

## AGENDA SUMMARY

**RE: AN ORDINANCE OF THE CITY OF EUREKA CREATING A RENTAL HOUSING PROGRAM**

**For Agenda Date: Aug. 4, 2009**

**Agenda Item No:**

**RECOMMENDATION:** Waive reading, read by title only, and introduce, Bill Number 808-C.S. "An Ordinance Of The City Of Eureka Adopting Chapter 150, Sections 150.030.001 Through 150.030.083 Of The Eureka Municipal Code Relating To Rental Housing, and Amending Related Provisions In Sections 155.052, 155.053, 156.069, 156.070, And 110.59."

**SUMMARY OF THE ISSUE:**

The proposed ordinance and amendments to existing code provisions would create a Rental Housing Program. The Program is crafted to improve the conditions of the City's rental housing stock overall, by enabling staff to better implement existing building, fire, zoning, nuisance, health and safety codes. It draws on existing code requirements in these areas, providing a minimum level of staffing (1-1/2 positions are envisioned) to coordinate and assist in follow-up in the ongoing programs for code compliance.

It is well-recognized that property that is perceived to be neglected or abandoned attracts criminal behavior. This is what is commonly known as the "Broken Window Theory." Thus, a focused effort to decrease neglect and deterioration of rental properties is expected to produce a reduction in associated crime in the affected neighborhoods as well.

The Program would be funded by a per-unit program fee charged to rental property owners. The fee would be calculated at a later date and adopted by Council separately. It is currently estimated to be approximately \$35/unit/year (\$2.75/mo.), but that could be less if there are more rental units in the City than staff presently estimates, which is likely.

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**FISCAL IMPACT:** None at this time. Some start-up costs later, unquantified at present. Anticipated net zero fiscal impact, as Rental Housing Inspection Fees will be calibrated to offset the additional staffing required to implement the program. Possible increase in collections of fines already being assessed but presently not being successfully collected, over time.

**DH SIGN:** \_\_\_\_\_  
City Attorney

**CM SIGN:** \_\_\_\_\_  
City Manager

<b>REVIEWED BY:</b>	<b>DATE:</b>	<b>INITIALS:</b>
Finance	_____	_____
Community Development	_____	_____
Public Works	_____	_____
Fire	_____	_____

**COUNCIL ACTION:**

**Ordinance No.**

**Resolution No.**

**BACKGROUND:**

Last year, the City Council authorized the City's Ad Hoc Housing Task Force, led by Councilman Glass, to work with staff to develop proposals to address these conditions. The ordinance and proposed amendments presented by this agenda item are the result of that effort. The Task Force invited and received extensive participation by a number of individuals from the rental housing community, including landlords, managers, tenants, and the civil rights community. Significant input from this process was incorporated into the resulting draft ordinance.

As previously discussed by the City Council, there exists in the City of Eureka improperly maintained, substandard and unsanitary residential rental properties, the conditions of which are detrimental to the health, safety, welfare, and well-being of their occupants and community.

These conditions are commonly associated with increased levels of criminal activities as well.

These conditions are adverse to the interests of law-abiding tenants, rental property owners that properly maintain their properties, as well as the community at large.

These conditions negatively affect tenants, depress adjacent property values; undermine the physical, social and economic stability of sound and properly maintained properties in the neighborhood, their supporting neighborhood facilities and institutions; promote higher levels of criminal activity; necessitate disproportionate expenditures of public funds for enforcement; impair the efficient and economical exercise of governmental powers and functions by diverting public resources into dealing with acutely problematic properties; and generally undermine the quality of life for all affected residential areas and neighborhoods and the community as a whole.

Existing building, housing, zoning, fire, nuisance, health and safety codes provide the City with various authorities to require the abatement of the above-described adverse conditions. Currently, however, without a funding mechanism to staff focused inspection and enforcement activities, these authorities are insufficient by themselves to abate these conditions.

The Task Force therefore recommends that the City adopt and implement this Rental Housing Program, which requires that individuals in the business of rental housing must register their properties with the City, and pay a small annual fee for the program, which funding is used for a minimum level of staffing to coordinate and track City-wide code inspections and related enforcement and abatement activities.

