



**CITY OF HAYWARD**  
**AGENDA REPORT**

AGENDA DATE 11/12/02

AGENDA ITEM \_\_\_\_\_

WORK SESSION ITEM WS 2

**TO:** Mayor and City Council  
**FROM:** Director of Community and Economic Development  
**SUBJECT:** Revisions to the Residential Rental Inspection Program

**RECOMMENDATION:**

It is recommended that the City Council review and comment on this report.

**BACKGROUND:**

In 1989 the City Council adopted the Residential Rental Inspection Program for buildings with three or more rental housing units, hotels and motels that were more than ten years old. The intent of the program is to ensure that housing used for commercial purposes meets minimum health and safety standards and that Hayward residents are not subjected to substandard housing conditions.

In 1993 the City Council adopted revisions to the mandatory inspection program that expanded the program coverage to include units receiving Federal Section 8 rent subsidy and single-family homes and condominiums that were rented. This expansion brought the total number of rental units (not including hotels and motels) covered by the program to approximately 16,000. The 2000 Census suggests that the total number of rental housing units in the City covered by the program stands at approximately the same number.

The Program is currently structured to systematically inspect all rental units by moving through the City geographically, from one census tract to the next. This avoids re-inspecting any given unit until all other rental units have been inspected. At the start of the program, it was envisioned that each rental unit would be inspected every five years. In fact, it currently takes about six and one half to seven years to complete an inspection cycle. The current staffing level includes three full-time Housing Inspectors, one full-time Secretary and one full-time Senior Housing Inspector. The Senior Inspector's time is nearly evenly split between administrative tasks and inspections. Although the program was intended to approximate cost recovery, it consistently recovers only one-half to two-thirds of its total budget through fees and penalties.

Earlier this year, the City Council authorized the creation of an Ad Hoc Rental Housing Work Group to focus on issues regarding rental housing and provide recommendations to City Council on solving problems related to appearance, health and safety and escalating rents. The Work Group is composed of two representatives of the Rental Housing Owners Association; two representatives of groups working with Hayward tenants; a representative of the Alameda County Housing Authority (which operates the Section 8 Program); a representative of Eden Housing Inc, a local nonprofit affordable housing developer; and staff from various City departments.

The group worked to develop a program format that would focus existing resources on the most egregious rental properties and alleviate the burden of inspections on those properties that are consistently well maintained. An operating assumption of the review was that the revised program would not require additional staffing or reduce the cost recovery ratio. If the City Council supports these assumptions, the revised program presented below would require a trade off of the current citywide program coverage for more frequent inspection in limited areas. The most egregious areas would be inspected in about one half the cycle turnaround time of the current program. On the other hand, one-third of the rental housing stock now inspected, would receive no inspection whatever in the absence of a complaint.

#### Focusing Attention on Rental Units with the Most Violations

The central concept for the revised program is to concentrate resources in areas of the City with the largest number and greatest density of units. In many instances these are also some of the oldest rental units in the city. Historically, these areas have accounted for the largest number of violations encountered.

There are approximately 7,700 units within the six areas selected for initial focus (see Attachment A). It is reasonable to estimate that this number of units could be inspected and cleared in a three and one half year cycle, given the assignment of the full complement of 3.5 FTE Housing Inspectors. This is approximately half of the current cycle time, and will allow the staff to also continue the current level of decontrol and complaint inspections.

#### Self-Certification Process

The working group also wished to reward those landlords who have a history of compliance with the Housing Code and other City ordinances. Consequently, a program of “self-certification” was proposed for properties that have met Housing Code requirements and specific property management criteria in the past. Excluding these well-maintained properties would assist program staff in redirecting their focus to more frequent inspection of problem properties.

Staff estimates that approximately 3,000 to 4,000 units will eventually be able to qualify for “self-certification.” This would include about 60% of the developments with fifteen or more units and about 40% of the developments with five or more units. It is also estimated that very

few of these units will be in the areas designated for concentrated effort. The specific criteria for “self-certification” would include:

- Owners of properties with five or more units could be approved for “self-certification” if the property had an inspection within the previous five years and had been cleared of all violations by the first progress check. In addition, they would be required to have a trained multifamily property manager with responsibility for the development. This training could be obtained through the Multifamily Management Assistance Program (MMAP) offered by the Rental Housing Owners Association or through other certifying groups.
- Properties for which “self-certification” is approved could not be in violation of any other City of Hayward ordinances. If found in violation, the self-certification could be revoked and all violations would need to be cleared before the owner could reapply for “self-certification.”
- Changes in ownership or management of the property would have to be reported to the City and reviewed to determine whether the property continued to meet the criteria for “self-certification.”

