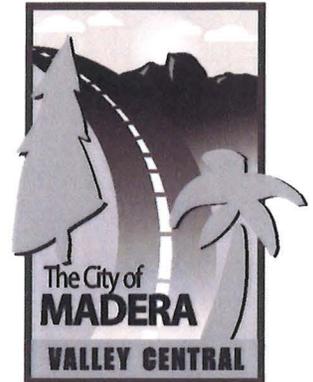


**NEIGHBORHOOD REVITALIZATION DEPARTMENT
GRAFFITI ABATEMENT
ABATEMENT & CODE ENFORCEMENT**

428 E. Yosemite Avenue
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MEMO

Date: June 7, 2017
To: Mayor Andrew Medellin and Council Members
From: Steven Montes
Re: City Council Meeting of June 7, 2017
Agenda Item Number: C-1

Per City Attorney's recommendation changes have been made to section 4-16.21 Displacement. Additions to this section have been added to clarify language of such section. Additional language in red and the word "Unless" has been eliminated.

Section previously read:

§ 4-16.21 Displacement

If during the course of any action pursuant to the provisions of this Chapter a qualified low income housing candidate is displaced, the City may make a request to the Housing Authority of the City of Madera to expedite the placement of such individuals in subsidized housing maintained by the Housing Authority. Unless it is demonstrated that the tenant being displaced has caused or substantially contributed to the condition giving rise to such necessity to vacate, or if any guest or invitee of the tenant has caused or substantially contributed to the condition giving rise to such necessity to vacate. Nothing in this section shall be deemed a guarantee of a right to placement in a Housing Authority unit.

Section currently reads:

§ 4-16.21 Displacement

If during the course of any action pursuant to the provisions of this Chapter a qualified low income housing candidate is displaced, the City may make a request to the Housing Authority of the

City of Madera to expedite the placement of such individuals in subsidized housing maintained by the Housing Authority. Such a request shall not be made if it is demonstrated that the tenant being displaced has caused or substantially contributed to the condition giving rise to such necessity to vacate, or if any guest or invitee of the tenant has caused or substantially contributed to the condition giving rise to such necessity to vacate. Nothing in this section shall be deemed a guarantee of a right to placement in a Housing Authority unit.

Steven Montes

CC: David Tooley
Brent Richardson
Jim Taubert

Attachments:

- Revised Exhibit A

ORDINANCE NO. _____ C.S.

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MADERA,
CALIFORNIA AMENDING THE MADERA MUNICIPAL CODE TO ADD
CHAPTER 16 TO TITLE IV PERTAINING TO
RENTAL HOUSING INSPECTIONS**

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF MADERA AS
FOLLOWS:

SECTION 1. Title IV of the Madera Municipal Code is hereby amended to add Chapter 16, "Rental Housing Inspections," to read as follows:

["CHAPTER 16"

RENTAL HOUSING INSPECTIONS

§ 4-16.01 Purpose and findings.

The City Council of the City of Madera recognizes that local government can and shall develop and preserve decent affordable housing and at the same time provide services to the most vulnerable in our communities. According to 2014 US Census estimates there are more than 8,500 Rental Housing Units within the City of Madera, which is approximately half of all housing units in the City. The City has a significant interest in ensuring that rental housing remains a desirable housing option for its citizens.

Preventing or eliminating slums and blight and addressing community development needs have a particular urgency because rental housing often deteriorates over time, resulting in substandard housing conditions. These substandard conditions adversely affect the economic values of neighboring structures and pose a serious and immediate threat to the health or welfare of a community. In many cases, property Owners choose not to make the necessary repairs to avoid financial expenses, and tenants do not report such deficiencies out of lack of knowledge of the City's role in correcting substandard housing conditions or because they fear retaliatory evictions.

In order to ensure compliance of Rental Housing Units with minimum standards of health and safety, on a city wide basis, routine inspections need to be conducted. It is the intent of the Madera City Council to enact a Rental Housing Inspection Program that would reasonably guarantee compliance with minimum standards. Such a program is in the best interest of the public as it would protect the supply of decent, safe and sanitary housing.

§ 4-16.02 Definitions.

For the purpose of this Chapter, the following terms, phrases and words shall have the meanings given:

"COMMON AREAS" are those areas that are available for shared use by all tenants, (or) groups of tenants and their invitees.