The ordinance will augment and aid in the implementation of all existing state and local authorities granted to the City under existing law, and to the degree any provision overlaps with or is inconsistent with applicable state or local law, the provision that is more restrictive and protective of the purposes stated herein shall control.

As revised in recent months, the ordinance provides for inspections to be conducted on a complaint-driven or as-needed basis. Earlier versions provided that all rental units had to be inspected on a three-year cycle, or at least once initially, then as-needed.

The ordinance applies to all residential rental properties, which includes "all dwelling units, or portions thereof, for which the owner is compensated, directly or indirectly, for the right for another to occupy the unit for living or dwelling purposes for more than 30 consecutive or non-consecutive days in any 6 month period." This would capture secondary dwelling units,

residential motels and boarding houses, but not true visitor accommodations such as non-residential hotels and motels.

If the staffing level is set at one and one-half full-time staffmembers, based on current estimates of the number of residential units in the city (which are rough estimates at this time), the fee is presently expected to be set at approximately \$35 per unit per year. That comes out to about \$2.75 per month. This figure could be reduced after the program gets off the ground, if there are more rental units than presently estimated, across which the base-funding could be spread further to reduce the per-unit cost.

The vision for the Program includes an outreach and education element, geared toward helping both landlords and tenants better understand their rights, obligations, and available resources.

**STAFF RECOMMENDATION:**

Staff recommends that the Council Waive reading, read by title only, and introduce, Bill Number 808-C.S. "An Ordinance Of The City Of Eureka Adopting Chapter 150, Sections 150.030.001 Through 150.030.083 Of The Eureka Municipal Code Relating To A Program Of Rental Housing, and Amending Related Provisions In Sections 155.052, 155.053, 156.069, 156.070, And 110.59.

The amendments to sections 156.069 and 156.070 will require a Local Coastal Program amendment, which staff would bring back to Council for further action to finalize those amendments as required by applicable laws, at a later date.

**Attachment:** Draft Ordinance

**AN ORDINANCE OF THE CITY OF EUREKA ADOPTING CHAPTER 150,  
SECTIONS 150.030.001 THROUGH 150.030.083 OF THE EUREKA MUNICIPAL  
CODE RELATING TO RENTAL HOUSING,  
AND AMENDING RELATED PROVISIONS IN SECTIONS 155.052, 155.053,  
156.069, 156.070, AND 110.59**

**BE IT ORDAINED BY THE COUNCIL OF THE CITY OF EUREKA AS FOLLOWS:**

Section 1: Title 15, Chapter 150, Sections 150.030.001 through Section 150.030.083 are hereby adopted to read as follows:

**RENTAL HOUSING PROGRAM**  
(EMC sections 150.030.001 – 150.030.083)

**§ 150.030.001 FINDINGS AND PURPOSE.**

It is found and declared that there exist in the City of Eureka improperly maintained, substandard and unsanitary residential rental properties, the conditions of which are detrimental to the health, safety, welfare, and well-being of their occupants and community. These conditions are also adverse to the interests of law-abiding rental property owners that properly maintain their properties, as well as the community at large. These conditions have a serious adverse impact on the community in many ways: they depress adjacent property values; undermine the physical, social and economic stability of sound and properly maintained properties in the neighborhood, their supporting neighborhood facilities and institutions; promote higher levels of criminal activities; necessitate disproportionate expenditures of public funds for monitoring and enforcement; impair the efficient and economical exercise of governmental powers and functions; and generally undermine the quality of life for all affected residential areas and neighborhoods and the community as a whole.

Existing building, housing, zoning, fire, nuisance, health and safety codes provide the City with various authorities to require the abatement of the above-described adverse conditions. Without the adoption of a funding mechanism for inspections and enforcement activities, however, these enforcement authorities are insufficient by themselves to abate these conditions.

It is in the public interest of the people of Eureka therefore, to adopt and implement this Rental Housing Program, under which individuals involved in the rental housing business are charged an annual fee to fund a Rental Housing Program, dedicated to the enforcement and abatement of violations of health, safety, building, nuisance, and zoning requirements applicable to rental housing.

