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NB-16

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June 16, 2015

HONORABLE MAYOR AND CITY COUNCIL
City of Long Beach
California

RECOMMENDATION:

Declare ordinance amending Long Beach Municipal Code Chapter 18.30 relating to the Proactive Rental Housing Inspection Program ("PRHIP"), read the first time and laid over to the next regular meeting of the City Council for final reading.

DISCUSSION

Pursuant to your request of June 2, 2015, this office has prepared and submits the above-described ordinance for your consideration, which incorporates the following changes:

1. Section 18.30.180 was added to allow the Department of Development Services to refer qualifying properties to the State Franchise Tax Board to disallow income tax deductions related to substandard housing;
2. Section 18.30.160 was added to require City Staff to provide a review of PRHIP related data to City Council as part of the annual Housing Element Report; and
3. Section 18.30.120(F) was amended to increase the frequency of administrative citations issued to substandard properties constituting an imminent threat to the health and safety of the occupant(s) or surrounding residents.


SUGGESTED ACTION:

Approve recommendation.

Very truly yours,

CHARLES PARKIN, City Attorney

By


KENDRA L. CARNEY
Deputy City Attorney

KLC/jp
A14-01485

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ORDINANCE NO.

AN ORDINANCE OF THE CITY COUNCIL OF THE
CITY OF LONG BEACH AMENDING THE LONG BEACH
MUNICIPAL CODE BY ADDING CHAPTER 18.30
ESTABLISHING A PROACTIVE RENTAL HOUSING
INSPECTION PROGRAM

The City Council of the City of Long Beach ordains as follows:

Section 1. The Long Beach Municipal Code is amended by adding
Chapter 18.30 establishing a Proactive Rental Housing Inspection Program as follows:

Chapter 18.30

PROACTIVE RENTAL HOUSING INSPECTION PROGRAM

18.30.010 Findings and purpose.

A. The Long Beach City Council finds and declares the desire
to safeguard the stock of decent, safe, and sanitary rental housing in the
City through a partnership of property owners, tenants, the City, and the
community.

B. The City Council recognizes that the preservation of existing
rental housing stock is important. Rental housing provides needed
housing for many and is a valuable asset that must be preserved and
maintained. The City has significant interest in ensuring that rental
housing remains a desirable housing option for its citizens.

C. Even though most rental housing in the City meets building
and safety code requirements, overtime, housing may deteriorate due to

1 circumstance or intentional or unintentional neglect by property owners,
2 managers, and tenants. This deterioration may result in substandard
3 conditions that adversely affect the economic values of neighboring
4 structures, and that are hazardous to the public health and safety. In
5 some cases, property owners choose not to make the necessary repairs
6 because of cost, and tenants do not report the deficiencies.

7 D. California law requires that all rental housing properties
8 comply with the minimum standards for public health, safety, and welfare.
9 One effective way to seek compliance with those standards is through
10 routine periodic inspections of all rental housing properties and education
11 of property owners and tenants regarding their respective rights and
12 responsibilities. Accordingly, it is the intent of the Long Beach City
13 Council to enact the provisions of this Chapter as the basis for
14 establishing a Proactive Rental Housing Inspection Program aimed at
15 securing city-wide compliance of rental housing properties with minimum
16 standards. City-wide compliance will reduce and prevent blight and
17 ensure that all persons who live in rental housing units are provided
18 decent, safe, and sanitary housing.

19 E. As such, the City calls for the regulation and continuation of
20 the self-funding, pro-active inspection programs for residential rental
21 properties consisting of four or more dwelling units, known as the
22 Proactive Rental Housing Inspection Program.

23
24 18.30.020 Definitions.

25 As used in this Chapter, the following terms and phrases are
26 defined as follows:

27 A. "Director" is the Director of Development Services or an
28 authorized representative.

1 B. "Property Owner" is any person who owns one or more
2 residential rental properties consisting of four or more dwelling units. The
3 terms "property owner," "owner," "landlord," "person," and "operator" may
4 be used interchangeably herein.

5 C. "Person" is and includes any individual, partnership of any
6 kind, corporation, limited liability company, association, joint venture or
7 other organization or entity, however formed, as well as trustees, heirs,
8 executors, administrators, or assigns, or any combination of such
9 persons.

10 D. "Residential Rental Property" is a property or building or
11 portion of a building on a parcel of land where the parcel of land includes
12 at least four units that is rented or leased to tenants for residential
13 purposes. This includes but is not limited to apartment houses, boarding
14 houses, lodging houses, and rooming houses in the City of Long Beach.

15 E. "Tenant" is a person who occupies land or property rented
16 from a property owner by means of a rental agreement.

17
18 18.30.030 Scope.

