REPORT TO COUNCIL
City of Sacramento

915 I Street, Sacramento, CA 95814-2671
www. CityofSacramento.org

CONSENT
November 18, 2008

Honorable Mayor and
Members of the City Council

Title: Ordinance Relating to Rental Housing Inspection Program Fee Collection Process

Location/Council District: All

Recommendation: 1) Review an **Ordinance** amending Section 8.120.210 of the Sacramento City Code; adding Sections 8.120.220 through 8.120.270 of the Sacramento City Code relating to the collection of unpaid fees, costs or charges; and amending Section 8.120.050 of the Sacramento City Code relating to the establishment of fees; 2) pass for publication the Ordinance title as required by Sacramento City Charter 32c to be adopted on November 25, 2008.

Contact: Max Fernandez, Director Code Enforcement, 916-808-7940; Randy Stratton, Chief of Housing & Dangerous Buildings, 916-808-6497

Presenters: Not applicable.

Department: Code Enforcement

Division: Rental Housing Inspection Program

Dept ID: 20001312

Description/Analysis

Issue: Amend the Rental Housing Inspections Code to implement a separate process designed especially for the collection of the fees, costs and charges established for the Rental Housing Inspections Program; and amend Section 8.120.050 of the Sacramento City Code relating to the establishment of fees for clarification purposes only.

Policy Considerations: The staff recommendation is consistent with the City's strategic plan focus areas of sustainability and livability, and safe and affordable housing.

Committee/Commission Action: On October 14, 2008, the Law and Legislation Committee forwarded a recommendation of approval to the City Council.

Environmental Considerations: The proposed ordinance is not subject to the California Environmental Quality Act (CEQA) because it proposes organizational or administrative activities that will not result in direct or indirect physical changes in the environment. (CEQA Guidelines §§ 15061(b)(3), 15378(b)(5))

Rationale for Recommendation: Under the current Rental Housing Inspections Code, the City uses the previously-existing process for the collection of nuisance abatement costs, to collect unpaid Rental Housing Inspection Program (RHIP) fees and charges. By amending the code as proposed, a new process will be established and RHIP fees and charges will be able to be collected in a more efficient manner. The amendment of Section 8.120.050 of the Sacramento City Code is for clarification purposes only.

Financial Considerations: Streamlining the Rental Housing Inspection Program fee collection process will result in a potential cost savings by decreasing mailings and administrative hearings, thereby reducing the burden on the General Fund.

Emerging Small Business Development (ESBD): Not applicable. No goods or services are being purchased.

Sustainability Considerations: Not applicable for this report.

Approved by: _____
Max Fernandez
Director of Code Enforcement

Recommendation Approved:

for _____
Ray Kerridge
City Manager

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Attachment 1

BACKGROUND

On March 4, 2008 the City Council adopted Ordinance 2008-012 which enacted the Rental Housing Inspections Code. As adopted, that ordinance enabled the City to collect unpaid Rental Housing Inspection Program (RHIP) fees and charges using the previously-existing process for the collection of nuisance abatement costs. That procedure allowed the City to make those fees a lien that can be recorded and collected as a special assessment.

The proposed ordinance amends the Rental Housing Inspections Code to implement a new and separate process designed especially for the collection of the RHIP fees and charges. The proposed amendment still enables the City to make unpaid fees and charges a lien that can be recorded and collected as a special assessment. However, the proposed amendments will make the process more efficient in the following respects.

- Instead of the process being administered by the City Engineer, the new process will be administered by the Director of Finance who will be issuing the bills that result in the proposed liens.

- Instead of requiring notice to be served on all holders of an interest in the property, the new process only requires notice to the owner.

- Instead of having the Housing Code Advisory and Appeals Board conduct a hearing on <u>all</u> liens that are proposed by the City, the Board will conduct hearings on <u>only</u> the proposed liens that are contested.

- Instead of requiring City Council to conduct a hearing on all proposed liens, a hearing before City Council is only required when a proposed lien is first contested before the HCAAB, and then the City Council decides not to adopt the Board's recommendation.

The proposed ordinance also amends Section 8.120.050 of the Sacramento City Code for clarification purposes only. Subsequent to the enactment of the Rental Housing Inspections Code in March of 2008, it was discovered that the provision establishing the Rental Housing Inspection Program fee could be mistakenly interpreted to mean that an owner would only be liable for the fee if they register their rental housing units with the City. The proposed amendment clarifies the intent of that provision only to fix the total amount of the fee on the date the City issues a bill for the first installment of the fee. An owner remains liable for the fee whenever they engage in the business of rental housing, pursuant to the current Section 8.120.060 of the Sacramento City Code.