This subchapter is adopted to facilitate and aid in the implementation of all existing state and local authorities granted to the City under existing law, and to the degree any provision overlaps with or is inconsistent with applicable state or local law, the provision that is more restrictive and protective of the purposes stated herein shall control.

**§ 150.030.002 DEFINITIONS.**

Except as distinguished below, all definitions set out in the Eureka Municipal Code sections pertinent to health, safety, building, nuisance, and zoning requirements applicable to rental housing, including but not limited to sections 150.067, 150.096, 150.152, 150.156, 150.161, 150.162 and 156.006, are incorporated herein by reference, for purposes of the implementation of this subchapter.

**LANDLORD.** The landowner or landowners, jointly and individually, as reflected in the current County Tax Assessor’s roles for the property in question. For purposes of this subchapter, the terms “Landlord,” “Owner” and “Landowner” are used interchangeably.

**RESIDENTIAL RENTAL PROPERTY OR UNIT.** All dwelling units, or portions thereof, for which the landowner is compensated, directly or indirectly, for the right of another to occupy the property or unit for living or dwelling purposes for more than 30 consecutive or non-consecutive days in any 6 month period.

**TRANSIENTLY OCCUPIED.** Any accommodation in hotels, motels, inns or tourist houses that are occupied for 30 days or less by any individual or group in any rolling six-month period.

**§ 150.030.003 SCOPE.**

The provisions of this subchapter shall apply to all residential rental properties, as defined in section 150.030.002 of this subchapter, including the land, buildings, and structures appurtenant thereto. The provisions shall not apply to:

- (A) Owner-occupied housing, where no room, sub-unit, or portion of the structure or premises is rented or leased to another for living or dwelling purposes.
- (B) Transiently occupied accommodations in hotels, motels, inns, or tourist homes that are occupied for 30 days or less by any individual or group in any rolling six-month period.
- (C) An owner-occupied dwelling unit in a condominium or a nonprofit stock cooperative.
- (D) Housing accommodations in any hospital or medical care facility.
- (E) Housing accommodations which a government unit, agency or authority both owns and operates, or which are specifically exempted from municipal regulation by

state or federal law. This exception shall not apply once the governmental ownership and operation is discontinued and related eligibility for exemption from municipal jurisdiction ceases.

(F) Dwelling units in mobile home parks, and recreational vehicles as defined in California Civil Code section 799.29 in recreational vehicle parks.

**§ 150.030.004 LICENSE REQUIREMENT.**

All persons with an ownership interest in a Residential Rental Property unit, as defined in section 150.030.003 of this subchapter, must:

(A) Register each such Residential Rental Property unit with the City within 30 days of the effective date of this Rental Housing Program, or within 30 days of assuming ownership of the property;

(B) The Registration shall be sent to the City of Eureka, “Attention: Eureka Rental Housing Program”, 531 K Street, Eureka, CA 95501;

(C) All Registrations shall contain the following information:

1) The current names and addresses of all persons or entities with an ownership interest in the property;

2) The address, including street address, and specific apartment or other sub-unit numbers as applicable, for each rental unit rented or leased out for compensation; and

3) The name and contact information, including address and phone number, of the individual responsible for management of each rental unit.

(D) The owner of each Residential Rental Property must submit an updated Registration any time there is a change in the owner’s or management’s name, contact information, or address. Failure to provide accurate and current contact information that results in returned or undelivered or unreceived mail or notices regarding this Rental Housing Program are the responsibility of the owner and will not serve to cut-off or delay any landowner obligations under this subchapter or any other law. Similarly, the failure of a landowner to sign for, where required, or otherwise fail to pick up mail or notices sent to either the address on record with the County Assessor or the last address provided to the City by the landowner shall not serve to cut-off or delay any landowner obligations under this ordinance or any other law.

(E) Failure to Register within the time specified, failure to provide the required information, or failure to provide updated information necessary for the City to communicate promptly with the owners shall be a violation subject to penalties, accruing

on a daily basis, under Eureka Municipal Code section 10.99 as set out in section 150.030.071 of this subchapter.

