

ORDINANCE NO. 2010-17

AN ORDINANCE OF THE CITY OF SANTA CRUZ
AMENDING TITLE 21, ADDING CHAPTER 21.06 TO THE SANTA CRUZ MUNICIPAL
CODE PERTAINING TO REGULATION OF RESIDENTIAL RENTAL INSPECTION AND
MAINTENANCE PROGRAM, AND REPEALING CHAPTER 21.01.020

BE IT ORDAINED By The City Of Santa Cruz As Follows:

Section 1: Chapter 21.06 is hereby added to the Santa Cruz Municipal Code to read as follows:

Chapter 21.06
Residential Rental Dwelling Unit Inspection and Maintenance Program

Sections:

- 21.06.010 Findings and Purpose.
- 21.06.020 Definitions.
- 21.06.030 Scope.
- 21.06.040 Residential Rental Dwelling Unit Inspection Program Registration.
- 21.06.050 Residential Rental Dwelling Unit Inspection Program Initial Phase.
- 21.06.060 Residential Rental Dwelling Unit Inspection Program Fees.
- 21.06.070 Inspections.
- 21.06.080 Self-Certification Program.
- 21.06.090 Refusal to Permit Inspection.
- 21.06.100 Retaliatory Eviction.
- 21.06.110 Change of Ownership.
- 21.06.120 Regulations Nonexclusive.
- 21.06.130 Appeals.
- 21.06.140 Conflicts.

21.06.010 Findings and Purpose. The City Council finds and declares that there exist in the City substandard, over-crowded and/or unsanitary residential rental buildings and dwelling units, the physical conditions and characteristics of which violate state and local building, housing and sanitation codes and ordinances and render them unfit or unsafe for human occupancy and habitation. These residential rental buildings and units are detrimental to or jeopardize the health, safety, and welfare of their occupants and of the public and serve to seriously compromise the integrity and residential quality of City neighborhoods through such factors as deferred property maintenance, overcrowding, a proliferation of vehicles attributable to the multiple tenants who rent these properties and the accumulation of excess trash and debris on or about the properties. It has been observed by City staff performing code enforcement functions that in general the most egregious violations of health and safety codes and negative impacts as a result of overcrowding are experienced in rental housing.

The City Council further finds and declares that the existence of such substandard residential rental buildings and dwelling units threatens the social stability and economic integrity of the neighborhoods which host these buildings; necessitates disproportionate expenditures of public funds for code enforcement and remedial action; impairs the efficient and economical exercise of

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governmental powers and functions; and disrupts peaceful and quiet enjoyment of residential areas and neighborhoods.

The City Council further finds and declares the desire to safeguard the stock of decent, safe and sanitary rental housing in the City through a partnership of owners, tenants, the City and the community. The Santa Cruz Housing Element calls for consideration of a self-funding, proactive inspection program for rental units.

The rental inspection program required by this chapter is intended to address the conditions described in the first paragraph of this section. The purpose of this chapter is to proactively identify such substandard and unsafe residential buildings and dwelling units and to ensure the rehabilitation or elimination of those buildings and dwelling units that do not meet minimum building code and housing code standards, or are not safe to occupy or do not comply with zoning codes. It is intended that structures will be required to be maintained in a safe and sanitary condition at the level consistent with the codes of the period in which they were constructed. However, unpermitted additions and alterations must comply with current codes adopted by the City of Santa Cruz unless otherwise allowed by the Historic Building Code. This chapter is further intended to preserve and enhance the quality of life for residents living in such rental buildings and dwelling units and the neighborhoods which host these structures.

21.06.020 Definitions.

As used in this chapter, the following terms and phrases are defined as follows:

A. "Building, housing and sanitation codes or ordinances" shall refer to: the current adopted codes specified in Title 18 of the Santa Cruz Municipal Code, the California Fire Code and International Fire Code, all as modified, adopted and codified in the Santa Cruz Municipal Code. The phrase "building, housing and sanitation codes or ordinances" shall also refer to the City of Santa Cruz Zoning Ordinance as codified at Title 24 of the Santa Cruz Municipal Code, the City of Santa Cruz Subdivision Ordinance as codified at Title 23 of the Santa Cruz Municipal Code, and all provisions of California statutory law and the Santa Cruz Municipal Code pertaining to property-related sanitation, health, safety and nuisance, as well as state regulations promulgated pursuant to California statutory law, for which the City has enforcement authority.

