

CITY OF COVINA
AGENDA ITEM COMMENTARY

MEETING DATE: November 20, 2012

ITEM NO.: PH 1

STAFF SOURCE: Kalieh Honish, Interim Director of Public Works 
Dilu De Alwis, Director of Finance
Alex Gonzalez, Assistant Director of Public Works

ITEM TITLE: Consideration of Resolution No. 12-7119 Establishing Rental Housing Inspection and Regulatory Fees Pursuant to Ordinance No. 10-1980.

STAFF RECOMMENDATION

1. Open and conduct the Public Hearing; and
2. Adopt **Resolution No. 12-7119**, establishing rental housing inspection and regulatory fees pursuant to Ordinance No. 10-1980.

FISCAL IMPACT

The intent is that all work and inspections to be performed under the proposed ordinance and charged under this resolution would be paid for through the collection of permit application and inspection/regulatory fees, which fees may only be used to fund the rental housing inspection program. Therefore implementation of a rental housing inspection program is intended to have no effect on the City's General Fund. However, the effect upon the General Fund would be dependent upon the application and inspection/regulatory fees ultimately approved by the City Council.

BACKGROUND

Rental Housing Permitting and Inspection Ordinance

Section 5.04.500 of the Covina Municipal Code requires all residential rental properties of four or more units to pay an annual business license tax to the City. Additionally, Section 5.04.020 of the Covina Municipal Code establishes that the payment of this tax is solely for the purpose of raising revenue for municipal purposes and is not intended for regulation. Therefore, while the owners of rental properties of four or more units pay an annual tax to the City for their business operations, the City's ability to inspect and regulate these businesses for the health, safety and welfare of the general public is severely restricted.

Currently, there are approximately 325 rental properties licensed within the city. This number includes only those properties containing four or more units and specifically does not include properties consisting of triplexes, duplexes, or single family homes under lease or rent which do not pay a business license tax. It is estimated that the currently un-licensed rental properties

would bring the total number of rental properties in the city to over 2025. Concerns have recently arisen that rental properties, apartment complexes, single family residences and foreclosures are not being maintained in a manner consistent with those of owner-occupied properties within the same neighborhood. Additionally, the inability to regulate the maintenance and operation of all residential rental properties within the city to protect the general health, welfare and safety of the general public under the current business license tax provisions of the Municipal Code has been problematic when dealing with absentee land owners.

In order to address these issues, staff has brought forward to the Council Ordinance No. 10-1980, which was introduced on November 6 and is scheduled for adoption this evening. This Ordinance would require all residential rental property owners to apply for and obtain an annual inspection permit from the City. Upon receipt of a complete application and payment of annual inspection and regulatory fees, staff would schedule the property for a variety of inspections dependent upon the type of property being permitted. Any deficiencies would be brought to the attention of the property owner; with issuance of the inspection permit being withheld until the necessary corrective actions were taken and the property was in full compliance with all applicable regulations. Failure to take the necessary corrective actions would result in the denial and/or revocation of the property's inspection permit. For more details with regard to the Ordinance, staff would refer to the Council to that specific Agenda Item Commentary.

Rental Housing Annual Inspection and Regulatory Fees

Section 5.06.020 of the Ordinance provides that the annual inspection and regulatory fee shall be established by resolution of the City Council. Further, the Ordinance, consistent with Propositions 218 and 26, provides that the inspection and regulatory fee shall be in addition to any business license tax due under Chapter 5.04 and shall be used solely to finance the cost of registration, inspection and enforcement of the rental housing inspection program. Because these fees are limited to a regulatory purpose, they are not a "tax" under Propositions 218 or 26.

The recommended schedule of inspection and regulatory fees are based on an assessment of pertinent staff hourly rates and the estimated average time spent per inspections, with a consideration that most residential rental properties should require two inspections on average per year. The recommended fees also attempt to factor in any internal City staff costs with respect to registration and permitting. These fees can be adjusted by subsequent Council resolution according to experience once the program is implemented and if it turns out that actual City costs are more or less than originally estimated.

Because these fees may be characterized as "building inspection fees" under the Government Code, this item is agendized as a public hearing this evening. Staff properly gave legal notice of this hearing in the San Gabriel Valley Examiner on November 8 and November 15.

RELEVANCE TO THE STRATEGIC PLAN

On October 25, 2012 the City held a Strategic Planning session which directed staff to return to Council by November 6, 2012 with a rental housing ordinance and associated fees, under the goal of enhancing safety and quality of life in Covina. The attached resolution is part of the implementation of the Ordinance.