**§ 150.030.005 ADMINISTRATION.**

In addition to all authorities granted elsewhere in this Code and in state law, the City Manager is granted the specific authority to administer and enforce all of the provisions of this Code, California Health and Safety Code Sections 17920.3, 17961, 17980 through 17992; California Code of Regulations, Title 25, Division 1, Chapter I, Subchapter 1, Article 6; and all other applicable provisions of the Eureka Municipal Code relating to housing.

**§ 150.030.006 GOVERNING BOARD.**

The City Manager or his or her designee is hereby designated as the enforcement agent for the City of Eureka, and the Council is designated the governing board of the enforcement agency for the purposes of California Code of Regulations, Title 25, Part 1, Division 1, Subchapter 1, Article 6.

**§ 150.030.007 SERVICE OF NOTICES AND ORDERS TO OWNER OR LANDLORD.**

Any notice or order required to be served on the owner or landlord under this subchapter may be served at the last known address of the person cited as that address appears in the last equalized assessment roll; or on any resident manager or authorized agent known to the City; or at the latest address provided to the City by the owner or landlord. Any notice or order served in this manner shall be deemed received within five days of its pre-paid First Class mailing.

**§ 150.030.008 AUTHORITY TO ISSUE CITATIONS.**

The City Manager, or his or her designee, shall be authorized to issue citations for violations of this Code. This authority is in addition to all other enforcement authorities granted to the City elsewhere in local, state and federal law.

**INSPECTIONS**

**§ 150.030.020 PROGRAM FEES .**

Owners of all properties subject to the Rental Housing Program shall pay a regulatory fee per rental unit per year. The fee will be used to finance the cost of regulatory oversight and inspection of residential rental housing and the enforcement of applicable housing and health and safety laws. This fee shall be known as the “Rental Housing Program Fee.”

The Rental Housing Program Fee shall be set by the City Council annually, at a rate reasonably calculated to cover, but not to exceed, the amount necessary to implement this subchapter and the related building, zoning, housing, fire, nuisance, health and safety codes enforced thereunder.

**§ 150.030.021 INSPECTIONS.**

Properties subject to this Code shall be inspected as needed based on a complaint or staff observations regarding potential code violations or neighborhood impacts.

**§ 150.030.022 NOTICES AND ORDERS.**

If, upon inspection, the City discovers one or more violations of this Code, the City shall cause to be issued any and all notices and orders applicable under state and/or local building, zoning, fire, health or safety codes and regulations. To the extent feasible and consistent with state law, the City may utilize the procedures outlined in Chapter 11 of the Uniform Housing Code.

**§ 150.030.023 REINSPECTION.**

The City shall re-inspect after the time specified in the notice and order has passed to determine whether the violation has been corrected. If it has not been fully corrected to the full satisfaction of the City, then the City may initiate any enforcement action appropriate under state or local law.

**§ 150.030.024 RIGHT OF ENTRY.**

Whenever it is necessary to make an inspection to enforce any of the provisions of or perform any duty imposed by this subchapter or other applicable law, or whenever the City has reasonable cause to believe that there exists in any residential rental property any violation of the provisions of this subchapter or other applicable building, zoning, housing, fire, nuisance, health, safety, or related laws or regulations, the City is hereby authorized to send an inspector to enter the premises at any reasonable time and to inspect it and perform any duty imposed upon the City or authorized representative by this subchapter or other applicable law.

This authority shall be subject to the following limitations:

(A) If the premises are occupied, the City inspector shall first present proper credentials to the occupant and request entry explaining his or her reasons; and

(B) If the premises are unoccupied, the City inspector shall first make a reasonable effort to locate the owner or other person having charge or control of the premises and request entry, explaining the reasons.

(C) Unless a different time and manner of notice is required by other applicable law, the City inspector shall give 14 days' advanced written notice to the owner and to the tenants of the date and time of an inspection. The City inspector may provide written notice to the tenants by mail or by the posting of the official notice in the public area of the premises.

If entry is refused, or cannot be obtained due to the absence of the tenant, the City 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.

Nothing in this section, however, is intended to nor shall it limit or constrain the authority of City officials to take all necessary and appropriate steps to abate immediately dangerous conditions, as provided by local and state law, including but not limited to Eureka Municipal Code sections 150.151 et seq.

