

ORDINANCE NO. 460

AMENDING AND UPDATING SECTIONS 9-6.15, 9-6.16 AND 9-6.19 OF TITLE 9 "BUILDING REGULATIONS" CHAPTER 6 "HOUSING CODE" OF THE HERCULES MUNICIPAL CODE TO PROVIDE FOR TWO YEAR INSPECTION CYCLES OF RENTAL UNITS

WHEREAS, in 2002 the city of Hercules adopted Ordinance 380 adding sections 9-6.13 through 9-6.25 to Title 9 "Building Regulations", Chapter 6 "Housing Code" of the Hercules Municipal Code whereby the City established a residential health and safety and neighborhood preservation inspection program; and

WHEREAS, subsequent to adopting Ordinance 380 and adding sections 9-6.13 through 9-6.25 to the Hercules Municipal Code a rental inspection program was initiated; and

WHEREAS, the goal of the rental inspection program is to prevent substandard and deteriorated housing which can have a detrimental effect upon the stability of neighborhoods, is environmentally undesirable, and therefore detrimental to city residents and to neighboring communities; and

WHEREAS, periodic inspections of residential rental units can improve the residential housing environment and provide for neighborhood stability throughout the city; and

WHEREAS, Ordinance 380 needs to be modified and updated in order to maximize the city's ability to effectively inspect residential rental units within the city and thereby help preserve the quality of available rental housing stock within the city; and

WHEREAS, fees are imposed through the housing inspection process that are not intended to exceed the reasonable cost of providing the service for which such fees are charged and are intended to be reasonable, fair, equitable and proportionally representative of the cost incurred by the city in providing such services; and

WHEREAS, such fees to recover the cost of the Residential Health and Safety and Neighborhood Preservation Inspection Program are imposed not on property ownership per se but rather on the specific rental of residential property in the city subject to this ordinance; and

WHEREAS, in accordance with the holding of the California Supreme Court in the case of Apartment Association of Los Angeles County, Inc. v. City of Los Angeles (2001) 24 Cal. 4th 830, fees that are imposed by public agencies to recover the cost of providing services such as the Residential Health and Safety and Neighborhood Preservation Inspection Program, which fees are imposed on specific property uses rather than on property ownership pursuant to Section 3 of Article XIID of the California Constitution, and such fees are therefore exempt from the requirements of Article XIID of the California Constitution; and

WHEREAS, it is desirable to provide efficient, thorough, and non-intrusive inspections of residential rental units in a timely manner; and

WHEREAS, all rental properties have been inspected on a yearly cycle and found to be in general compliance; and

WHEREAS, the city of Hercules desires to change the frequency of inspections to ascertain continued compliance and to provide financial relief for its citizens.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF HERCULES DOES HEREBY ORDAIN AS FOLLOWS:

SECTION 1. Sections 9-6.15, 9-6.16 and 9-6.19 of Title 9 "Building Regulations" Chapter 6, entitled "Housing Code" are hereby amended to read as follows:

Section 9-6.15 Applicability. Except as hereinafter provided, not less than once every two years every owner of a residential rental unit within the city shall cause each residential rental unit he or she owns to be inspected for compliance with all applicable laws. The owner may demonstrate compliance with this chapter by either obtaining a Certificate of Compliance from the Chief Building Official or by providing the Chief Building Official with a valid Section 8 Certificate and proof of inspection. All provisions of this Chapter shall apply to such residential rental units. Units that are owned, operated or managed by a government agency other than the city which are exempt from municipal regulation by state or federal law or regulation shall not be required to comply with this section as long as such government ownership, operation, management or exemption by state or federal law or regulation remains in effect.

Section 9-6.16 Certificate of Compliance Requirement. At least once every two years, owners of residential rental units must file a written application with the Chief Building Official and obtain a valid Certificate of Compliance for each residential rental unit owned by that owner. Applications for Certificates of Compliance may be obtained from the city's Chief Building Official. To be considered for approval, applications for Certificates of Compliance must be complete and include the then current application fee.

Section 9-6.19 Validity of Certificates of Compliance. Certificates of Compliance issued pursuant to this chapter shall remain valid for two years from the date of issuance.

SECTION 2. Severability.

If any provision of this ordinance or the application thereof to any person or circumstance is held invalid or unenforceable, the remainder of this ordinance, including the application of such part or provision to other persons or circumstances shall not be affected thereby and shall continue in full force and effect. To this end, provisions of this ordinance are severable. The City Council of the City of Hercules hereby declares that it would have passed each section, subsection, subdivision, paragraph, sentence, clause, or phrase hereof irrespective of the fact that any one or more sections, subsections, subdivisions, paragraphs, sentences, clauses, or phrases be held unconstitutional, invalid, or unenforceable.

SECTION 3. Effective Date.

In accordance with California Government Code Section 37937, this ordinance shall take effect and be in force on the thirtieth day after adoption.

SECTION 4. Publication.

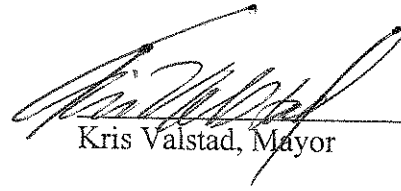
Within fifteen days after the passage of this ordinance, the City Clerk shall cause this ordinance or a summary thereof to be published or to be posted in at least three public places in the City of Hercules in accordance with the requirements of California Government Code Section 36933.

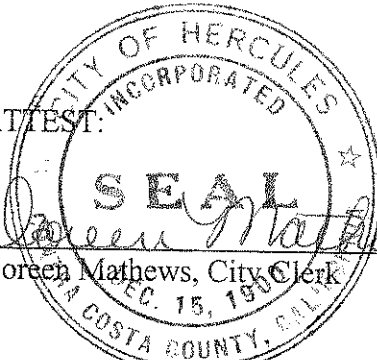

THE FOREGOING ORDINANCE was first read at a regular meeting of the Hercules City Council on the 27th day of July, 2010 and was passed and adopted at a regular meeting of the Hercules City Council on the 14th day of September, 2010 by the following vote:

AYES: Balico, Kuehne, McDonald, Ward, Valstad

NOES: None

ABSENT: None


Kris Valstad, Mayor

ATTEST:


Doreen Mathews, City Clerk

