

ORDINANCE NO. _____

**AN ORDINANCE OF THE CITY COUNCIL OF
THE CITY OF MERCED, CALIFORNIA, ADDING
CHAPTER 8.52 “RENTAL HOUSING
MAINTENANCE AND INSPECTION CODE,” TO
THE MERCED MUNICIPAL CODE
ESTABLISHING A RENTAL HOUSING
MAINTENANCE AND INSPECTION PROGRAM**

**THE CITY COUNCIL OF THE CITY OF MERCED DOES ORDAIN
AS FOLLOWS:**

SECTION 1. ADDITION TO CODE. Chapter 8.52, “Rental Housing Maintenance and Inspection Code,” is hereby added to the Merced Municipal Code to read as follows:

“8.52

**RENTAL HOUSING MAINTENANCE AND
INSPECTION CODE**

Section:

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8.52.010 Title.

This Chapter shall be known as the ‘Rental Housing Maintenance and Inspection Code,’ may be cited as such, and will be referred to herein as ‘this Chapter’.

8.52.020 Purpose and Findings.

A. The City Council of the City of Merced recognizes that the maintenance and preservation of existing rental housing stock is of tremendous importance. Rental housing provides needed affordable housing for many and is a valuable asset that must be preserved and maintained. The City has a significant interest in ensuring that rental housing remains a desirable housing option for its citizens.

B. Over time rental housing often deteriorates because of intentional and/or unintentional neglect by property owners, managers, and tenants. This deterioration often results in substandard conditions that adversely affect the economic value of neighboring structures and are hazardous to the public health and safety. In many cases, property owners choose not to make the necessary repairs because of cost and tenants do

not report the deficiencies out of lack of knowledge or because they fear being evicted for doing so.

C. The public interest demands that all rental housing properties comply with the minimum habitability and maintenance standards for the health and safety of the public. The most effective way to seek universal compliance with the minimum standards is through routine periodic inspections of all rental housing properties. Accordingly, it is the intent of the Merced City Council in enacting the provisions of this Chapter to establish minimum standards for a rental housing maintenance and inspection program aimed at securing city-wide habitability and maintenance compliance of rental housing properties. City-wide compliance will prevent blight and ensure that all persons who live in rental housing units are provided decent, safe and sanitary housing.

8.52.030 Definitions.

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

A. ‘Common areas’ means the areas in a rental housing building that are accessible to all occupants of the property including, but not limited to, lobbies, laundry rooms, recreation areas, common kitchens, hallways, stairs, courtyards, light wells, garbage areas, boiler rooms, storage rooms, basements, roof areas, or parking garages or areas.

B. ‘Director’ means the Fire Chief, or designee, who is authorized by the City Manager to supervise the Rental Housing Maintenance and Inspection Program.

C. ‘Engage in the business of rental housing’ means renting or offering to rent a rental housing unit.

D. 'Enforcement Officer' means any employee of the City authorized by the City Manager to conduct inspections and enforcement in accordance with the provisions of this Chapter.

E. 'Owner' means person, persons, corporation, partnership, limited liability company, or any other entity holding fee title to the subject real property.

F. 'Rent' means to grant the possession or enjoyment of, in exchange for money or any other consideration.

G. 'Rental Housing Inspection Division' means the department or division of the City designated by the City Manager to administer the provisions of this Chapter.

H. 'Rental Housing Property' means a parcel of real property, as shown on the latest equalized tax assessment roll as maintained by the assessor of the County of Merced, upon which a rental housing unit is maintained.

I. 'Rental Housing Unit' means a single unit providing living facilities for one or more persons, that is being rented, or is intended to be rented. Examples of housing units covered by this Chapter include apartment units, condominiums, duplexes and single-family houses. 'Rental Housing Unit' also includes other types of residential units that provide for sleeping accommodation, but toileting or cooking facilities are shared by occupants of more than one unit, such as single rooms located in non-transient residential rental housing property. 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.