B. "Director" shall refer to the City's Director of Planning and Community Development.

C. "Owner" shall mean any person who owns one (1) or more residential rental dwelling units.

D. "Person" means and includes any individual, partnership of any kind, corporation, limited liability company, association, joint venture or other organization or entity, however formed, as well as trustees, heirs, executors, administrators, or assigns, or any combination of such persons. The terms "person", "owner", "operator," and "landlord" may herein be used interchangeably.

E. "Residential Rental Dwelling Unit" shall mean a building or portion of a building that is rented or leased to tenants for residential purposes on a non-transient basis (when one or more tenants reside on the property or rents or leases the property for thirty consecutive days or

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longer) and which is owned in whole or in part by a landlord. This shall include but not be limited to single family residences, duplexes, triplexes, apartment houses, townhouse dwellings, condominiums, boarding houses, lodging houses, rooming houses, single room occupancy units, small ownership units, hotel and motel units, sober living facilities, fraternities, sororities, and dormitories in the City of Santa Cruz.

21.06.030 Scope.

A. The provisions of this Chapter shall apply to all owners of one (1) or more residential rental dwelling units located within the City of Santa Cruz.

B. The provisions of this Chapter shall not apply to: legal accessory dwelling units; rooms rented to single individuals in an owner-occupied single family residence; hotel or motel units subject to the transient occupancy tax ordinance codified at Chapter 3.28 of this Code; units inspected by another governmental authority for housing and safety standards; newly constructed multiple dwelling units (including townhouse dwelling groups and condominiums projects that are rented) for a period of five (5) years from the issuance of Certificate of Occupancy; and mobile home parks.

21.06.040 Residential Rental Dwelling Unit Inspection Program Registration.

A. Each owner or operator, on behalf of the owner, shall initially register for the residential rental dwelling unit inspection program on a form provided by the City's Planning and Community Development Department. Initial registration of residential rental dwelling units which are subject to this Chapter shall be due within sixty (60) days of January 1, 2011. Registration of residential rental dwelling units which become subject to this Chapter after the effective date of this Chapter shall be due within sixty (60) days of the date that the residential rental dwelling unit was acquired or converted into a residential rental dwelling unit after January 1, 2011.

B. All registrations shall be subject to verification by the Director. All information on said registrations shall be submitted under penalty of perjury. Any person who makes a false statement in the registration or submits false information in connection with a registration shall be guilty of an infraction.

C. Each owner or operator, on behalf of the owner, may apply for the Residential Rental Dwelling Unit Inspection and Maintenance Self-Certification Program ("Self-Certification Program") on a form provided by the City's Planning and Community Development Department.

21.06.050 Residential Rental Dwelling Unit Inspection Program Initial Phase. During the first three (3) years of the Residential Rental Dwelling Unit Inspection Program compliance inspections by City inspectors will be conducted only on residential rental dwelling units which are in violation of any building, housing or sanitation codes or ordinances consistent with Section 21.06.030 above, or on residential rental dwelling units requested for inspection by the owner. During this three (3) year Program Initial Phase all other provisions of this Chapter, including but not limited to registration requirements, Program fees, Self-Certification procedures will be in effect.

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21.06.060 Residential Rental Dwelling Unit Inspection Program Fees.

A. Each annual registration for the residential rental dwelling unit inspection program shall be accompanied by a non-refundable fee in the amount established by resolution of the City Council. The fee shall be used to defray the costs of the administration and enforcement of this Chapter.

B. If a residential rental dwelling unit is approved in the Self-Certification Program an annual self-certification fee in the amount established by resolution of the City Council will be required. The fee shall be used to defray the costs of the administration and enforcement of the Program. If a residential rental dwelling unit is not approved in the Self-Certification Program an annual inspection fee for an annual inspection in the amount established by resolution of the City Council will be required. The annual inspection fee includes the cost of the annual inspection and one compliance reinspection, if necessary. If the owner fails to correct any found violations by the first compliance reinspection, the owner shall pay a reinspection fee for the second and subsequent compliance reinspections in the amount established by resolution of the City Council. All fees are non-refundable.

C. The annual residential rental dwelling unit program fee shall be levied for the calendar year and each applicant must pay the full fee for the calendar year upon submission of the application for that year's residential rental dwelling unit registration. For residential rental dwelling units which become subject to this Chapter after July 1 of the calendar year, program fees shall be reduced by one-half.