Attachment 2

ORDINANCE NO.

Adopted by the Sacramento City Council

Date Adopted

AN ORDINANCE AMENDING SECTION 8.120.210 OF THE SACRAMENTO CITY CODE AND ADDING SECTIONS 8.120.220 THROUGH 8.120.270 OF THE SACRAMENTO CITY CODE RELATING TO THE COLLECTION OF UNPAID FEES, COSTS OR CHARGES; AND AMENDING SECTION 8.120.050 OF THE SACRAMENTO CITY CODE REGARDING THE ESTABLISHMENT OF FEES

BE IT ENACTED BY THE COUNCIL OF THE CITY OF SACRAMENTO:

SECTION 1.

Section 8.120.210 of the Sacramento City Code is amended to read as follows:

8.120.210 Collection - unpaid fees, costs or charges

A. In addition to any other remedy provided by law, the city may collect any fee, cost, or charge imposed pursuant to this chapter that has not been paid within 45 days of notice thereof, by making the amount of the unpaid fee, cost, or charge a lien against the rental housing property that is the subject of the fees, costs or charges.

B. The housing code advisory and appeals board, as established in Section 8.100.120 of this code, shall hear all objections to proposed liens, as described in this chapter.

SECTION 2.

Section 8.120.220 is added to the Sacramento City Code to read as follows:

8.120.220 Collection - notice of proposed lien and hearing

A. The city shall provide the owner of the property with written notice in plain language of:

1. the proposed lien:
2. a description of the basis for the amounts comprising the lien:

3. the owner's opportunity to pay the fee, cost or charge within 45 days after the mailing of the notice;

4. the owner's opportunity to appear before the housing code and appeals board and be heard regarding the amount of the proposed lien; and

5. the procedure for challenging the amount of the proposed lien as set forth in Section 8.120.230 of this code.

B. The notice shall be mailed by certified mail to the last known address of the owner of the property.

SECTION 3.

Section 8.120.230 is added to the Sacramento City Code to read as follows:

8.120.230 Collection - objections

To challenge the amount of the proposed lien, the owner must file an objection with the director of finance within 10 calendar days from the mailing of the notice. No objection received after that date shall be considered. Each written objection must contain a description of the property that is the subject of the proposed lien and the grounds of the objection.

SECTION 4.

Section 8.120.240 is added to the Sacramento City Code to read as follows:

8.120.240 Collection – failure to object

The failure of the owner to file an objection in accordance with Section 8.120.230 of this code shall constitute a waiver of the owner's opportunity to challenge the amount of the proposed lien. If no objection is properly filed, the director of finance shall transmit a report of the proposed lien to the city council.

SECTION 5.

Section 8.120.250 is added to the Sacramento City Code to read as follows:

8.120.250 Collection - report to housing board, notice

A. If any objection is timely filed with the director of finance, the director of finance shall transmit a report of the proposed lien and the objections thereto to the housing code advisory and appeals board, as established in Chapter 8.100 of this code.

B. Upon the receipt of the report, the housing board shall fix a time, date and place for hearing the report, and any objections thereto. The director of finance shall cause notice of the hearing to be mailed by certified mail to the last known address of the owner of the property at least 30 days prior to the date set for the hearing.

SECTION 6.

Section 8.120.260 is added to the Sacramento City Code to read as follows:

8.120.260 Collection - hearing before the housing board

Upon considering the report of the proposed lien and the objections thereto, the housing code advisory and appeals board shall follow, as nearly as practicable, those procedures that the city council would have followed if it had conducted the hearing. The housing board shall make a written recommendation to the city council which shall include factual findings based on evidence introduced at the hearing.

SECTION 7.

Section 8.120.270 is added to the Sacramento City Code to read as follows:

8.120.270 Collection - city council

A. Upon receipt of a report of a proposed lien in accordance with Sections 8.120.240 or 8.120.260 of this code, the city council shall determine whether the proposed lien shall become a lien, and whether the amount of the lien is to be collected at the same time and in the same manner as property taxes are collected.

B. In cases in which a hearing before the housing code advisory and appeals board has been held, the city council shall adopt the recommendation of the board without a hearing, or set the matter for a de novo hearing before the city council. Notice of the de novo hearing shall be provided to the property owner in writing, at least 10 days in advance of the scheduled hearing.