8.52.040 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, and the frequency and scope of the inspections are to the satisfaction of the Director; or

2. Rental Housing Units that, within the past five (5) years, have been newly constructed and either have been issued a certificate of occupancy or have passed final inspection by the City. For purposes of this Chapter, a unit has been newly constructed if the City determines that fifty (50) percent or more of the building has been constructed or replaced within a one (1) year period. The determination of whether the construction or replacement is at least fifty (50) percent may be based on the linear length of all existing walls, square footage of the building, percentage of altered construction, actual construction valuation, or any combination of these factors.

B. A Rental Housing Unit that is determined to be exempt pursuant to subsection A of this Section, shall become subject to the requirements of this Chapter if a notice and order relating to the rental housing property is issued pursuant to the provisions of this Code.

~~C. Rental Housing Units located within a building of two (2) or fewer units.~~

~~D. Rental Housing Units located within a building of no more than three (3) units, one of which is occupied by the Owner.~~

8.52.045 Applicability.

Nothing in this Chapter shall limit or prohibit the authority of City officers or employees from enforcing any other provision of the Merced Municipal Code

(hereinafter “this Code”) or any state or federal law under their jurisdiction.

8.52.050 Fees Established.

A. The following fees are established and shall be imposed upon the Owner of rental housing properties:

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. This fee shall be imposed annually for each rental housing unit on the Owner’s property. The fee shall also pay for the costs of all random inspections conducted pursuant to Section 8.52.150(H).

2. Unit Inspection Fee. This fee shall be imposed for each Rental Housing Unit on the Owner’s property that is subject to inspection pursuant to subsection A and B of Section 8.52.080.

3. Additional Unit Inspection Fee. This fee shall be imposed when an additional unit is inspected on the Owner’s property pursuant to subsection B of Section 8.52.080. The fee shall pay for the costs of an inspection of each additional unit.

4. Rescheduling Fee. This fee shall be imposed when an inspection is rescheduled in violation of Section 8.52.100. The fee shall pay for the costs of rescheduling an inspection.

5. Reinspection Fee. This fee shall be imposed when an additional periodic inspection is conducted pursuant to Section 8.52.120. The fee

shall pay for the costs of the additional periodic inspection.

6. Self-Certification Fee. This fee shall be imposed annually for each Rental Housing Unit on the Owner's property that is subject to the Self-Certification Program as provided under Section 8.52.150.

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

8.52.060 Registration and Fee Required.

A. No person shall engage in the business of rental housing, unless:

1. Each Rental Housing Unit is registered with the City; and
2. The annual rental housing inspection program fee is paid for each Rental Housing Unit 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 Rental Housing Inspections Division:

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) Number 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 8.52.070; and,

(e) Any other information as reasonably required by the Director.

2. The annual rental housing inspection program fee as described in Section 8.52.050(A)(1);

3. The unit inspection fee, pursuant to Section 8.52.050(A)(2) or the self-certification program fee pursuant to Section 8.52.150; and,

4. Any outstanding fees that were previously imposed pursuant to this Chapter.

C. Effective September 1, 2021, the registration requirement established by this Section shall go into effect. Initial registration of Rental Housing Units is due within thirty (30) days of September 1, 2021. After the initial registration, the Owner shall register each housing unit annually within thirty (30) day of July 1, or a change of ownership.

D. 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 Chapter.

8.52.070 Local Contract 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 within sixty (60) miles of Merced city hall.

8.52.080 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.

B. If there are multiple Rental Housing Units on a single Rental Housing Property, the inspection shall be made of all common areas, and a random sampling of no less than ten (10) percent of Rental Housing Units. At least one Rental Housing Unit on each Rental Housing Property shall be inspected. If the Enforcement Officer determines that one or more violations exist on the property, the Enforcement Officer may conduct an inspection of additional units up to one hundred (100) percent of the units.

C. The Owner or local contact representative, or his/her 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 Section 8.52.090, or the time that the inspection was properly rescheduled in accordance with

Section 8.52.100. Violation of this subsection may result in the imposition of a re-scheduling fee.