"ENGAGE IN THE BUSINESS OF RENTAL HOUSING" means renting or offering to rent a Rental Housing Unit.

"INSPECTOR" means any employee of the City authorized by the City Administrator to conduct inspections in accordance with the provisions of this Chapter.

"LOCAL" within 40 road/driving miles distance of the subject property.

"OWNER" means the last known owner of record or person having recorded title to the property according to records maintained by the County of Madera County Recorder's Office.

"RENTAL HOUSING PROPERTY" means a parcel of real property, as shown on the latest equalized tax assessment role as maintained by the Assessor of the County of Madera, upon which a Rental Housing Unit is maintained.

"RENTAL HOUSING UNIT" means a single unit of residence for a Single Housekeeping Unit of one or more persons, that is being rented, or is intended to be rented, where such rental occupancy is for a period of more than thirty (30) days. Examples of housing units covered by this Chapter include, but are not limited to, apartment units, condominiums, duplexes and single-family houses. "Rental Housing Unit" also includes other types of residential units that provide for sleeping accommodations but toileting or cooking facilities are shared by occupants of more than one unit, such as residential or single room occupancy hotels. This does not include units used for transient lodging such as dormitories, group homes, rooming or boarding houses, hotels, motels, and bed and breakfast inns.

"RENT" means to grant the possession or enjoyment of, in exchange for money or any other consideration.

"SELF-CERTIFICATION PROGRAM" is a designation given to a section of the Rental Housing Inspection Program where the Owner or Local contact representative of a property assumes the role of inspector for a portion of the regular periodic inspections and reports findings back to the City of Madera.

"SINGLE HOUSEKEEPING UNIT" means any household whose members are a non-transient interactive group of persons jointly occupying a dwelling unit, including joint access to and use of all common areas including living, kitchen and eating areas within the dwelling unit, and sharing household activities, and responsibilities such as meals, chores, expenses and

maintenance, and whose makeup is determined by the members of the unit rather than by the landlord, property manager, or other third party. This does not include a boarding or rooming house.

§ 4-16.03 Scope.

(A) The provisions of this Chapter shall apply to all existing residential Rental Housing Properties and Rental Housing Units located within the Madera City limits.

(B) The provisions of this Chapter shall be supplementary and complementary to all of the provisions of this Code, State law and any law cognizable at common law or equity, and nothing herein shall be construed, read, or interpreted in any manner so as to limit any existing right or power of the City of Madera to abate and prosecute any and all nuisances or to enforce any other conditions in violation of state or local codes, including, but not limited to, any building, housing, property maintenance and public nuisance ordinances.

§ 4-16.04 Exemptions.

(A) Unless otherwise specified in this section, the following Rental Housing Units shall be exempt from the requirements of this Chapter:

(1) Rental Housing Units that are subject to routine periodic inspections by another government agency, where Rental Housing Units are inspected at least once every three years to address substandard building violations as defined in Health and Safety Code § 17920.3; or

(2) Rental Housing Units that, within the past ten years, either have been issued a certificate of occupancy or have passed final inspection by the City of Madera.

(B) A Rental Housing Unit that is determined to be exempt pursuant to § 4-16.04(A), above, shall become subject to the requirements of this Chapter if an Administrative Citation relating to the Rental Housing Property is issued pursuant to the provisions of this code.

(C) Any Rental Housing Unit subject to the requirements of this Chapter pursuant to § 4-16.04(B), above, shall become exempt from the requirements of this Chapter if all of the following circumstances exist:

(1) After the last inspection conducted pursuant to this Chapter, the inspector determines that either no violations exist on the property or the violations identified in an Administrative Citation were abated within 30 days; and

(2) The property Owner is not delinquent on any payment to the City of fees, penalties, taxes or any other monies related to the property.

(D) At such time that it is sufficiently demonstrated that a property is maintained in compliance with the requirements of this code, that property shall become exempt from the requirements of this code for a period of time not to exceed 6 years. Units may become temporarily exempt from the requirements of this Chapter if:

(1) No violations of this Chapter existed after two consecutive routine

inspections.