19 The provisions of this Chapter shall apply to all owners of one or more
20 qualifying residential rental properties located within the City of Long Beach.

21
22 18.30.040 Proactive Rental Housing Inspection Program registration.

23 A. Each owner or operator, on behalf of the owner, shall
24 register for the Proactive Rental Housing Inspection Program ("PRHIP")
25 on a form provided by the City's Development Services Department.
26 Registration of existing residential rental properties which are subject to
27 this Chapter shall be due within 60 days of November 1 of each year.
28 Registration of residential rental properties which become subject to this

Chapter after the first of November of each year shall be due within 60 days of the date that the residential rental property was acquired or converted into a residential rental property.

B. No person shall engage in the business of leasing rental housing consisting of four or more units, unless:

1. Each qualifying residential rental property is registered with the City;
2. The annual PRHIP fee is paid for each residential rental property when payment is due; and
3. The property owner's residential rental business license fee is current.

C. A residential rental property is registered with the City when the property owner submits the following to the City's Code Enforcement Division in the Department of Development Services:

1. A completed registration form, provided by the City, that contains the following information:
 - a. A description of the residential rental property, including but not limited to, the street address and assessor's parcel number;
 - b. The number and a description of all rental housing units on the rental property;
 - c. The name and current contact information for the owner of the rental property;
 - d. The name and current contact information for the local contact representative as described in Section 18.30.110; and
 - e. Any other information as reasonably required by the Code Enforcement Division.
2. The annual PRHIP fee is paid.

1 D. All registrations shall be subject to verification by the
2 Director. It is unlawful for any person to knowingly make a false
3 statement of fact or knowingly omit any information that is required to
4 register a rental housing unit pursuant to this Section.

5
6 18.30.050 Proactive Rental Housing Inspection Program Fees.

7 A. Each annual registration for the PRHIP shall be
8 accompanied by a non-refundable fee in the amount established by
9 resolution of the City Council. The fee shall be used to defray the costs of
10 the administration and enforcement of this Chapter.

11 B. The annual PRHIP fee shall be levied for the program year
12 and each applicant shall pay the full fee for the program year upon
13 submission of the application for that year's PRHIP registration. For
14 residential rental properties which become subject to this Chapter after
15 November of each calendar year, program fees shall be prorated on a
16 quarterly basis.

17 C. A re-inspection fee shall be imposed when an additional
18 inspection is conducted during the program year in accordance with
19 Section 18.30.120(D) of this Chapter. The fee shall pay for the costs of
20 the re-inspection.

21 D. The PRHIP fee required by this Chapter is in addition to and
22 not in lieu of any general business license tax that may be required by
23 Title 5 of this Code.

24 E. The City Council shall establish the amounts of the
25 foregoing fees and any penalties for delinquent payment of such fees by
26 resolution.

27
28 ///

1 18.30.060 Penalty.

2 A. Failure to Pay Annual Fee. In addition to any remedies the
3 City may elect to pursue pursuant to this Code, for failure to pay the
4 annual PRHIP fee when due, the Director of Development Services shall
5 add a penalty of twenty-five percent (25%) of the permit fee 30 days
6 following the due date.

7 B. Interest. The failure of the owner to pay the PRHIP fee or
8 late penalty may result in the imposition of a special assessment and/or
9 lien against the residential rental property on which the violation occurred,
10 after which the amount so determined shall bear interest at the rate of
11 twelve percent (12%) per annum until paid, and/or filing of an action with
12 the Small Claims Court for recovery of the fine and late penalty. The only
13 issue to be adjudicated by the Small Claims Court shall be whether or not
14 the fines and possible late fees were paid. In the Small Claims Court
15 action, the City may also recover its costs, according to proof.

16 C. Failure to Register. If an owner fails to register for the
17 PRHIP as required by this Chapter, the fee due shall be that amount due
18 and payable from the first date when the person engaged in the
19 residential rental business in the City after the effective date of this
20 Chapter, together with the penalty prescribed in Subsection D.

21 D. Penalties for noncompliance.

22 1. The violation of any provision of this Chapter is
23 unlawful and constitutes a misdemeanor, punishable by a fine of not more
24 than one thousand dollars (\$1,000.00) or a jail term of not more than six
25 (6) months, or both. Each and every day a violation occurs shall be
26 deemed a separate violation.

27 2. In addition to the remedies set forth herein, the City in
28 its sole discretion, may also issue Administrative Citations in accordance

1 with Chapter 9.65 of this Code to any person or entity that violates the
2 provisions of this Chapter.

3
4 18.30.070 Appeal of late penalty.