#### **§ 150.030.025 WRITTEN NOTICE TO OCCUPANTS.**

After an inspection is conducted, in addition to notification of the property owner by mail, the City shall also provide written notice to the occupant in each unit inspected pursuant to this subchapter which, at a minimum, states that an inspection occurred and provides the address and telephone number where the occupant can get further information about the inspection. This notice may be provided by leaving it in the unit, by posting it at the premises, or by mailing it to the occupant.

### **VIOLATIONS**

#### **§ 150.030.030 REMOVAL OF POSTED NOTICES OR ORDERS.**

It shall be unlawful for any person to remove, alter, deface, tamper with or alter the visibility of any notice or order posted at the premises pursuant to this Code until a minimum of 21 days have passed in which the notice was continuously posted, or until the conditions described in the notice have been fully abated, whichever is later. If any posting is removed or tampered with, it shall be the responsibility of the owner or the owner's agent to promptly replace the notice or order.

#### **§ 150.030.031 ORDERS.**

Whenever the City determines by inspection that any existing property, subject to this chapter, or portion thereof, is in violation of this provisions of this subchapter or other applicable building, zoning, housing, fire, nuisance, health, safety, or related laws or regulations, the City shall order the violation corrected.

The order shall be provided to the owner in plain language stating the violation(s) found and the applicable codes with which the property is not in compliance. The order shall inform the owner that failure to correct the violation may result in additional inspection

fees pursuant to this chapter, fines or penalties, criminal prosecution or any other enforcement action.

The order shall be served on the owner by first class mail, and deemed received five days after such mailing. A copy of the order shall be provided to each affected residential unit in the manner prescribed by California Health and Safety Code Section 17980.6.

## **TIME TO COMPLY**

### **§ 150.030.040 GENERAL.**

Except as provided otherwise in this subchapter or other applicable local or state law that may be more restrictive, the order shall give the owner not more than 30 days to correct the violation. If the inspections or re-inspections do not occur within the timeframes stated in this division, it does not remove the obligation of the owner or person in charge or control of the premises to comply with any orders or notices.

### **§ 150.030.041 REINSPECTIONS.**

Except as provided otherwise in this chapter, the City shall re-inspect the property, building or dwelling unit, as appropriate, within 5 days or as soon thereafter as possible, but no later than 15 days, of the compliance date specified in the order; and again within 5 days or as soon thereafter as possible, but no later than 15 days, of any extended compliance date(s) agreed to by the City in writing. The City's inability or failure to perform a reinspection within these prescribed timeframes shall not serve to extend any deadline or excuse or waive any obligation imposed on the owner of the Residential Rental Property under any order or law.

### **§ 150.030.042 EXTENSIONS.**

If the violation has not been corrected by the compliance date but significant progress has been completed, the inspector may grant a single extension of time, in writing, not to exceed 30 days. If, upon subsequent reinspection, the violation has not been corrected but significant additional progress has been completed since the previous inspection, the inspector's supervisor may grant a single additional extension of time, in writing, not to exceed 30 days. Any other or further extension of time may be granted only by the City Manager. The extensions permitted by this section are not automatic and may only be granted for good cause based on evidence in the record (e.g., photographs of work done and documents supporting any assertions that contracts for additional work have been engaged). In determining whether to grant any extension, the City Manager shall also consider any ongoing potential risk to health and safety, ongoing impacts to the neighbors, and the history of the owner in regard to previous violations, if any.

### **§ 150.030.043 CONDITIONS POSING SERIOUS RISK.**

If the condition poses a serious risk to the health or safety of the occupants or the public, the inspector shall order the condition to be abated in not more than 14 days. No extension of time shall be granted except by approval of the City Manager himself or herself, in writing. This authority is in addition to any and all authorities available to the City under local and state law for the abatement of substandard, hazardous, or immediately dangerous structures or conditions, including but not limited to the authorities provided under the Eureka Municipal Code governing unsafe structures (Eureka Municipal Code §§ 150.140 – 150.999).