(E) A Rental Housing Property that is determined to be temporarily exempt pursuant to § 4-16.04(D) above, shall become subject to the requirements of this Code if:

- (1) A valid complaint is lodged against such property and a notice of violation is issued regardless of subsequent correction.
- (2) A change in ownership occurs.

§ 4-16.05 License and Registration required.

(A) It shall be unlawful for any person to engage in the business of rental housing, unless:

(1) A City of Madera Rental business license is obtained by the Owner of such Rental Housing Unit(s) and all properties located within the limits of the City of Madera that are owned by the same Owner are listed under such Rental Business License and an accurate account of the gross receipts are provided. Pursuant to Madera Municipal Code § 6-1.22 & 6-1.28. and

(2) Each Rental Housing Unit is registered with the City pursuant to subsection 4-16.05(B) of this section; and

(3) All fees associated with the provisions of this Chapter are paid when payment is due.

(B) A Rental Housing Unit is registered with the City when the Owner of the corresponding Rental Housing Property submits the following to the Neighborhood Revitalization Department:

(1) A completed registration form, made available by the City, that contains the following information:

(a) Description of the Rental Housing Property, including, but not limited to, the street address and Assessor's Parcel Number;

(b) Quantity and description of all Rental Housing Units on the Rental Housing Property;

(c) Name and current contact information for the Owner of the Rental Housing Property;

(d) Name and current contact information for the Local contact representative as described in Section § 4-16.08 of this code; and

(e) Any other information as reasonably required by the City Administrator or his or her designee.

(f) The contact information shall remain confidential and for internal City use only, to the extent allowed by law.

(2) The Rental Housing Inspection Program fee, and

(3) Any outstanding fees that were previously imposed pursuant to this Chapter.

(C) It is unlawful for any person to knowingly make a false statement of fact or knowingly omit any information that is required to register a Rental Housing Unit pursuant to this section.

(D) Registration shall be valid for a period of three years or until one of the

following circumstances occurs, whichever is sooner:

(1) The Owner fails to notify the Rental Housing Inspections Division of any change in the information submitted pursuant to § 4-16.05(B) of this section, within 30 days of such change; or

(2) The Owner fails to pay any of the Rental Housing Inspection Program fees.

§ 4-16.06 Inspections required.

(A) All Rental Housing Properties and Rental Housing Units are subject to routine periodic inspection by the City as provided by this Chapter to determine whether they comply with applicable provisions of this code. Specifically the maintenance or the failure to maintain any real property, structures, or uses or activities thereon in violation of any of the provisions of Titles III, IV, V, VII, IX and X of the City Municipal Code, or as specified in Health & Safety Code §§ 17920.3 et seq., or of the State Housing Law or § 104 of the Uniform Code for Building Conservation, except those Rental Housing Units inspected through the Self-Certification Program where a minimum of 10% of such units shall be subject to routine periodic inspection by the City.

(B) If there are multiple Rental Housing Units on a single Rental Housing Property, the inspection shall be made of all Common Areas and all Rental Housing Units.

(C) The Owner or Local contact representative, or their designee, shall be present at the Rental Housing Property at the time of the inspection. The time of the inspection shall be the time indicated in the notice issued pursuant to § 4-16.12 of this code, or the time that the inspection was properly re-scheduled in accordance with Section 4-16.13 of this code. Violation of this subsection may result in the imposition of a re-scheduling fee.

(D) The Frequency of such routine periodic inspections shall be set on a three year basis where each Rental Housing Property or Rental Housing Unit subject to the provisions of this Chapter shall be inspected at least once every three years unless otherwise set pursuant to sections § 4-16.09 Self-Certification or § 4-16.15 Non-Compliance.

§ 4-16.07 Fees established.

The following fees are established and imposed pursuant to the provisions of this Chapter:

(A) Initial Inspection Fee. A fee is established for the initial inspection required pursuant to Section 4-16.06 of this code. Such inspection fee shall be actual cost not to exceed 3 hours per unit. Hourly Cost is set by the City of Madera Master Fee Schedule as may be updated from time to time.

(B) Re-scheduling Fee. A fee is established for the administrative costs of re-scheduling an inspection that is cancelled in violation of Section 4-16.13 of this code. Such Re-scheduling Fee is set by the City of Madera Master Fee Schedule as may be updated from time to time.

