



City Council Agenda Item

City Council Meeting Date: May 16, 2017

TO: Patrick Wiemiller, City Manager

FROM: Kurt Latipow, Fire Chief
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SUBJECT: Discussion Regarding R2/Multi-Family Residential Occupancy Inspection Program

Recommendation:

Staff recommends the City Council discuss the subject and provide staff input as to what, if any, next steps should be taken.

Background/Discussion:

At the January 17, 2017, City Council meeting, staff presented information related to the update of the Fire Department's inspection program related to R2/Multi-Family Residential Occupancies.

During the presentation staff shared with the City Council the Fire Department's existing fire and life safety program has existed for over three decades and from time to time staff reviews the program for effectiveness and efficiencies.

The origins and requirements for the Fire Code regulated occupancy inspections are not a result of a City policy or ordinance; rather they are mandated and governed by numerous California Health and Safety Code (HSC) sections and are the minimum State requirements that must be enforced by the City. The following excerpts are related to the City's responsibility and have not been amended nor are they proposed to be amended by staff:

General Authority

California Code of Regulations requires its provisions, inclusive of the State Mandated Fire Code, be enforced by the chief of the Fire Department (19 California Code of Regulations section 1.12).

Authority to Inspect

HSC section 13146.2 provides:

- (a) Every city or county fire department or district providing fire protection services required by Sections 13145 and 13146 to enforce building standards adopted by the State Fire Marshal and other regulations of the State Fire Marshal shall, annually, inspect all structures subject to subdivision (b) of Section 17921, except dwellings, for compliance with building standards and other regulations of the State Fire Marshal.
- (b) A city, county, or district that inspects a structure pursuant to subdivision (a) may charge and collect a fee for the inspection from the owner of the structure in an amount, as determined by the city, county, or district, sufficient to pay the costs of that inspection. A city, county, or district that provides related fire and life safety activities may charge and collect a fee for the inspection from the owner of the structure in an amount, as determined by the city, county, or district, sufficient to pay the costs of that inspection.

Responsibility to Inspect

HSC section 17921 states:

- (a) Except as provided in subdivision (b), the department shall propose the adoption, amendment, or repeal of building standards to the California Building Standards Commission pursuant to the provisions of Chapter 4 (commencing with Section 18935) of Part 2.5, and the department shall adopt, amend, and repeal other rules and regulations for the protection of the public health, safety, and general welfare of the occupant and the public governing the erection, construction, enlargement, conversion, alteration, repair, moving, removal, demolition, occupancy, use, height, court, area, sanitation, ventilation and maintenance of all hotels, motels, lodging houses, apartment houses, and dwellings, and buildings and structures accessory thereto. Except as otherwise provided in this part, the department shall enforce those building standards and those other rules and regulations. The other rules and regulations adopted by the department may include a schedule of fees to pay the cost of enforcement by the department under Sections 17952 and 17965.
- (b) The State Fire Marshal shall adopt, amend, or repeal and submit building standards for approval pursuant to the provisions of Chapter 4 (commencing with Section 18935) of Part 2.5, and the State Fire Marshal shall adopt, amend, and repeal other rules and regulations for fire and panic safety in all hotels, motels, lodging houses, apartment houses and dwellings, buildings, and structures accessory thereto. These building standards and regulations shall be enforced pursuant to Sections 13145 and 13146; however, this section is not intended to

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require an inspection by a local fire agency of each single-family dwelling prior to its occupancy.

Pursuant to HSC section 13146, the City must delegate to the Fire Chief or Building Official the obligation to enforce the California Fire Code. The City has delegated that to the Fire Chief. As part of that enforcement responsibility and in accordance with HSC section 13146.2, annual inspections of non-residential and R2/Multi-Family projects have been instituted.

Pursuant to HSC section 17921 those enforcement/inspection obligations apply to all structures except single-family dwellings. It is recognized, HSC section 13146.2 seems to exempt "dwelling" from those annual inspections. However, reading that Section in conjunction with Section 17921, the exemption in Section 13146.2 seems intended to exclude only single-family dwellings. If not, then there would have been no reason for the reference to single-family dwellings in Section 17921, because they would have been exempted by 13146.2. There is a long-stated rule for interpretation of legislation that requires giving all terms and provisions effect, if possible. Based on that, only single-family dwellings are exempt from the annual inspection requirements of the Health and Safety Code.

The California Fire Code and California Building Code are published every three years by order of the California Legislature. Once adopted by the State, those standards have the force of the law and become the minimum codes that must be enforced by the City.

As mentioned earlier in this report the Fire Department's inspection program is not governed by any local ordinance or a policy but by the State's Health and Safety code and the State mandated Fire Codes.

As stated above, R2/Multi-Family inspections are not the only properties required to be inspected annually. The following is a partial list of types of occupancies that also fall under that program:

- Churches/places of worship,
- Restaurants,
- Theatres,
- Professional Offices,
- Retail stores,
- Buildings used for educational purposes,
- Buildings housing operations such as assembling, fabricating and manufacturing,
- Buildings or structures that manufacture store and or utilize hazardous materials,
- Facilities that contain operations that care for individuals in a supervised environment,
- Service stations and repair garages,
- Hotels and Motels, and
- Others

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The updated R2/Multi-Family Inspection Program was launched initially with a packet of informational items and sample documents being sent to property owners listed in the City's Business Tax License data base. Different than some of the Fire Department's other inspection programs, staff calls ahead to the R2/Multi-Family owner or manager to explain the process and arrange for a time that is convenient to initiate the inspection. During the initial meeting staff walks through the process, the paperwork, and offers the owner/manager the option to self-inspect/certify the individual dwelling units. If the owner/manager opts to inspect/certify, they are provided with a check sheet and a brief overview of the process.

As of the date this report was written, inspections have been conducted on over 30 complexes, some of which contain well over 100 units and so far the owners/managers have all opted to conduct the individual unit inspections themselves.

It is important to note we have identified numerous life safety concerns during the R2/Multi-Family inspection process at some of the properties. The owners/managers were thankful and corrected the hazards, in many cases immediately.

Fiscal Impact:

Permit Fees associated with the inspection program are based on the size of the complex and number of units and range from \$138 to \$368. As inspections are mandated by various State Codes, the City is required to conduct such inspections. If the fees related to the cost of the inspections are waived or otherwise modified from what is approved in the Master Fee Schedule, then discretionary General Fund resources such as property taxes, sales taxes, and transient occupancy taxes would be used to subsidize the inspection programs and the amount of such taxes used for the mandated inspections would not be available for other General Fund activities such as public safety and parks.

The Master Fee Schedule was adopted by the City Council on January 5, 2016, with the adoption of Resolution No. 6009(16), after a complete and comprehensive review was conducted. Before any adjustments were made to the Master Fee Schedule, each Department had the responsibility of demonstrating their services were being provided as efficiently and effectively as possible. The City Council also adopted the policy that the User Fees are to be reviewed and updated at least every five years to ensure that the rates are keeping pace with the City's cost to provide those services.

Conclusion:

The R2/Multi-Family Residential Occupancy Inspection Program, as well as the other Fire and Life Safety Inspection Programs, implement State law and are consistent with the Mission of the Fire Department, as well as the commitment to life safety, quality of life of our citizens, and the economic vitality of our community.

Respectfully submitted,

Kurt Latipow, Fire Chief

APPROVED FOR SUBMITTAL TO THE CITY COUNCIL:

Patrick Wiemiller, City Manager