D. Frequency of Inspections. All rental housing properties shall be inspected initially, within one (1) year of registration. Single-family residences and duplexes shall be inspected no less than every two (2) years thereafter. Multi-family units of three (3) or more Rental Housing Units on Rental Housing Property shall be inspected within the random sampling of no less than ten (10) percent annually and remaining units shall be eligible for inspection in following years. Rental Housing Units on Rental Housing Properties not included in the random sampling of ten (10) percent inspection may be inspected more frequently if the Director determines the property poses a risk of harm to its tenants based on the following factors:

1. The current condition of the premises, including the number, nature and severity of violations found;
2. Whether, within the two (2) prior years:
 - (a) A Code Enforcement Officer has found violations on the property;
 - (b) The Owner or manager of the property has other properties found in violation of this Code;
 - (c) Delinquent fees have been assessed on the property;
 - (d) The Owner is delinquent in paying property taxes or utility bills; or
3. Other criteria determined by the Director that indicate the presence of health and safety violations.

8.52.090 Notice of Inspection.

A. 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 fourteen (14) calendar days prior to the date of the inspection. Notice shall be mailed to the Owner and the local contact representative, if different than the Owner, at his/her last known address. In the case of multiple owners of the same property, notice to any one of the property owners is sufficient notice.

B. The City shall also mail a copy of the inspection notice to the Rental Housing Units on the property.

8.52.100 Rescheduling an Inspection.

An inspection may be rescheduled once by the Owner or local contact representative by giving notice to the Rental Housing Inspection Division at least seven (7) calendar days prior to the scheduled inspection date. An inspection may only be rescheduled to a date within twenty-one (21) calendar days of the previously scheduled inspection date. Rescheduling an inspection more than once or with less than seven (7) calendar days' notice may result in the imposition of a rescheduling fee.

8.52.110 Entry.

A. The Owner or local contact representative shall provide the Enforcement Officer with access to all common areas and vacant units on the Rental Housing Property.

B. The Owner or local contact representative is responsible for obtaining the consent of the tenant of the Rental Housing Unit for the Enforcement Officer's entry to inspect the unit. If the Owner or tenant does not consent to the entry for inspection, the Director is

authorized to seek an inspection warrant from a court of competent jurisdiction. If a tenant or occupant of a Rental Housing Unit refuses to allow the inspection, the Owner is not in violation of this Section.

C. If the Enforcement Officer has reasonable cause to believe that the Rental Housing Unit is so hazardous, unsafe, or dangerous as to require immediate inspection to safeguard the public health or safety, the Enforcement Officer shall have the right to immediately enter and inspect the premises and may use any reasonable means required to effect the entry and make an inspection.

8.52.120 Noncompliance.

A. If, during an inspection conducted pursuant to this Chapter, an Enforcement Officer discovers that the property is in violation of this Code or any other applicable law and the Owner fails to correct the identified violations within thirty (30) days of the inspection, the City may require an additional periodic inspection of the property in accordance with this Chapter, to ensure continued compliance. A re-inspection fee shall be imposed for the additional periodic inspection required pursuant to this subsection.

B. In addition to requiring an additional periodic inspection pursuant to subsection A of this Section, the City may commence enforcement action in accordance with any provision of this Code.

8.52.130 Inspection Results.

A. If the Enforcement Officer finds no code violations, the Enforcement Officer shall issue a notice of compliance that shall state in plain language that the property is in compliance with all applicable laws. The Enforcement shall mail the notice to the occupants of each Rental Housing

Unit, the Owner, and the local contact representative, if different than the Owner, to the addresses provided on the registration application as described in Section 8.52.060.

B. If upon inspection, the Code Enforcement Office discovers one or more violations of this Code and any other applicable law, the Director shall cause to be issued a notice and order to the Owner and local contact representative, if different than the Owner, to correct the violations. The order shall state in plain language the violations of law found and the sections of law with which the property is not in compliance. The order shall also state that failure to correct the violations may result in additional inspection fees under Section 8.52.050 and other enforcement actions. The Director shall mail the notice and order to the occupants of each Rental Housing Unit, the Owner and the local contact representative, if different than the Owner, to the addresses provided on the registration application, as described in Section 8.52.060.

C. If the Director determines that the conditions pose a present, imminent, extreme and immediate hazard to health or safety, s/he shall order abatement of the conditions within forty-eight (48) hours. Within twenty-four (24) hours after the time to abate, the Director is authorized to make the necessary repairs to ensure immediate repair of dangerous, life-threatening conditions. The property owner shall be responsible for the cost incurred by the City.