(C) Re-inspection Fee. A fee is established for an additional inspection required by the City pursuant to Section 4-16.15 of this code. Such Re-inspection Fee is set by the City of Madera Master Fee Schedule as may be updated from time to time.

(D) Registration Delinquency Fee. A fee is established for the failure of any Owner or agent to properly register any Rental Housing Unit subject to the provisions of this

Code. The City shall mail notice to Owners with an application for registration. Owners shall have thirty days from receipt of said notice to submit registration information to the City. Failure to submit complete and accurate registration information within thirty days from receipt of notice from the City, shall result in the assessment of a Registration Delinquency Fee. Such Registration Delinquency Fee is set by the City of Madera Master Fee Schedule as may be updated from time to time.

§ 4-16.08 Local contact representative.

(A) All Owners of Rental Housing Properties shall designate a Local contact representative with full authority to act on behalf of the Owner for all purposes under this Chapter, including the acceptance of service of all notices from the City. The Owner of the Rental Housing Property may act as the Local contact representative.

(B) A Local contact representative must establish and maintain a Local telephone number and a residence or business address.

§ 4-16.09 Self-Certification.

(A) Owners of Rental Housing Properties that are in the Self-Certification Program, or their designees, shall certify each and every Rental Housing Unit on the property at least once every three years. Self-Certification shall be accomplished in the manner set forth below:

(1) Inspect each Rental Housing Unit for compliance with the requirements of the Self-Certification form provided by the City;

(2) Immediately make any repairs to the Rental Housing Unit that are necessary to achieve compliance with the requirements set forth in the Self-Certification form;

(3) Complete the Self-Certification form; and

(4) Provide a copy of the completed Self-Certification form to the City Administrator or his or her designee.

(B) If any Rental Housing Unit cannot be self-certified because necessary repairs cannot or will not be made, the Owner shall notify the City within 30 days of determining repairs cannot or will not be made.

(C) It shall be unlawful to falsify any material information required on the Self-Certification form.

(D) The City of Madera will verify program compliance by inspecting a random sample of 10% of Rental Housing Units. Such 10% random sample shall be selected by the City Administrator or his or her designee.

§ 4-16.10 Qualifications.

(A) A Rental Housing Property shall be placed in the Self-Certification Program if all of the following circumstances exist:

(1) After the last inspection conducted pursuant to this Chapter, the inspector determines that either no violations exist on the property or the violations

identified were abated within 30 days;

(2) The Owner and Local contact representative are in compliance with all applicable provisions of this Chapter; and

(3) The property Owner is not delinquent on any payment to the City of fees, penalties, taxes or any other monies related to the property.

(B) A Rental Housing Property may be removed from the Self-Certification Program or such random inspection sample as described in Section 4-16.09(D) may be increased, for every occurrence set forth in subsections (1) through (3) below, by 10%, up to 30% after which such property shall be removed from the Self-Certification Program:

(1) A Notice of Violation relating to the Rental Housing Property is issued pursuant to the provisions of this code and the violations identified are not abated within 30 days;

(2) The Rental Housing Property is in violation of this Code or any other applicable law, on three separate and consecutive occasions even though the violations are abated within 30 days; or

(3) Any of the circumstances set forth in § 4-16.10(A) of this section cease to exist.

§ 4-16.11 Implementation.

(A) Initial implementation of Residential Rental Housing Unit inspections may be limited to those Rental Housing Units which have been issued a certificate of occupancy or have passed final inspection by the City of Madera in the year 1970 or prior.

(B) Continued implementation may be set forth as follows subject to the recommendation of the City Administrator or his or her designee:

(1) Three years after the adoption of this ordinance all Residential Rental Housing Units that have been issued a certificate of occupancy or have passed final inspection by the City of Madera in the year 1980 or prior may become eligible for routine inspection.

(2) Six years after the adoption of this ordinance all Residential Rental Housing Units that have been issued a certificate of occupancy or have passed final inspection by the City of Madera in the year 1990 or prior may become eligible for routine inspection.

(3) Nine Years after the adoption of this ordinance all Residential Rental Housing units that have been issued a certificate of occupancy or have passed final inspection by the City of Madera in the year 2000 or prior may become eligible for routine inspection.

(4) Twelve years after the adoption of this ordinance all Residential Rental Housing Units in the City of Madera may become eligible for routine inspection.