D. The residential rental dwelling unit program fee required by this Chapter is in addition to and not in lieu of any general business license tax that might be required by Chapter 5.04 of this Code.

E. Penalty.

1. Failure to Pay Annual Fee. In addition to any remedies the City may elect to pursue pursuant to Title 4 of this Code, for failure to pay the annual residential rental dwelling unit program fee when due, the Director of Finance shall add a penalty of twenty (20) percent of the permit fee on the first day of the month following the due date and ten (10) percent for each month thereafter while the fee remains unpaid, provided that the amount of the penalty shall not exceed fifty (50) percent of the amount of the fee due.

2. Failure to Register. If an owner fails to register for the residential rental dwelling unit inspection program as required by this Chapter the fee due shall be that amount due and payable from the first date when the person engaged in the residential rental business in the City after the effective date of this Chapter, together with the penalty prescribed in subsection (D)(1).

21.06.070 Inspections.

A. In accordance with the requirements of this Section the City shall be authorized to periodically conduct an inspection of residential rental dwelling units to assure compliance with all applicable building, housing and sanitation codes and ordinances. Owners shall provide

access to all required areas of a residential rental property for inspection within twenty-one (21) calendar days of an inspection request from the City's Planning and Community Development Department. This time period may be extended upon the approval of the Director or his or her designee. If the residential rental dwelling unit is legally occupied by a tenant or other occupant, the owner shall notify the tenant or occupant and request that the tenant or occupant allow the inspection. The owner shall not be in violation of this Section if the tenant or occupant refuses to allow the inspection.

B. Frequency of Inspections.

1. Initial Inspections.

a. It is the intent of the City that all residential rental dwelling units subject to this Chapter as of the effective date of this Chapter and not eligible for the Self-Certification Program will receive an annual inspection, subject to the twenty-one (21) day notice required by subsection A., commencing the first year of program after January 1, 2011.

b. Well-maintained properties eligible to participate in the Self-Certification Program will have reduced inspections as outlined in Section 21.06.080 for a period of five (5) years as long as the residential rental dwelling units' condition do not deteriorate during that time to the extent that the property would no longer meet the Self-Certification eligibility standards.

c. Any residential rental dwelling unit which becomes subject to this Chapter after January 1, 2011 shall receive an inspection within ninety (90) days of the date of registration, if not eligible for Self-Certification Program.

2. Subsequent Inspections.

a. If during the inspection or any subsequent inspection there are building, housing or sanitation code or ordinance violations, or permit violations, on the property which prevent the City inspector from issuing a rental housing inspection certification one or more reinspections of the property may be required before a rental housing inspection certification is issued.

C. Code Enforcement. When during an inspection a building, housing or sanitation code or ordinance violation is noted, as a courtesy prior to undertaking formal code enforcement action, the City inspector shall document the violation, advise the owner or operator of the violation and of the action which must be undertaken and completed in order to remedy the violation and schedule a re-inspection to verify correction of the violation. If upon re-inspection the violation has not been corrected, the City inspector may report the violation for code enforcement pursuant to Title 4 of this Code. If upon receipt of the courtesy notice from the City inspector, the owner or operator advises that he or she will not proceed to correct the violation, the violation shall then be immediately reported for code enforcement.

D. Rental Housing Inspection Certification. Upon the successful completion of an inspection, subsequent inspection or re-inspection of the residential rental dwelling unit establishing that the property and its occupancy are in compliance with all applicable building, housing and sanitation

code or ordinance requirements, the City shall issue to the owner or operator a rental housing inspection certification verifying code/ordinance compliance and specifying a one or, for properties which qualify for the Self-Certification Program, a five year time period during which the certification will remain valid and during which the residential rental dwelling unit shall not be subject to a subsequent inspection. Notwithstanding the foregoing a rental housing inspection certification shall not preclude code enforcement or investigation on the property if during the rental housing inspection certification period a code violation on the property is reported to the City or otherwise observed by the City on the property.

21.06.080 Self-Certification Program

A. Well-maintained properties with no existing violations of building, housing and sanitation codes or ordinances or no past violations of building, housing and sanitation codes or ordinances within the past three (3) year period may qualify to participate in the Residential Rental Dwelling Unit Inspection and Maintenance Self-Certification Program (“Self-Certification Program”).