C. If the city council determines that the proposed lien shall become a lien, the city council may also cause a notice of lien to be recorded. This lien shall attach upon recordation in the office of the Sacramento County Recorder and shall have the same force, priority, and effect as a judgment lien, not a tax lien. The notice of lien shall, at a minimum, identify the record owner or possessor of the property, set forth the last known address of the record owner or possessor, set forth the date upon which the lien was created against the property, and include a description of the real property subject to the lien and the amount of the lien.

D. If the city council determines that the amount of the lien is to be collected at the same time and in the same manner as property taxes are collected, all laws applicable to the levy, collection, and enforcement of ad valorem taxes shall be applicable to the proposed lien, except that if any real property to which the lien would attach has been transferred or conveyed to a bona fide purchaser for value, or if a lien of a bona fide encumbrancer for value has been created and attaches thereon, prior to the date on which the first installment of taxes would become delinquent, then the lien that would otherwise be imposed by this section shall not attach to real property and the

costs of enforcement relating to the property shall be transferred to the unsecured roll for collection.

SECTION 8.

Section 8.120.050 of the Sacramento City Code is amended to read as follows:

8.120.050 Fees Established

A. The following fees are established and imposed pursuant to the provisions of this chapter to finance the cost of the rental housing inspection program:

1. Rental Housing Inspection Program Fee. A fee is established for the administration and implementation of the provisions of this chapter, i.e., the rental housing inspection program, for a period of five years. The fee shall be imposed for each rental housing unit and shall pay for the costs of all inspections conducted pursuant to this chapter, except those financed by the re-inspection fee. The total amount of the fee shall be billed and paid in equal annual installments over the five year term. However, the amount of the fee shall be fixed on the date the city issues the bill for the first installment.

2. Rescheduling Fee. A fee is established for the administrative costs of re-scheduling an inspection that is cancelled in violation of Section 8.120.100 of this code.

3. Reinspection Fee. A fee is established for an additional periodic inspection required by the city pursuant to Section 8.120.120 of this code.

B. The city council shall establish the amounts of the foregoing fees, and any penalties for delinquent payment of such fees, by resolution.

Attachment 3

ORDINANCE NO.

Adopted by the Sacramento City Council

Date Adopted

AN ORDINANCE AMENDING SECTION 8.120.210 OF THE SACRAMENTO CITY CODE AND ADDING SECTIONS 8.120.220 THROUGH 8.120.270 OF THE SACRAMENTO CITY CODE RELATING TO THE COLLECTION OF UNPAID FEES, COSTS OR CHARGES; AND AMENDING SECTION 8.120.050 OF THE SACRAMENTO CITY CODE REGARDING THE ESTABLISHMENT OF FEES

BE IT ENACTED BY THE COUNCIL OF THE CITY OF SACRAMENTO:

SECTION 1.

Section 8.120.210 of the Sacramento City Code is amended to read as follows:

~~**8.120.210 Recovery of fees**~~

~~If any fees imposed pursuant to the provisions of this chapter have not been paid within 45 days of notice thereof, the City may collect the fees, and any penalties for delinquent payment of those fees, in accordance with the provisions of Article IX of Chapter 8.96 of this code; provided that, in lieu of the preparation of a report by the city engineer as required in Section 8.96.320 of this code, the Director shall prepare and file with the clerk, a report specifying the fees and penalties owed, a description of the real property upon which the rental housing unit or units subject to the fee are or were located, and the names and addresses of the persons entitled to notice pursuant to subsection C of Section 8.96.130 of this code. For the purpose of following the procedures specified in Article IX of Chapter 8.96 of this code to collect the fees and penalties imposed pursuant to this chapter, the Director's report shall constitute the report by the city engineer.~~

8.120.210 Collection - unpaid fees, costs or charges

A. In addition to any other remedy provided by law, the city may collect any fee, cost, or charge imposed pursuant to this chapter that has not been paid within 45 days of notice thereof, by making the amount of the unpaid fee, cost, or charge a lien against the rental housing property that is the subject of the fees, costs or charges.

B. The housing code advisory and appeals board, as established in Section 8.100.120 of this code, shall hear all objections to proposed liens ~~proposed pursuant to~~, as described this chapter.

SECTION 2.

Section 8.120.220 is added to the Sacramento City Code to read as follows:

8.120.220 Collection - notice of proposed lien and hearing

A. The city shall provide the owner of the property with written notice in plain language of:

1. the proposed lien:
2. a description of the basis for the amounts comprising the lien:
3. the owner's opportunity to pay the fee, cost or charge within 45 days after the mailing of the notice;
4. the owner's opportunity to appear before the housing code and appeals board and be heard regarding the amount of the proposed lien; and
5. the procedure for challenging the amount of the proposed lien as set forth in Section 8.120.230 of this code.