(C) Nothing in this section shall be construed to limit the ability of the City to inspect Rental Housing Units where a complaint has been submitted or where a history of non-compliance has been established or a reasonable suspicion of a violation addressed in this Chapter exists.

§ 4-16.12 Inspection Notice.

The City shall serve written notice of the date and time of any inspection to be

conducted pursuant to this Chapter, by mailing such notice at least 30 calendar days prior to the date of the inspection. Notice shall be mailed to the Owner and the Local contact representative at their last known address. In the case of multiple Owners of the same property, notice to any one of the property Owners is sufficient notice.

§ 4-16.13 Re-scheduling an inspection.

An inspection may be rescheduled once by the Owner or Local contact representative by giving notice to the Neighborhood Revitalization Department at least five calendar days prior to the scheduled inspection date. An inspection may only be rescheduled to a date within 30 calendar days of the previously scheduled inspection date. Violation of this section may result in the imposition of a re-scheduling fee.

§ 4-16.14 Entry.

(A) It shall be the responsibility of the Owner and the Local contact representative to obtain the consent of the occupants to inspect the subject Rental Housing Units or otherwise obtain legal access to the units pursuant to the terms of any applicable lease.

(B) If consent to enter onto any Rental Housing Property or any Rental Housing Unit is refused or otherwise cannot be obtained, or if requested by the Owner or occupant of the Rental Housing Unit, the City Administrator or his/her designee is authorized to seek an inspection warrant from a court of competent jurisdiction.

§ 4-16.15 Non-compliance.

(A) If, during an inspection conducted pursuant to this Chapter, an inspector discovers that the property is in violation of this code or any other applicable law, the City may require additional inspections of the property in accordance with this Chapter, to ensure continued compliance.

(B) If a Rental Housing Property is repeatedly in violation of this code or any other applicable law, even though the violations are abated within 30 days the frequency of the regular periodic inspections may be increased to the satisfaction of the City Administrator or his or her designee to ensure continued compliance.

(C) In addition to requiring additional inspections pursuant to § 4-16.15(A), above, the City may commence enforcement action in accordance with any provisions of this code including, but not limited to, MMC Title I Chapter 9.

(D) An extension to complete corrections listed on a Notice of Violation pursuant to the provision of this Chapter, where administrative penalties are postponed, may be granted by the City Administrator or his or her designee if the Owner or agent establishes by substantial evidence to the reasonable satisfaction of the City Administrator or his or her designee that the Rental Housing Property Owner is progressing diligently to complete the abatement of such listed violations. Extensions shall not apply to Re-inspection Fees.

§4-16.16 Inspection Results.

Upon completion of an inspection conducted pursuant to this Chapter by the City, the inspector shall provide the Owner or Local contact person with a copy of the written results of the inspection.

§ 4-16.17 Abatement

Upon receipt of a Notice of Violation, it shall be the duty of every Owner of any Rental Housing Property or Rental Housing Unit to abate therefrom, all listed violations of this code. The removal of such violations shall be completed within the time period stipulated in the Notice of Violation, and if such Owner fails to address the violation in a timely manner as ordered in the notice, the City Administrator, or his or her designee, shall thereafter have the authority to seek legal right to abate the violations, including but not limited to securing an abatement warrant, at the sole expense and responsibility of the property Owner.

§ 4-16.18 Non-exclusivity.

None of the inspection provisions contained in this Chapter shall prohibit, condition or otherwise limit any inspection conducted pursuant to any other provision of this code or other applicable law.

§ 4-16.19 Recovery of Costs of Enforcement

At any time during the enforcement of the provisions of this Chapter or when proceedings under this Chapter result in the correction of a violation of this code or in a final judgement that a violation exists subsequent to the date specified in a Notice of Violation issued pursuant to the provision of the City of Madera Municipal Code, costs of such proceedings incurred by the City may be assessed against the subject property as a lien or special assessment, pursuant to MMC Title I Chapter 9. Such costs may include, but not be limited to, those incurred in inspecting property, publication, mailing and posting notices, conducting hearings, processing appeals and pursuing any judicial action and attorneys' fees.

§ 4-16.20 Notice to Vacate.