D. Except as provided in subsection C, the Director shall specify a reasonable time period for correction of the violations, depending on the severity of the condition, between forty-eight (48) hours and thirty (30) days from receipt of the order to correct the violations and schedule a re-

inspection of the property. The City shall impose a fee for the additional inspection required under this subsection. The City may also commence any enforcement action as provided in this Code.

E. Except for conditions specified in Subsection C, if the violation has not been corrected by the compliance date, but the Owner has made significant progress in correcting the violation since the prior inspection, the Director may grant a single extension of time not to exceed ninety (90) days. In determining whether to grant the extension of time, the Director shall consider the factors listed in 8.52.080(D).

8.52.140 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.

8.52.150 Self-Certification Program.

A. Qualifications. A Rental Housing Property may be placed in the self-certification program, at the request of the Owner, if all of the following circumstances exist:

1. After the initial or last inspection conducted pursuant to this Chapter, the Enforcement Officer determines that either no violations exist on the property or the violations identified were abated within thirty (30) days;
2. The Owner and local contact representative are in compliance with all applicable provisions of this Chapter; and,

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

B. Removal. A Rental Housing Property may be removed from the self-certification program if any of the following circumstances occurs:

1. A notice and order relating to the Rental Housing Property is issued pursuant to the provisions of this Code or any other applicable law;

2. The Rental Housing Property is repeatedly in violation of this Code or any other applicable law, even though the violations are abated within thirty (30) days; or,

3. Any of the circumstances set forth in subsection A of this Section cease to exist.

C. Self-Certification. 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 calendar year and upon each change in tenancy. 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 occupants of the corresponding Rental Housing Unit.

5. Remit, to the City, the self-certification fee for each Rental Housing Unit on the Owner's property within thirty (30) days of completion of each annual compliance inspection form.

D. If any Rental Housing Unit cannot be self-certified because necessary repairs cannot or will not be made, the Owner shall immediately notify the City.

E. It shall be unlawful to falsify any material information required on the self-certification form.

F. The property's Owner or local contact representative shall retain all completed self-certification forms for at least three (3) years from the date the inspection was made.

G. The Owner or local contact representative shall produce all completed self-certification forms to any Enforcement Officer upon request.

H. Rental Housing Properties in the self-certification program, and the Rental Housing Units thereon, may be inspected by the City on a random basis, but not more often than once a year, if no violations are found to exist.

8.52.160 Penalties.

A. If, after re-inspection of the property, pursuant to this Code, the Owner fails to correct the conditions in violation of the law, the City may seek compliance by

any remedy allowed under this Code or any other federal, state, or local law.

B. Any person who violates a provision of this Chapter shall be guilty of a misdemeanor.

C. Any person or entity that violates a provision of this Chapter shall be liable for an administrative penalty of up to \$2,500.00 for each day the violation is committed or permitted to continue. Administrative penalties authorized by this Section shall be assessed, enforced, and collected in accordance with this Code.

D. Any person who violates any of the provisions of this Section shall be subject to an administrative fine set forth in the schedule of fines established by resolution of the City Council. Administrative fines authorized by this Section shall be assessed, enforced, and collected in accordance with this Code.

E. The City may collect any judgment, fee, cost, penalty, fine, or charge, including fees, late charges, or interest, incurred under this Chapter that has not been paid within forty-five (45) days of notice thereof, as provided under this Code. Any Owner who fails to pay any judgment fee, cost, penalty, fine, or charge, will be subject to the placement of a lien against the Rental Housing Property that is the subject of the fees, costs, penalty, fine or charges.

F. The remedies provided in this Chapter shall be cumulative and not exclusive of any other remedies available under federal, state or local laws.

8.52.170 Tenant Protections.

A. **Retaliatory Eviction.** It shall be unlawful for an Owner to recover possession of a Rental Housing Unit in retaliation for a tenant exercising his or her right to file a complaint with the City advising that a building, housing,

sanitation code or ordinance violation or permit violation may exist on the property.