B. The notice shall be mailed by certified mail to the last known address of the owner of the property.

SECTION 3.

Section 8.120.230 is added to the Sacramento City Code to read as follows:

8.120.230 Collection - objections

To challenge the amount of the proposed lien, the owner must file an objection with the director of finance within 10 calendar days from the mailing of the notice. No objection received after that date shall be considered. Each written objection must contain a description of the property that is the subject of the proposed lien and the grounds of the objection.

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8.120.250 Collection - report to housing board, notice

A. If any objection is timely filed with the director of finance, the director of finance shall transmit a report of the proposed lien and the objections thereto to the housing code advisory and appeals board, as established in Chapter 8.100 of this code.

B. Upon the receipt of the report, the housing board shall fix a time, date and place for hearing the report, and any objections thereto. The director of finance shall cause notice of the hearing to be mailed by certified mail to the last known address of the owner of the property at least 30 days prior to the date set for the hearing.

SECTION 6.

Section 8.120.260 is added to the Sacramento City Code to read as follows:

8.120.260 Collection - hearing before the housing board

Upon considering the report of the proposed lien and the objections thereto, the housing code advisory and appeals board shall follow, as nearly as practicable, those procedures that the city council would have followed if it had conducted the hearing. The housing board shall make a written recommendation to the city council which shall include factual findings based on evidence introduced at the hearing.

SECTION 7.

Section 8.120.270 is added to the Sacramento City Code to read as follows:

8.120.270 Collection - city council

A. Upon receipt of a report of a proposed lien in accordance with Sections 8.120.240 or 8.120.260 of this code, the city council shall determine whether the proposed lien shall become a lien, and whether the amount of the lien is to be collected at the same time and in the same manner as property taxes are collected.

B. In cases in which a hearing before the housing code advisory and appeals board has been held, the city council shall adopt the recommendation of the board without a hearing, or set the matter for a de novo hearing before the city council. Notice of the de novo hearing shall be provided to the property owner in writing, at least 10 days in advance of the scheduled hearing.

C. If the city council determines that the proposed lien shall become a lien, the city council may also cause a notice of lien to be recorded. This lien shall attach upon recordation in the office of the Sacramento County Recorder and shall have the

same force, priority, and effect as a judgment lien, not a tax lien. The notice of lien shall, at a minimum, identify the record owner or possessor of the property, set forth the last known address of the record owner or possessor, set forth the date upon which the lien was created against the property, and include a description of the real property subject to the lien and the amount of the lien.

D. If the city council determines that the amount of the lien is to be collected at the same time and in the same manner as property taxes are collected, all laws applicable to the levy, collection, and enforcement of ad valorem taxes shall be applicable to the proposed lien, except that if any real property to which the lien would attach has been transferred or conveyed to a bona fide purchaser for value, or if a lien of a bona fide encumbrancer for value has been created and attaches thereon, prior to the date on which the first installment of taxes would become delinquent, then the lien that would otherwise be imposed by this section shall not attach to real property and the costs of enforcement relating to the property shall be transferred to the unsecured roll for collection.

SECTION 8.

Section 8.120.050 of the Sacramento City Code is amended to read as follows:

8.120.050 Fees Established

A. The following fees are established and imposed pursuant to the provisions of this chapter to finance the cost of the rental housing inspection program:

1. Rental Housing Inspection Program Fee. A fee is established for the administration and implementation of the provisions of this chapter, i.e., the rental housing inspection program, for a period of five years. The fee shall be imposed for each rental housing unit and shall pay for the costs of all inspections conducted pursuant to this chapter, except those financed by the re-inspection fee. . ~~The fee shall be imposed for each rental housing unit on the date of registration. However, t~~ The total amount of the fee shall be billed and paid in equal annual installments ~~as billed by the city~~ over the five year term. However, the amount of the fee shall be fixed on the date the city issues the bill for the first installment.

2. Rescheduling Fee. A fee is established for the administrative costs of re-scheduling an inspection that is cancelled in violation of Section 8.120.100 of this code.

3. Reinspection Fee. A fee is established for an additional periodic inspection required by the city pursuant to Section 8.120.120 of this code.

B. The city council shall establish the amounts of the foregoing fees, and any penalties for delinquent payment of such fees, by resolution.