**§ 150.030.044 CONDITIONS POSING IMMINENT THREAT.**

Where the appropriate City Official, such as the Fire Marshall or Chief Building Official, determines that the condition poses a present, imminent, extreme and immediate hazard or danger to life or limb, health or safety, he or she shall order that abatement of the condition be achieved within 48 hours. No extension of time shall be granted except as provided by regulation. Within 24 hours after the time to abate, the City shall conduct a re-inspection of the building or dwelling unit to determine compliance with the order. If the condition has not been abated, the City shall have the authority to make the necessary repairs, at the owner's expense, to ensure immediate repair of dangerous, life-threatening conditions. This authority is in addition to, and shall not to be read to limit, any and all other authorities available to the City under local and state law for the abatement of substandard, hazardous, or immediately dangerous structures or conditions, including but not limited to the authorities provided under the Eureka Municipal Code governing unsafe structures (Eureka Municipal Code §§ 150.140 – 150.999).

**§ 150.030.045 ENFORCEMENT.**

Whenever a violation has not been corrected by the time specified for compliance, the City shall proceed to initiate any and all appropriate enforcement remedies and penalties triggered by the violation under provisions of this subchapter or other applicable building, zoning, housing, fire, nuisance, health, safety, or related laws or regulations of state and/or local law.

**TENANTS AND NEIGHBORS**

**§ 150.030.050 EVICTIONS.**

The landlord may not evict a tenant in retribution for notifying the City of violations of code requirements or substandard conditions, unless the tenant is the cause, or a substantial contributing cause, of those conditions. The landlord may evict tenants as necessary if the vacation of the property is not for the purpose of retribution and is necessary to conduct to the necessary repairs. If, however, the dominant intent of a landlord in seeking to recover possession of a rental unit is retaliation for the tenant's or the City's exercise of rights or duties under this chapter, and if the tenant is not in default as to the payment of rent, then the landlord may not recover possession of a rental unit in any action or proceeding.

If a landlord brings an action to recover possession of the dwelling until within 180 days of the City's issuance of any Notice of Violation, Order to Comply, or other Order or legal action taken by the City under this subchapter, the landlord is required to provide written notice to the City Manager concurrent with the notice given to the tenant. In such circumstances, the City Manager shall direct appropriate staff to inquire into the case to ensure that the eviction is not retaliatory for actual or perceived tenant complaints having led to code enforcement. If the evidence available to the City Manager indicates that the tenant did not cause the conditions leading to the code enforcement action, the City Manager may, at his or her discretion, direct that staff offer any related evidence to the court in the eviction proceeding germane to that proceeding. The intent of this section is to provide responsible innocent tenants a defense against retaliatory evictions and to encourage tenants to notify the City of substandard conditions without fear of retribution.

Nothing in this section or subchapter is intended to replace or limit any remedy available under state law, including but not limited to Civil Code section 1942.5, but is instead intended only to augment such remedies.

**§ 150.030.051 RETALIATORY ACTS BY LANDLORD.**

Where the City has issued an order to abate a serious code violation affecting public health and safety in response to a complaint by a tenant, the landlord may not take punitive actions against the tenant. Punitive actions include but are not limited to: imposing unscheduled rent increases or increased deposits for the existing tenants of any dwelling unit that is the subject of the order. This prohibition shall be in force for one year from the date that the City determines that the landlord has fully complied with the order.

**§ 150.030.052 CIVIL ACTIONS; TENANTS.**

Any tenant that suffers punitive action by a landlord in violation of sections 150.030.050 or 150.030.051 of this subchapter is declared to be damaged thereby.

(A) Any such tenant may institute a civil action against the landlord. Damages shall include the actual damages, costs, reasonable attorney's fees, if any, and a civil penalty of up to \$500 in addition thereto.

(B) Nothing in this provision shall be construed to limit any other right or remedy otherwise available in law or equity to the affected tenant, nor shall this provision in any way limit the City's right to enforcement under any other provision of this code, nor shall it create a duty or obligation on the part of the city.

**§ 150.030.053 CIVIL ACTIONS; PRIVATE PARTIES.**

Any neighbor or member of the community who experiences adverse effects associated with excess emergency response calls to any residential unit regulated by this chapter is declared to be damaged thereby.