5 A. Any recipient of a late penalty may appeal said penalty by
6 completing a written request for hearing form, obtained as directed on the
7 citation, and returning it to the Code Enforcement Division, within thirty
8 (30) calendar days from the date the late penalty is assessed, together
9 with a deposit in the total amount of the fee and any late charges.

10 B. Failure to file a timely appeal of the late penalty shall be
11 deemed a waiver of the right to appeal and to seek judicial review.

12 C. The hearing will proceed before the City's Board of
13 Examiners, Appeals, and Condemnation ("Hearing Board") in accordance
14 with the procedure set for in Section 18.30.080.

15
16 18.30.080 Hearing procedure.

17 A. No hearing to appeal an administrative citation shall be held
18 unless and until a request for hearing form has been completed and
19 submitted, and the deposit has been paid.

20 B. A hearing before the Hearing Board shall be set for a date
21 not sooner than fifteen (15) calendar days and not more than sixty (60)
22 calendar days from the date the request for hearing is completed and
23 submitted in accordance with the provisions of this Chapter. The cited
24 party requesting the hearing shall be notified in writing of the time and
25 place set for the hearing at least ten (10) calendar days prior to the date
26 of the hearing.

27 C. The Hearing Board shall only consider evidence that is
28 relevant to whether the late payment penalty is proper. Courtroom rules of

1 evidence shall not apply. Relevant hearsay evidence and written reports
2 may be admitted whether or not the speaker or author is present to testify,
3 if the Hearing Board determines that such evidence is reliable. Admission
4 of evidence and the conduct of the hearing shall be controlled by the
5 Hearing Board in accordance with the fundamentals of due process. The
6 Hearing Board may set reasonable limits on the length of the hearing, and
7 shall allow the appellant at least as much time to present his/her case as
8 is allowed to the City.

9 D. The failure of the appellant to appear at the hearing shall
10 constitute a forfeiture of the fine and a failure to exhaust administrative
11 remedies.

12 E. Any documents prepared by the City in connection with the
13 late payment penalty assessed may be submitted and shall constitute
14 prima facie evidence of the respective facts contained in those
15 documents.

16 F. The Hearing Board may continue the hearing or request
17 additional information from the enforcement officer, his/her designee or
18 the appellant prior to issuing a written decision.

19
20 8.30.090 Hearing Board's decision.

21 A. After considering all of the testimony and evidence
22 submitted at the hearing, the Hearing Board shall issue a written decision
23 within fifteen (15) business days of the hearing. The decision of the
24 Hearing Board shall be final.

25 B. If the Hearing Board denies the appeal, then the deposit
26 shall be retained by the City.

27 C. If the Hearing Board grants the appeal, then the City shall
28 refund the deposit within thirty (30) business days from the date of the

1 final written decision.

2 D. The appellant and City shall each be served with a copy of
3 the Hearing Board's written decision.

4
5 18.30.100 Tenant rights and responsibilities.

6 After August 1, 2015, prior to the commencement of any tenancy of
7 a rental housing unit, the property owner shall provide the tenant(s) with
8 information concerning tenant rights and responsibilities. The information
9 shall be provided in a form or forms approved by the Director.

10
11 18.30.110 Property owner contact representative.

12 A. All property owners shall designate a contact representative
13 with full authority to act on behalf of the owner for all purposes under this
14 Chapter, including the acceptance of service of all notices from the City.
15 The owner of the rental property may act as the contact representative.

16 B. A contact representative must establish and maintain a
17 telephone number and a mailing address.

18
19 18.30.120 Inspections.

20 A. Inspection requests.

21 In accordance with the requirements of this Section, the City shall
22 be authorized to periodically conduct an inspection of residential rental
23 properties to assure compliance with all applicable building, housing, and
24 sanitation codes and ordinances. Owners and tenants shall provide
25 access to all common areas of a residential rental property for inspection
26 when requested by the City's Code Enforcement Department and provide
27 notice to tenants of the date of inspection.

28 ///

1 B. Frequency of inspections.

2 It is the intent of the City that all residential rental properties subject
3 to this Chapter will receive a periodic inspection.

4 C. Random sampling inspections.

5 The inspection shall be made of the exterior of the property, all
6 common areas, all exits, and will consist of a random sampling of no less
7 than ten (10) percent of the rental units and garages where applicable in a
8 residential rental property. If the inspector determines that one or more
9 violations exist on the property, the inspector may conduct an inspection
10 of additional units up to one hundred percent (100%) of the units.

11 D. Re-inspections.

12 If during the inspection or any subsequent inspection there are
13 building, housing, sanitation code, other Long Beach Municipal Code
14 violations, or permit violations on the property which prevent the City
15 inspector from issuing a compliance card, one or more re-inspections of
16 the residential rental property may be required before a compliance card is
17 issued.