B. For qualifying participants, the number of inspections will be limited to twenty (20) percent of the total units on each property or limited to an inspection of one-unit total in residential rental dwelling units consisting of three (3) units, including multiple single family dwellings at separate locations, not more often than once every of five (5) years, provided the residential rental dwelling units’ conditions do not deteriorate during that time to the extent that the property would no longer meet the property eligibility standards. If violations are found, more or all of the owner’s units may be inspected. The owner shall be required to pay an annual non-refundable Self-Certification Fee and conduct an annual self-inspection of each residential rental dwelling unit as discussed below.

C. Upon receipt of the request to participate in the Self-Certification Program, the Director shall determine if the residential rental dwelling units have not had any code violations over the past three (3) years. If the application qualifies the owner or operator, on behalf of the owner, shall pay the Self-Certification Program annual non-refundable fee and the Director shall schedule the reduced inspections as outlined in B. above for the next five (5) years.

D. In order to maintain eligibility in the Self-Certification Program, the owner or operator, on behalf of the owner, shall conduct an annual self-inspection of all the residential rental dwelling units, including exterior conditions and site conditions, and certify under penalty of perjury that the conditions at the property achieve the minimum standards listed on the Self-Certification Program Checklist. All information on said Self-Certification Checklist shall be submitted under penalty of perjury. Any person who makes a false statement in the Self-Certification Checklist or submits false information in connection with a Self-Certification Checklist shall be guilty of an infraction. The owner shall not be in violation of this section if the tenant or occupant refuses to allow the Self-Certification inspection by the owner. The owner shall provide the City a signed statement from the tenant/occupant that the inspection was refused. If the tenant refuses to sign the statement, the owner shall provide proof, under penalty of perjury, that a request to inspect was served and it was not permitted by the tenant.

E. If the Director determines that a residential rental dwelling unit is not eligible to participate in the Self-Certification Program, then all the residential rental dwelling units on a

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same property shall be inspected and the owner shall be assessed the full annual inspection fee established by resolution of the City Council.

F. Each owner or operator, on behalf of the owner, shall be required to maintain a copy of the annual signed and dated Self-Certification Program Checklist for each unit for the five (5) year period and provide said list within seventy-two (72) hours upon request of the Director or his/her designee. Failure to maintain complete signed checklists may result in disqualification from the Self-Certification Program for all rental properties of that owner for a period of up to three (3) years. A copy of the annual signed and dated Self-Certification Program Checklist shall be provided to the tenant(s) of each residential rental dwelling unit inspected within five (5) working days upon request of the tenant(s).

G. Nothing in the Self-Certification Program shall be construed or interpreted as limiting the City's authority to investigate and compel the abatement of any building, housing and sanitation codes or ordinance violations.

H. 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 Program Checklist or fails to meet building, housing and sanitation codes or ordinances as defined in this Chapter. Each owner or operator, on behalf of the owner, will be given reasonable time by the Director to correct the violations and remain in the Self-Certification Program. This time period could be 30 to 90 days, however for immediate life safety violations the time lines will be less to address the urgency of the situation. Upon removal from the program, the difference between the Self-Certification Program fee and full annual program fee shall be due and payable.

21.06.090 Refusal to Permit Inspection.

A. If an inspection is scheduled and entry is thereafter refused or cannot be obtained, the inspector shall have recourse to every remedy provided by law to secure lawful entry and inspect the premises, including but not limited to securing an inspection warrant pursuant to California Code of Civil Procedure Sections 1822.50 through 1822.57. The inspector shall provide notice that a warrant has been issued to both the owner/operator and the tenant or occupant at least twenty-four (24) hours before the warrant is executed, unless the judge finds that immediate execution is reasonably necessary under the circumstances shown.

B. Notwithstanding the foregoing, if the inspector has reasonable cause to believe that the residential rental dwelling unit is so hazardous, unsafe or dangerous as to require immediate inspection to safeguard the public health or safety, the inspector shall have the right to immediately enter and inspect the premises and may use any reasonable means required to effect the entry and make an inspection.

21.06.100 Retaliatory Eviction. It shall be unlawful for a landlord to recover possession of a residential rental dwelling unit in retaliation against a tenant for exercising his or her right to file a complaint with the City advising that a building, housing or sanitation code or ordinance violation or permit violation may exist on the property.

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21.06.110 Change of Ownership. When ownership of a residential rental dwelling unit changes, either the prior owner shall notify the Director of this event prior to the consummation of the sale or recordation of an instrument of conveyance with the Santa Cruz County Recorder's office or the new owner within sixty (60) days after consummation of the sale or recordation of an instrument of conveyance with the Santa Cruz County Recorder's office. If the Director is not so notified, the existing rental housing inspection certification for the residential rental dwelling unit shall automatically terminate and be null and void. The new owner will not have to pay the program fees until the following calendar year provided all fees were paid by for the residential rental dwelling unit.