(A) For purposes of this section, “excess emergency response calls” are the greater of five calls for service for one address or one call for service per each five-unit/room increment in any 12-month period requiring response by any fire or police agency in the City limits.

(B) Any and each such affected party may institute a civil action against the landlord. Damages shall include the actual damages, costs, reasonable attorney’s fees, if any, and a civil penalty of up to \$500 in addition thereto.

(C) Nothing in this provision shall be construed to limit any other right or remedy otherwise available in law or equity to any affected person, nor shall this provision in any way limit the city’s right to enforcement under any other provision of this code.

## **COST RECOVERY**

### **SEC. 150.030.060 ADDITIONAL INSPECTION FEES.**

If an order to comply is issued and the violation continues to exist after the date to comply has passed or upon reinspection, the City is hereby authorized to impose an additional inspection fee equal to the costs of the additional inspection. Fees may be charged for the third inspection and any subsequent inspection until compliance is attained. The fees may be imposed administratively without a hearing but may be appealed pursuant to sections 10.47 through 10.59 of the Eureka Municipal Code.

### **SEC. 150.030.061 ADMINISTRATIVE COSTS.**

The costs, including preparation, inspections, appearances at hearings, the cost of administration and supervision of any work required to abate substandard buildings or violations cited in a notice and order, and all attendant costs for this code enforcement action shall be assessed upon the property owner, including staff and attorneys’ fees, if the City determines that the owner has not completed the required corrective action for all code violations cited in the notice or order within the time period specified in the notice or order or any extensions granted.

## **FEES AND PENALTIES**

### **SEC. 150.030.070 INSPECTION FEES, LATE FEES AND PENALTIES.**

A late charge equal to two times the fee or cost and a collection fee equal to 50 percent of the original fee or cost shall be imposed if any fees or costs imposed by this subchapter, including fees for inspections pursuant to Eureka Municipal Code Section 150.030.060, are not paid within 30 days of mailing of the billing or the service of notice of the fee or cost, or within 30 days of mailing of any decision on appeal pursuant to Eureka Municipal Code Sections 10.47 through 10.59. Any owner who fails to pay the assessed fee or cost, late charge or collection fee shall also pay interest. Interest shall be calculated at the percentage rate as set by the City Council by resolution, on the amount

of the fee or cost, late charge and collection fee imposed, from the 60th day after the date of mailing of this notice until the date of payment. Any partial payments of the fee or cost, late charge, collection fee or interest received shall be applied first to interest, then late charge and collection fee, and lastly to the fee or cost. The City shall have the right to bring legal action in any court to enforce the order and collect the amount of these fees or costs. Any fee, cost, late charge or collection fee imposed herein may be appealed by the grievant the pursuant to Eureka Municipal Code Sections 10.47 through 10.59.

**§ 150.030.071 GENERAL PENALTIES.**

Failure to comply with any requirement of this subchapter, in addition to any other remedies provided by law, shall be subject to penalties of up to \$1,000 per day under Eureka Municipal Code section 10.99, accruing on a per violation / per day basis.

**§ 150.030.072 ASSESSMENT LIEN.**

(A) All fees, costs or penalties assessed under the Rental Housing Code shall be billed to the owner(s) of the property and mailed to the owner's address as set forth on the last equalized assessment roll of the Humboldt County Assessor.

(B) Any fee, cost or penalty not paid within 60 days after billing, or within 60 days after any administrative appeal becomes final, the City Council may thereupon order that the fee, cost or penalty be specially assessed against the property involved. If the City Council orders that the fee, cost or penalty be specially assessed against the property, it shall confirm the assessment and thereafter said assessment may be collected at the same time and in the same manner as ordinary real property taxes are collected and shall be subject to the same penalties and the same procedure and sale in case of delinquency as provided for ordinary real property taxes. All laws applicable to the levy, collection, and enforcement of real property taxes are applicable to the special assessment.

