Building Official shall issue a Certificate of Compliance for Units that comply with Applicable Laws.

8.30.080 **Complaint-Based Inspections.** Nothing contained herein shall prevent or restrict the authority of the City's code enforcement officials to inspect any apartment, house or hotel, or the premises thereof, in response to a citizen complaint alleging code violations or other violations of law at such an apartment, house or hotel, and to pursue all code enforcement remedies permissible under this code or other laws following such a complaint-based inspection of an apartment, house or hotel.

8.30.090 **Periodic Housing Inspections.** Every owner of a rental unit located within the City shall permit the City's periodic inspection of the apartment, house and hotel, and the property on which such unit is located, following notice from the City. The building inspector, or his or her designee, shall cause each unit to be inspected once every three (3) years to ensure compliance with all applicable City ordinances or other laws relating to housing, including the substandard housing provisions of the Housing code contained in chapter 15.22 of this Code.

8.30.100 **Re-inspections.** A Unit that exhibits a Deficiency or Deficiencies shall be subject to re-inspections as set forth in the administrative regulations adopted pursuant to section 8.30.170 of Chapter 8.30.

8.30.110 **Notice of Inspection.** The building inspector, or his or her designee, shall give a minimum of thirty (30) days advance written notice of the date and time of the periodic inspection to the owner of the unit and to the occupants thereof. Such notice shall provide the address and phone number where additional information concerning the inspection may be obtained. Notice to the unit's owner and occupants shall be mailed by first class mail to the owner's last known address as it appears in the records of the county assessor and to the unit's occupants.

8.30.120 **Inspection Consent.** Owners shall make every effort to make Units available for City inspection. If Owners or non-Owner Occupants do not consent to City entry for inspection pursuant to this chapter, the Building Official may not force or otherwise attempt to gain entry except in accordance with an valid inspection warrant

issued in accordance with Section 1822.50 and following of the California Code of Civil Procedure.

8.30.130 Certificate of Compliance Contents. Certificates of Compliance issued pursuant to this chapter shall specify: the date of issuance, the legal use and occupancy of the Unit, the Unit address, the name of the Unit Owner to whom the certificate is issued, and that the Unit complies with Applicable Laws so far as could be determined by inspection.

8.30.140 Validity of Applications and Certificates of Compliance. Applications for Certificates of Compliance are valid for 90 (ninety) days from the time the application is complete in accordance with this chapter, or a longer time approved by the Building Official in accordance with administrative regulations adopted pursuant to this chapter. Owners that fail to correct Deficiencies within 90 (ninety) days of the time the application is complete in accordance with this chapter, or within a longer time approved by the Building Official in accordance with this chapter must reapply. Such reapplications must satisfy all requirements of this chapter applicable to new applications, including payment of the current fee. Certificates of Compliance issued pursuant to this chapter shall remain valid for 3 (three) years from the date of issuance.

8.30.0150 Deficiencies. The Building Official shall provide the Owner with written notice of each Deficiency disclosed by inspection pursuant to this chapter. Certificates of Compliance may not be issued until all Deficiencies disclosed by inspection pursuant to this chapter are corrected. Unit Owners shall be subject to re-inspections and re-inspection fees as set forth in the administrative regulations adopted pursuant to section 8.30.170 of Chapter 8.30.

8.30.160 Violations. If an inspection of a unit or its premises, conducted pursuant to this chapter, reveals any violations of applicable City ordinances or other laws relating to such rental units, including the substandard housing provisions of the Housing Code contained in Chapter 15.22 of the Pinole Municipal Code, the violation must be cured within sixty (60) days. If the violation remains upon re-inspection, the City's code enforcement officials may seek any remedies permitted by law, including 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.

8.30.170 Administrative Regulations. The Building Official is authorized and directed to promulgate administrative regulations pertaining to the implementation and enforcement of this chapter. Such administrative regulations shall not take effect unless and until they are approved by a resolution duly adopted by the City Council following a public hearing thereon.

8.30.180 Voluntary Inspection Requests. Nothing in this chapter shall be construed to prohibit an Owner or Occupant from voluntarily requesting an inspection

pursuant to this chapter to determine whether a Unit complies with Applicable Laws, even though such inspection may not be required pursuant to this chapter. Such voluntary inspection requests shall be subject to all of the provisions of this chapter, including, but not limited to, the provisions governing applications and fees.

8.30.190 **Penalties.** Violations of the provisions of this chapter shall be deemed infractions.

8.30.200 **Appeal.** Any person aggrieved by the determination concerning a Certificate of Compliance application under this chapter may appeal to the Board of Appeals in accordance with applicable provisions of chapter 15.22 of the Pinole Municipal Code.

8.30.210 **Annual Review and Report.** The Building Official shall conduct an annual review of the Residential Health and Safety Rental Inspection Program and shall submit an annual report of the Program's effectiveness to the City Council.

8.30.220 **Immediate Health and Safety Threats.** Nothing in this ordinance shall limit the City's ability to inspect properties and issue citations for property-related conditions that may constitute an immediate health or safety threat.

Section 2. Severability.

If any provision of this ordinance or the application thereof to any person or circumstance is held invalid, the remainder of this ordinance, 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 ordinance 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 3. Effective Date.

In accordance with California Government Code Section 36937, this ordinance shall take effect and be in force on the thirty-first day after adoption.

Section 4. Publication.

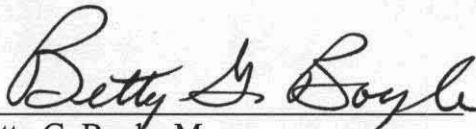
Within fifteen days after the passage of this ordinance the City Clerk shall cause this ordinance or a summary thereof to be published or to be posted in at least three public places in the City of Pinole in accordance with the requirements of California Government Code Section 36933.

INTRODUCED on this 21st day of March 2006, by the following vote:

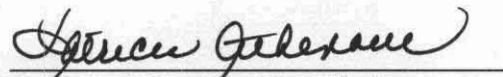
AYES: Alegria, Boyle, Murray
NOES: Cole, Horton
ABSENT: None
ABSTAIN: None

PASSED AND ADOPTED this 4th day of April, 2006, by the following vote:


AYES: Alegria, Boyle, Murray
NOES: Cole, Horton
ABSENT: None
ABSTAIN: None


Betty G. Boyle, Mayor

ATTEST:


Patricia Athénour, City Clerk

APPROVED AS TO FORM:


Benjamin T. Reyes, II, City Attorney