21.06.120 Regulations Nonexclusive. The provisions of this Chapter regulating residential rental dwelling unit are not intended to be exclusive and compliance with this Chapter shall not excuse noncompliance with any other applicable provision, requirement, or regulation of this Code or any applicable state and federal law. Nothing in this Chapter shall limit or preclude inspection conducted by the Fire Department inspectors for compliance with Fire Codes.

21.06.130 Appeals.

A. Any appeal of a decision by a City inspector or other City official that a residential rental dwelling unit is in violation of a building, housing or sanitation codes or ordinances is appealable pursuant to the procedures set forth in this subsection. The appeal must be in writing and filed within ten (10) calendar days from the date of the decision with the appeal fee established by resolution of the City Council. The appeal shall specifically identify the decision which is the subject of that appeal and the reasons why, in the appellant's opinion, the decision is clearly erroneous. Failure of the Director to receive a timely notice of appeal constitutes a waiver of the right to contest any such decision. In this event, the decision is final and binding. Appeals under this subsection shall be heard as follows:

1. The hearing shall be conducted by an Administrative Hearing Officer in accordance with the procedures outlined in Chapter 4.20 and 4.22 of this Code. The Hearing Officer shall consider all relevant evidence including, but not limited to, applicable staff reports, and objections or protests relative to the decision.

2. Upon the conclusion of the hearing, the Hearing Officer shall, on the basis of the evidence presented at the hearing, determine whether the decision should be upheld, or whether the decision was clearly erroneous and therefore should be modified or reversed. The determination of the Hearing Officer shall be final.

3. A copy of the Hearing Officer's decision shall be served upon the owner or operator of the residential rental dwelling unit by United States mail or by personal delivery.

B. Any appeal of technical building or fire code decisions or determination made by a City inspector or other City official after consultation with the chief building official and/or fire marshal shall be conducted by the Board of Building and Fire Appeals in accordance with the provisions and procedures set forth in Chapter 18.41 of this Code.

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21.06.140 Conflicts. If the provisions, requirements, or regulations of this Chapter conflict with or contravene any other provision, requirement, or regulation of this Code, the provisions, requirements, or regulations of this Chapter shall prevail as to all matters and questions arising out of the subject matter of this Chapter.

Section 2: Chapter 21.01.020 is hereby repealed from the Santa Cruz Municipal Code.

Section 3: If any part of this Ordinance is held to be invalid for any reason, such decision shall not affect the validity of the remaining portion of this Ordinance, and the City Council hereby declares that it would have passed the remainder of this Ordinance if such invalid portion thereof had been deleted.

Section 4: This ordinance shall take effect and be in force thirty (30) days after its final adoption.

PASSED FOR PUBLICATION this 3rd day of August, 2010 by the following vote:

AYES: Councilmembers Lane, Mathews, Beiers, Vice Mayor Coonerty; Mayor Rotkin.

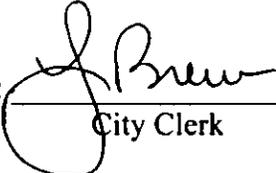
NOES: None.

ABSENT: Councilmembers Madrigal, Robinson.

DISQUALIFIED: None.

APPROVED: 

Mayor

ATTEST: 

City Clerk

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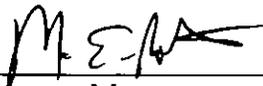
PASSED FOR FINAL ADOPTION this 7th day of September, 2010, by the following vote:

AYES: Councilmembers Lane, Mathews, Robinson, Vice Mayor Coonerty; Mayor Rotkin.

NOES: Councilmember Madrigal.

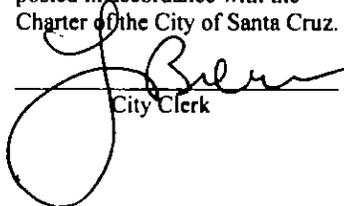
ABSENT: Councilmember Beiers.

DISQUALIFIED: None.

APPROVED: 
Mayor

ATTEST: 
City Clerk

This is to certify that the above and foregoing document is the original of Ordinance No. 2010-17 and that it has been published or posted in accordance with the Charter of the City of Santa Cruz.


City Clerk