Rental property owners whose properties are eligible to “self-certify” would be encouraged to do so by making the “self-certification” process less expensive and time consuming than the current inspection process. Staff will return to City Council later in the year to propose a fee for “self-certification.” Representatives of the Rental Housing Owners (RHO) association have committed the organization to again present the Multifamily Management Assistance Program on a regular basis. This program would meet the requirement for training property managers in a timely and cost effective manner. City staff has agreed to participate in the training by giving classes on code compliance and City regulations.

### Complaints

Complaints would continue to be investigated Citywide, however, the current practice of inspecting only the unit complained about would be revised. Tenant advocates have long been concerned that inspecting only the unit about which the complaint is received singles out the complaining tenant and discourages valid complaints for fear of landlord retribution or eviction.

A system of inspecting several units at random, rather than one, would assist in addressing the tenant concerns. Past experience has shown that properties on which complaints are received frequently have multiple violations in common areas and other units. Consequently, it is proposed that at least 2 additional units would be inspected in developments of 15 or fewer units and at least 4 units would be inspected in larger complexes. As is true with the current program, the owner would receive a thirty-day notice that an inspection is planned, accompanied by a copy of the inspection checklist to be used by the inspector. This provides sufficient time for responsible landlords and property managers to rectify violations prior to inspection. Units inspected pursuant to a complaint would only be charged inspection fees if

violations were found. Violations cleared by the first progress check would not be charged additional fees.

This system would allow an inspector to determine whether the problems were the result of a particular tenant's perception or misconduct or were, in fact, an indicator of poor management and maintenance practices by the owner. If a number of violations were found in the units inspected at random, the development would be scheduled for a more thorough review. On occasion, difficult tenants or those subject to lawful eviction proceedings may generate complaints or deface units in order to harass their landlord. In these cases, the Senior Housing Inspector can work with the property owner or manager to identify the actual origin of the violations.

### Spot Checking

Staff believes that spot checks of properties not eligible for "self-certification," and in areas of the city other than those receiving intensive attention, would be necessary to discourage property owners from allowing their property to fall below Housing Code standards and deteriorate. In the absence of the current citywide inspection system and without a system of spot-checking apartment complexes, irresponsible property owners would have no incentive to adopt and continue adequate maintenance practices.

### Staffing Implications

Instituting a new system of "self-certification" will involve additional administrative and clerical work, at least in the startup year. It will require the review of records of previous property inspections, verification of compliance with local ordinances and property manager qualifications, and development of a new tracking format in the Eden Systems. Staff estimates this additional work will require one full-time Secretary for one year.

Inclusion of a spot-checking system for the approximately 5,000 rental units that are not in areas receiving concentrated attention and are unlikely to "self-certify," would require an additional full-time Housing Inspector. Since the cost of adding staff will impact the general fund, a final determination with regard to staffing levels will need to be made once the City's overall financial condition is known later this year.

### Incentives for Proper Maintenance

Proposed program revisions include changes to the fee and penalty structure designed to create stronger incentives to properly maintain rental properties. The current fee structure assesses fees only when violations are found. However, if violations are found, a fee is assessed both at the time of the initial survey and at the time of the first compliance or progress check. Property owners felt this acted as a double penalty and provided no incentive for speedy correction. The Work Group agreed it would be more prudent to not charge a second fee if violations were corrected by the first progress check and to adopt increasingly heavy penalties for tardy compliance. The proposed revision to the Master Fee Schedule for this program (see

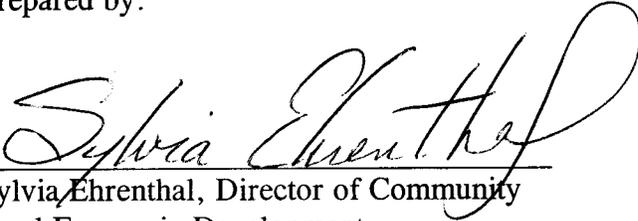
Attachment B) reflects this change by eliminating a second charge if corrections are made by the first progress check, and by providing for a higher initial penalty and allowing the penalty to grow faster the longer it takes to correct the violation.