(A) If the Chief Building Official has determined that the dwelling or portion thereof is in such a condition as to make it immediately dangerous to the life, health, property or safety of its occupants, the public or adjacent property, the City Administrator or his or her designee shall order that the dwelling, or portion thereof, shall be vacated within a time certain from the date of the order as determined reasonable by the City Administrator or his or her designee under all of the circumstances, including the safety of the occupants and the public, as well as the purposes and intent of this Chapter. The City Administrator or his or her designee shall give notice of this order as provided in MMC § 1-9.07 concerning method of service and shall post such order as herein described

(B) Whenever a notice is required to be given under this section, unless different provisions herein are otherwise specifically made in the code, such notice may be given either by personal delivery thereof to the person to be notified or by deposit in the US mail in a sealed envelope, postage prepaid, addressed to such person to be notified at the person's last known business or residence address as the same appears in the public records of the city or other records pertaining to the matter to which such notice is directed. Service by mail shall be deemed to have been completed at the time of deposit in the post office.

§ 4-16.21 Displacement

If during the course of any action pursuant to the provisions of this Chapter a qualified

low income housing candidate is displaced, the City may make a request to the Housing Authority of the City of Madera to expedite the placement of such individuals in subsidized housing maintained by the Housing Authority. Such a request shall not be made if it is demonstrated that the tenant being displaced has caused or substantially contributed to the condition giving rise to such necessity to vacate, or if any guest or invitee of the tenant has caused or substantially contributed to the condition giving rise to such necessity to vacate. Nothing in this section shall be deemed a guarantee of a right to placement in a Housing Authority unit.

§ 4-16.22 Notice to Occupants.

(A) Notwithstanding any provision herein to the contrary. Occupants of a dwelling which is the subject of a violation under this Chapter shall be provided notice of any violation described herein, including any decision by the City Administrator or his or her designee of the City to vacate, repair or demolish, and the issuance of a building permit or demolition permit following issuance of such notice and order by the City Administrator or his or her designee.

(B) The notice described hereinabove may be provided either by first class mail to each affected dwelling unit, or by posting a copy of the document in a prominent place on the affected dwelling at the discretion of the City Administrator or his or her designee.

§ 4-16.23 Renters' Bill of Rights

Tenants have basic legal rights and responsibilities that are always present no matter what their rental agreement or lease states. A listing of such rights and responsibilities shall be made available to tenants by the Owner or the Owner's agent of a rental housing unit by providing a copy of the tenant's rights and responsibilities upon executing a rental agreement or lease with such tenant or once each calendar year thereafter, upon request by the tenant. These rights and responsibilities shall include but may not be limited to those set forth in Civil Code 1941.1 regarding Owner obligations and tenantable dwellings, 1941.2 regarding tenant obligations, and 1942.5 regarding retaliation.

§ 4-16.24 Relocation Benefits.

In addition to those remedies in this Chapter, and any other remedies provided by law, the City may seek a court order requiring the Owner to pay reasonable relocation benefits to each lawful tenant as set forth in Sections 17975 et seq. of the Health and Safety Code.

§ 4-16.25 Outreach

The City shall implement an outreach program where Owners and tenants may be made aware of their rights and responsibilities pursuant to the provisions of this ordinance. Features of such a program may include but not by way of limitation:

- (A) Tenants' rights and responsibilities presentations.
- (B) Owners' rights and responsibilities presentations.
- (C) Housing and credit counseling workshops and presentations.

§4-16.26 Penalties.

Any person who violates the provisions of this Chapter shall be guilty of a misdemeanor. In addition, the City may also impose administrative penalties pursuant to

MMC § 1-9 and seek injunctive relief and civil penalties in the superior court for violations of this Chapter. The remedies provided for in this Chapter shall be cumulative and not exclusive of any other remedies available under any other federal, state or local laws.]

SECTION 2. If any section, subsection, sentence, clause or phrase of this Ordinance is for any reason held to be unconstitutional, such decision shall not affect the validity of the remaining portions of this Ordinance. The City Council hereby declares that it would have passed this Ordinance and each section, subsection, sentence, clause or phrase thereof irrespective of the fact that any one or more sections, subsections, sentences, clauses or phrases be declared unconstitutional or void for any other reason.

SECTION 3. This Ordinance shall be effective and of full force and effect at 12:01 a.m. on the thirty-first day after its passage.