**NOTICES – SUBSTANDARD CONDITIONS.**

**§ 150.030.082 NOTICING.**

If the building or dwelling unit has been declared substandard pursuant to California Health and Safety Code Section 17920.3 and/or the Eureka Municipal Code section 150.162, the City Building Official shall post on the building or dwelling unit, in a conspicuous place near the entrance, a warning placard or sign informing the occupants of the fact that the premises have significant health or safety violations and notice shall be provided to each affected residential unit in the manner prescribed by California Health and Safety Code Section 17980.6. The notice need not contain the precise wording of this section.

**§ 150.030.083 FRANCHISE TAX BOARD NOTIFICATION.**

If the building or dwelling unit has been declared substandard pursuant to California Health and Safety Code Section 17920.3, and/or the Eureka Municipal Code section 150.162, and after written notice of the violation, specifying the applicability of this section, has not been brought to a condition of compliance within six months after the date of the notice or the time prescribed in the notice, whichever period is later, then the City shall notify the Franchise Tax Board of the noncompliance and shall record a copy of the notice with the office of the County Recorder following the procedures set forth in California Revenue and Taxation Code Section 17274(c).

Within 30 days after the property has been brought to a condition of compliance, the City shall send a notice of compliance to the Franchise Tax Board, with a copy of the notice also sent to the County Recorder.

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Section 2: Title 15, Chapter 155, sections 155.052, 155.053, Title 15, Chapter 156, sections 156.069, 156.070, and Title 11, Chapter 110, section 110.059 are hereby amended as follows:

**§ 155.052 RS-6,000 ONE-FAMILY RESIDENTIAL DISTRICTS.**

(D) *Conditional uses.* The following conditional uses shall be permitted upon the granting of a use permit in accord with the provisions of §§ 155.280 through 155.299 of this chapter:

\* \* \*

(13) “Bed and breakfast inn” in which not more than ~~45~~ 6 paying guests may be lodged or boarded, provided that the site of such inn shall not be less than one acre in area; and

**§ 155.053 RM MULTI-FAMILY RESIDENTIAL DISTRICTS.**

\* \* \*

(E) *Permitted uses.* The following uses shall be permitted in the RM-2,500 and RM-1,000 Districts:

\* \* \*

(3) Lodging houses and bed and breakfast inns in which not more than ~~45~~ 6 paying guests may be lodged or boarded.

**§ 156.069 RS — ONE-FAMILY RESIDENTIAL DISTRICTS.**

\* \* \*

(D) *Conditional uses.* The following conditional uses shall be permitted upon the granting of a use permit in accord with the provisions of §§ 155.280 through 155.299 of this title:

\* \* \*

(13) Bed and breakfast inns in which not more than 45 6 paying transient guests may be lodged or boarded, provided that the site of such inn shall not be less than one acre in area; and,

**§ 156.070 RM — MULTI-FAMILY RESIDENTIAL DISTRICTS.**

\* \* \*

(B) *Permitted uses.* The following uses shall be permitted in the RM-2,500 and RM-1,000 Districts:

\* \* \*

(3) Lodging houses in which not more than 45 6 paying guests may be lodged or boarded;

**§ 110.59 HOTELS, MOTELS, APARTMENT HOUSES, BED AND BREAKFAST INNS AND ROOMING HOUSES.**

Every person conducting, carrying on, or managing a business of a hotel, motel, apartment house, bed and breakfast inn, or ~~rooming~~ lodging house, each with four units or more, shall pay an annual license tax pursuant to § 110.50 of this subchapter.

PASSED, APPROVED AND ADOPTED by the City Council of the City of Eureka in the County of Humboldt, State of California, on the \_\_\_\_ day of \_\_\_\_\_, 2009 by the following vote:

- AYES: COUNCILMEMBERS
- NOES: COUNCILMEMBERS
- ABSENT: COUNCILMEMBERS
- ABSTAIN: COUNCILMEMBERS

\_\_\_\_\_  
Mike Jones, Mayor Pro Tem

The above ordinance was submitted to me on the \_\_\_\_\_ day of \_\_\_\_\_, 2009, and I hereby approve the same.

\_\_\_\_\_  
Virginia Bass, Mayor

*Attest:*

\_\_\_\_\_  
Pamela Powell, Acting City Clerk

*Approved as to Administration:*

*Approved as to form:*

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David W. Tyson, City Manager

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Sheryl Schaffner, City Attorney