EXHIBITS

A. Resolution No. 12-7119

REVIEW TEAM ONLY	
City Attorney: 	Finance Director: 
City Manager: 	Other: _____

RESOLUTION NO. 12-7119

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF
COVINA, CALIFORNIA, ESTABLISHING RESIDENTIAL RENTAL HOUSING
ANNUAL INSPECTION AND REGULATORY FEES**

WHEREAS, the City of Covina, (“City”) from time to time, is required to adjust service fees in order to better recoup the costs of providing its services; and

WHEREAS, Section 5.06.020 of the Covina Municipal Code provides that residential rental housing annual inspection and regulatory fees shall be established from time to time by resolution of the City Council; and

WHEREAS, Article XIIC, Section 1(e)(6) and Article XIID, Section 1(b) of the California Constitution establish that the provisions of Propositions 218 and 26 have no effect on the imposition of fees or charges as a condition of property development; and

WHEREAS, Article XIIC, Section 1(e)(3) further provides and the California Supreme Court has held that the provisions of Proposition 218 and 26 have no effect on the imposition of fees or charges for reasonable local regulatory costs for issuing licenses and permits, performing investigations, inspections and administrative enforcement and adjudication, which can include fees or charges imposed for the regulation of renting residential dwellings through an inspection and regulatory program, *Apartment Association of Los Angeles County, Inc., v. City of Los Angeles, (2001) 24 Cal.4th 830*; and

NOW, THEREFORE, THE CITY COUNCIL of the City of Covina, California, does hereby resolve as follows:

SECTION 1. **RESIDENTIAL RENTAL HOUSING ANNUAL INSPECTION AND REGULATORY FEES.** The residential rental housing annual inspection and regulatory fees for the City of Covina shall be as described within the attached Exhibit “A”.

SECTION 2. **TERM AND EFFECTIVE DATE.** This Resolution shall take effect immediately and shall remain in effect until such time as the fees contained herein are revised or rescinded by Resolution of the City Council.

SECTION 3: **AMENDMENT AND RESCISSION OF ALL PRIOR RESOLUTIONS.** All prior Resolutions of the City Council are hereby amended or rescinded as applicable or necessary to comply with this Resolution.

SECTION 4. **CERTIFICATION.** The City Clerk shall certify to the passage and adoption of this Resolution; shall cause the same to be entered in the Book of Resolutions of the City of Covina; and shall make a record of the passage and adoption thereof in the records of the proceedings of the City Council of said City in the minutes of the meeting at which the same was passed and adopted.

Passed, approved and adopted this 20th day of November, 2012.

Kevin Stapleton
Mayor

ATTEST:

Kay Manning, City Clerk

APPROVED AS TO FORM:

City Attorney

EXHIBIT A TO RESOLUTION NO. 12-7119

**CITY OF COVINA
RENTAL HOUSING BUSINESS LICENSE INSPECTION FEES**

HOUSING TYPE	Processing Fee¹	Base Fee²	Per Unit Fee³	Enforcement Fees⁴
Single Family	\$85.00	\$41.00	N/A	Actual Costs
Condo/Townhome	\$85.00	\$41.00	N/A	Actual Costs
Duplex	\$85.00	\$41.00	N/A	Actual Costs
Triplex	\$85.00	\$41.00	N/A	Actual Costs
4 units & over	\$85.00	\$41.00	\$18.00	Actual Costs
Boarding House	\$85.00	\$41.00	\$18.00	Actual Costs
Hotel	\$85.00	\$41.00	\$18.00	Actual Costs
Motel	\$85.00	\$41.00	\$18.00	Actual Costs

¹ Processing Fee is based on total administrative overhead reduced to an hourly rate, estimating less than 0.5 hour for processing. Total hourly rate, including overhead expenses for the areas of Public Works Administration, Code Enforcement, and Building and Safety has an hourly rate of \$185.25. This overhead includes processing by Finance, IT and Duplicating, as well as additional administrative time.

² Base fee is estimated at two 0.5 hour inspections per year, using an average FTE rate for inspection staff. Average hourly rate is \$41.60 for the following positions: Acting Building Official, Assistant Dir. Public Works, Code Enforcement Officers (2), General Building Inspector II (2); and General Building Inspector I.

³ Per Unit Fee is based on 0.1 hour increment add on for administrative processing per unit, based on overhead rate.

⁴ Enforcement Fee is based on actual costs of enforcement to include legal fees, court fees, collection fees and any other fee collection method authorized by Municipal Code.