The revised fee schedule also proposes to adjust the current fee level to account for inflation. Fees for this program were last changed in 1993, when Council adopted the last program revisions. Staff has, therefore, applied an overall of adjustment of fifty percent to reflect the actual increase in the Consumer Price Index during the last ten years. This increase should help reflect the actual cost increase to the General Fund for this program.

Ordinance Revision

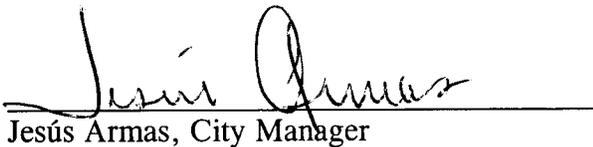
The majority of proposed changes to the program can be accommodated administratively. However, staff is also recommending minor modifications to the ordinance governing the Residential Rental Inspection Program to clarify the administrative hearing procedure and conform it to that used in other programs of the City.

Prepared by:



Sylvia Ehrental, Director of Community  
and Economic Development

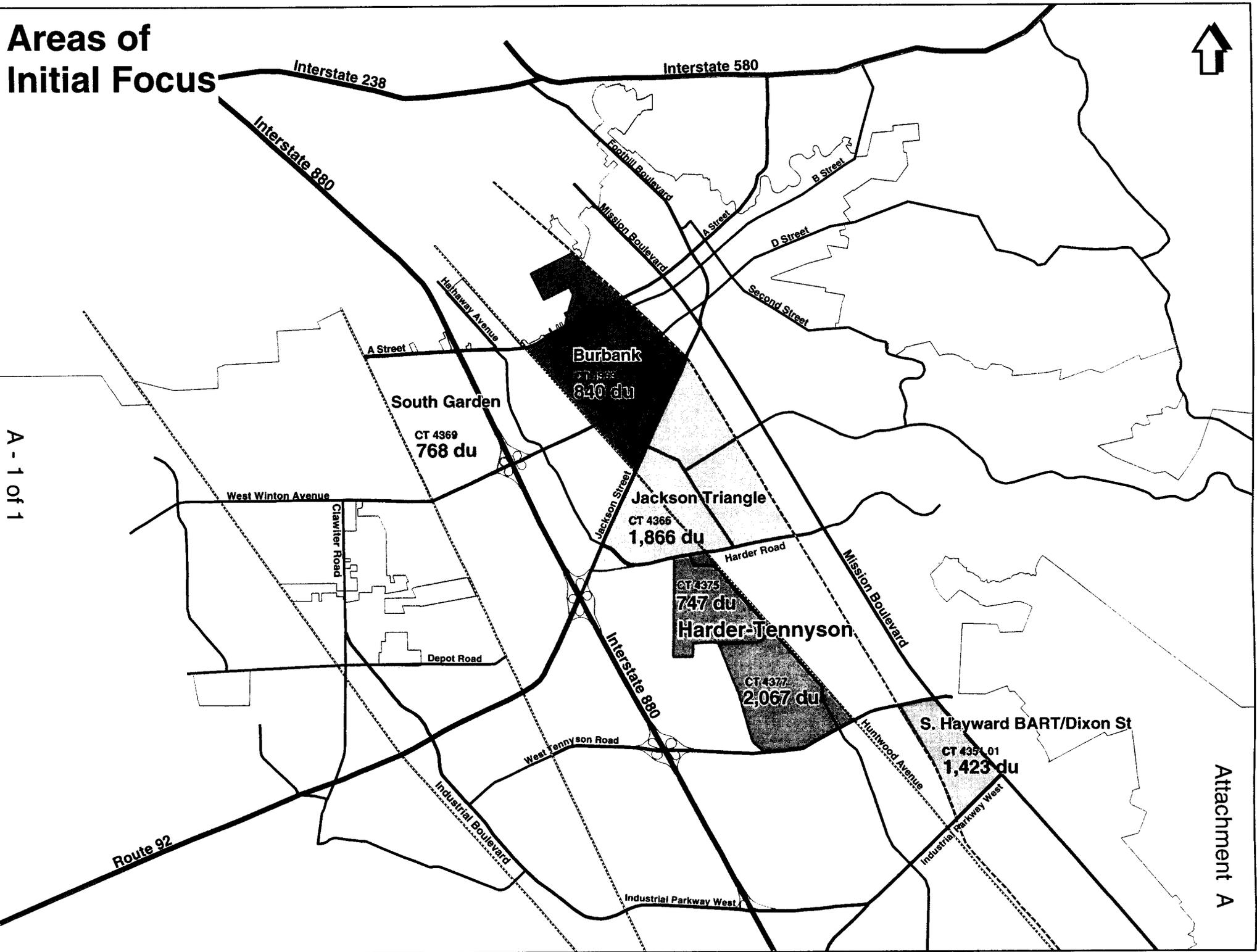
Approved by:



Jesús Armas, City Manager

Exhibits: Attachment A - Areas of Initial Focus  
Attachment B - Proposed Fee Structure

# Areas of Initial Focus



A - 1 of 1

Attachment A

**PROPOSED FEE STRUCTURE FOR RENTAL HOUSING  
AND HOTEL INSPECTION FEES**

**C. RENTAL HOUSING AND HOTEL INSPECTION FEES**

- |     |   |   |
|-----|---|---|
| 1.  | Request for postponement of initial inspection or progress check  |   |
| a.  | First request   | No charge   |
| b.  | Second request  | \$200 penalty   |
| 2.  | Inspection, report and enforcement actions pursuant to HMC, Ch. 9, Art. 5                                   |   |
| a.  | Initial inspection of parcel containing two or more rental housing units a hotel or motel                   |   |
| (1) | No violations found   | No charge   |
| (2) | Violations found  | \$150/parcel + \$60/unit or hotel/motel room with violation           |
| b.  | Progress Checks   |   |
| (1) | First Progress Check  |   |
| (a) | Violations corrected  | No Charge   |
| (b) | Violations not corrected  | \$150/parcel + \$60/unit or hotel/motel room with violation           |
| (2) | Second Progress Check   | \$150/parcel + \$60/unit or hotel/motel room with violation + \$200   |
| (3) | Third Progress Check  | \$150/parcel + \$60/unit or hotel/motel room with violation + \$400   |
| (4) | Fourth Progress Check   | \$150/parcel + \$60/unit or hotel/motel room with violation + \$800   |
| (5) | Fifth and subsequent re-inspections   | \$150/parcel + \$60/unit or hotel/motel room with violation + \$1000. |
| c.  | Initial inspection of parcel containing one single- family rental unit (including condominium or townhouse) |   |
| (1) | No violations found   | No Charge   |
| (2) | Violations found  | \$150   |

d.	Progress Checks	
	(1) First Progress Check	
	(a) Violations corrected	No Charge
	(b) Violations not corrected	\$150/parcel
	(2) Second Progress Check	\$150/parcel + \$200 penalty
	(3) Third Progress Check	\$150/parcel + \$400 penalty
	(4) Fourth Progress Check	\$150/parcel + \$800 penalty
	(5) Fifth and subsequent re-inspections	\$150/parcel + \$1000 penalty
e.	Concurrent Initial Inspection of two or more single-family dwelling units/same owner	
	(a) No violations found	No Charge
	(b) Violations found	\$150/parcel + \$60/unit
f.	Progress Checks	
	(1) First Progress Check	
	(a) Violations corrected	No Charge
	(b) Violations not corrected	\$150/parcel + \$60/unit
	(2) Second Progress Check	\$150/parcel + \$60/unit + \$200 penalty
	(3) Third Progress Check	\$150/parcel + \$60/unit + \$400 penalty
	(4) Fourth Progress Check	\$150/parcel + \$60/unit + \$800 penalty
	(5) Fifth and subsequent re-inspections	\$150/parcel + \$60/unit + \$1000 penalty
3.	Initial Inspection or Progress Check - No Access	
	a. No access – First Site Visit	No charge
	b. No access – Second Site Visit	\$200
	c. No access – Third Site Visit	\$400
	d. No access – Fourth Site Visit	\$800
	e. No access – Fifth and Subsequent Site Visits	\$1000

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|----|--|--|
| 4. | Rent Control Deregulation Inspection pursuant to Ord No. 83-023, as amended                                    |  |
|    | a. Initial inspection/survey and one re-inspection   | \$300/unit   |
|    | b. Concurrent initial inspection/survey and one re-inspection of two or more units/same owner/same development | \$300 1 <sup>st</sup> unit + \$60 each additional unit |
|    | c. Additional non-concurrent re-inspections  | \$150/unit   |
| 5. | Lien (per parcel)  | \$150  |