18 E. Code enforcement.

19 When during an inspection a building, housing, sanitation code, or
20 Long Beach Municipal Code ("LBMC") violation is noted, the City inspector
21 shall document the violation, advise the owner or operator of the violation
22 and of the action which must be undertaken and completed in order to
23 remedy the violation. Failure to abate code violations in a timely manner
24 may result in additional enforcement action in accordance with Title 9 and
25 18 of this Code.

26 F. Administrative Citation Schedule

27 When during an inspection a building, housing, sanitation code, or LBMC
28 violation is noted that poses an imminent threat to the health and safety of the

1 occupants or surrounding residents, the City inspector will notify the owner of the
2 violation in accordance with section 18.30.120(E), and will notify the City
3 Prosecutor's office of the violation within twenty-four (24) hours of the inspection.
4 If the owner fails to abate the violation within thirty (30) days, the City inspector
5 may issue an administrative citation every fifteen (15) days for each continuing
6 violation.

7 G. Compliance card.

8 Upon the successful completion of an inspection, subsequent
9 inspection, or re-inspection of the residential rental property establishing
10 that the property and its occupancy are in compliance with all applicable
11 building, housing, and sanitation codes, or LBMC requirements, the City
12 shall issue a compliance card to the owner. Notwithstanding the foregoing,
13 a compliance card shall not preclude code enforcement or investigation on
14 the property if during the rental housing inspection certification period a
15 code violation on the property is reported to the City or otherwise
16 observed by the City.

17
18 18.30.130 Notice.

19 A. The City shall serve written notice of the date and time of
20 any inspection to be conducted pursuant to this Chapter, by mailing such
21 notice at least fourteen (14) calendar days prior to the date of the
22 inspection. Notice shall be mailed to the owner and the local contact
23 representative at their registered mailing address. In the case of multiple
24 owners of the same property, notice to any one of the property owners
25 designated on the registration application is sufficient notice.

26 B. The City shall also mail a copy of the inspection notice to the
27 rental housing units on the property.
28

1 18.30.140 Refusal to permit inspections.

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

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

17
18 18.30.150 Change of ownership.

19 When ownership of a residential rental property changes, either the
20 prior owner shall notify the Director of this event prior to the recordation of
21 an instrument of conveyance with the Los Angeles County Recorder's
22 office or the new owner shall notify the Director within sixty days after
23 recordation of an instrument of conveyance with the Los Angeles County
24 Recorder's office. If the Director is not so notified, the existing registration
25 and any associated compliance card for the residential rental property
26 shall automatically be null and void. The new owner will not have to pay
27 the program fees until the following calendar year provided all fees were
28 paid by the prior owner of the residential rental property.

1 18.30.160 Annual review of program.

2 City staff shall provide data related to PRHIP including but not
3 limited to the number of inspections performed, cases opened, cases
4 resolved, and cases reported to the State Tax Franchise Board, in the
5 required annual Housing Element report for the City Council to review the
6 effectiveness of these regulations, and shall enact modifications, if
7 necessary.

8
9 18.30.170 Regulations nonexclusive.

10 The provisions of this Chapter regulating residential rental
11 properties are not intended to be exclusive and compliance with this
12 Chapter shall not excuse noncompliance with any other applicable
13 provision, requirement, or regulation of this Code or any applicable state
14 and/or federal law. Nothing in this Chapter shall limit or preclude
15 inspections conducted by the Fire Department for compliance with Fire
16 Codes.

17
18 18.30.180 Alternative nonexclusive remedies.

19 In addition to the remedies and penalties set forth herein, the City in
20 its sole discretion, may also refer any qualifying property to the State
21 Franchise Tax Board Substandard Housing Program to disallow income
22 tax deductions claimed for interest, taxes, amortization, and depreciation
23 related to substandard housing or to issue an Administrative Citation in
24 accordance with Chapter 9.65 of this Code to any person or entity that
25 violates the provisions of this Chapter.

26 ///

27 ///

28 ///

18.30.190 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. The City Clerk shall certify to the passage of this ordinance by the City Council and cause it to be posted in three (3) conspicuous places in the City of Long Beach, and it shall take effect on the thirty-first (31st) day after it is approved by the Mayor.

I hereby certify that the foregoing ordinance was adopted by the City Council of the City of Long Beach at its meeting of _____, 2015, by the following vote:

Ayes:

Councilmembers:

Noes:

Councilmembers:

Absent:

Councilmembers:

City Clerk

Approved: _____
(Date)

Mayor