B. Rent Increase or Other Retaliatory Actions. If a notice and order is made under Section 8.52.130, the Owner shall not:

1. Increase the rent for the existing tenants of any rental housing unit that is the subject of the order from the date of the order to a period of one (1) year after the Director determines that the Owner has complied with the order; or
2. Engage in other types of retaliatory conduct, including, but not limited to, depriving the tenants of use of the premises, decreasing services, or otherwise interfering with the tenants' rights under the lease.

C. Relocation Costs. If the Director finds it is necessary to vacate any Rental Housing Unit because of an unsafe or unsanitary condition, or to correct any violations, the relocation costs and expenses of any tenant shall be the responsibility of the Owner.

8.52.180 Collection – Unpaid Fees, Costs or Charges.

A. In addition to any other remedy provided by law, the City may collect any fee, cost, penalty, fine, or charge imposed pursuant to this Chapter that has not been paid within forty-five (45) days of notice thereof, by making the amount of the unpaid fee, cost, penalty, fine, or charge a lien against the Rental Housing Property that is the subject of the fees, costs or charges.

B. The Board of Building Appeals shall hear all objections to proposed liens, as described in this Chapter.

8.52.190 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, penalty, fine, or charge within forty-five (45) days after the mailing of the notice;
4. The Owner's opportunity to appear before the Board of Building Appeals 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 8.52.200.

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

8.52.200 Collection – Objections.

To challenge the amount of the proposed lien, the Owner must file an objection with the Building Official within ten (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.

8.52.210 Collection – Failure to Object.

The failure of the Owner to file an objection in accordance with Section 8.52.200 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 shall transmit a report of the proposed lien to the City Council.

8.52.220 Collection – Report to the Board of Building Appeals, Notice.

A. If any objection is timely filed with the Building Official, the Director shall transmit a report of the proposed lien and the objections thereto to the Board of Building Appeals.

B. Upon receipt of the report, the Secretary to the Board of Building Appeals shall fix a time, date and place for hearing the report, and any objections thereto. The Director shall cause notice of the hearing to be mailed by certified mail to the last known address of the Owner at least thirty (30) days prior to the date set for the hearing.

8.52.230 Collection – Hearing Before the Board of Building Appeals.

Upon considering the report of the proposed lien and the objections thereto, the Board of Building Appeals shall follow, as nearly as practicable, those procedures that the City Council would have followed if it had conducted the hearing. The Board of Building Appeals shall make a written recommendation to the City Council which shall include the factual findings based on evidence introduced at the hearing.

8.52.240 Collection – City Council.

A. Upon receipt of a report of a proposed lien in accordance with this Chapter, 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 Board of Building Appeals has been held, the City Council shall adopt the recommendation of the Board of Building Appeals 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 Owner in writing, at least ten (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 Merced County Recorder and shall have the same force, priority, and effect as a special assessment lien. The notice of lien shall, at a minimum, identify 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 attached

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 2. EFFECTIVE DATE. This Ordinance shall be in full force and effect thirty (30) days after its adoption.

SECTION 3. SEVERABILITY. If any section, subsection, subdivision, sentence, clause, phrase, or portion of this Ordinance, is for any reason held to be invalid or unconstitutional by the decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this Ordinance. The City Council hereby declares that it would have adopted this Ordinance, and each section, subsection, subdivision, sentence, clause, phrase, or portion thereof, irrespective of the fact that any one or more sections, subsections, subdivisions, sentences, clauses, phrases, or portions thereof be declared invalid or unconstitutional.

SECTION 4. PUBLICATION. The City Clerk is directed to cause a summary of this Ordinance to be published in the official newspaper at least once within fifteen (15) days after its adoption showing the vote thereon.

The foregoing Ordinance was introduced at a regular meeting of the City Council of the City of Merced on the ____ day of _____, 2021, and was passed and adopted at a regular meeting of said City Council held on the ____ day of _____, 2021, by the following called vote:

AYES: Council Members:

NOES: Council Members:

ABSTAIN: Council Members:

ABSENT: Council Members:

APPROVED:

Mayor

**ATTEST:
STEPHANIE R. DIETZ, CITY CLERK**

BY: _____
Assistant/Deputy City Clerk

(SEAL)

APPROVED AS TO FORM:

City Attorney Date