CITY OF OAKLAND

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AGENDA REPORT

TO: Sabrina Landreth,
City Administrator

FROM: William A. Gilchrist
Director, PBD

SUBJECT: Proposed Alternative Joint Live Work Quarter Provisions

DATE: January 17, 2020

City Administrator Approval _____ Date 1/30/2020

RECOMMENDATION

Staff Recommends That The City Council Approve A Report and Recommendation 1) Comparing The Proposed Alternative Joint Live Work Quarter (JLWQ) Provisions Submitted To The City Council On November 19, 2019 As "Technical Amendment To Agenda Item 9.1" And The 2019 California Model Building Construction Codes; And 2) Describing Recommendations For Permitting New and Converted JLWQ To Maintain Safety And Code Compliance.

EXECUTIVE SUMMARY

At its November 19, 2019 meeting, the City Council approved the first reading of an ordinance to adopt, on behalf of the City of Oakland, the 2019 California Model Building Construction Codes (2019 CBC), along with certain local amendments supported by appropriate findings. During this City Council meeting, under item 9.1 "Local Amendments to the 2019 California Model Building Construction Code," a Councilmember made a motion to include alternative joint live/work quarter (JLWQ) provisions, based on previous JLWQ provisions adopted under prior code cycles when no such provisions existed in the California Model Building Construction Codes in effect at that time. While the motion did not pass, the City Council did request that the Planning and Building Department (PBD) return with analysis and potential findings to support the proposed alternative JLWQ provisions (Alternative JLWQ Provisions).

The 2019 CBC includes provisions that provide live/work building standards. However, these standards are different than the Councilmember's proposed Alternative JLWQ Provisions. As with other amendments, the 2019 CBC permits local jurisdictions to adopt different live/work standards to address local conditions, as long as such standards are equivalent to or more stringent than the State standards and supported by appropriate findings.

After extensive research, Staff has found a number of potential amendments relating to JLWQ conversions that provide equivalent safety standards to the 2019 CBC and could be supported by findings (see ***Attachment A***), and recommends that the City Council consider an Ordinance adopting these amendments at a later City Council meeting. However, other amendments

included in the proposed Alternative JLWQ Provisions cannot be supported for adoption because they are neither equivalent nor more stringent than what is required by the 2019 CBC nor can the requisite findings be made.

BACKGROUND / LEGISLATIVE HISTORY

The California Health and Safety Code (HSC §§ 18941.5; 17958.7; 17922) requires that local technical amendments to the Model Construction Codes be equivalent to or more stringent than these State codes. Before making any changes or modifications to the California Model Building Construction Codes, the governing body must make an express finding that each such change be reasonably necessary because of specified topographic, climatic, or geologic conditions unique to the jurisdiction.

In the late 1990s, the City Council adopted the Alternative JLWQ Provisions applying to conversions of industrial or commercial buildings to JLWQ of four or fewer residents per unit. When adopted, the California Model Building Construction Codes did not contain provisions relating to JLWQ, but the 2019 CBC now contains JLWQ standards. The Alternative JLWQ Provisions applied until the adoption of Oakland's local amendments in 2016, and this adoption did not carry forward the Alternative JLWQ Provisions because the recently-added JLWQ provisions in the California Model Building Construction Codes obviated the need for many of the Alternative JLWQ Provisions that had been previously adopted.

New construction of JLWQ and conversions of existing buildings to JLWQ units are now governed by the 2019 CBC. Building Codes are always evolving and changing. Codes that have worked in the past are superseded by new ones that are based on better information and cases. Alternative JLWQ Provisions were acceptable in the past due to the lack of provisions for live work occupancies. However, now that the State has mandated specific JLWQ provisions in the State code, the City can no longer keep the past provisions that conflict with the current State provisions.

ANALYSIS AND POLICY ALTERNATIVES

Local jurisdictions are required to enforce the provisions of the 2019 CBC, but they may adopt local amendments through specific statutory authorization set forth in the Health and Safety Code.

As noted above, the City can only adopt an alternative standard to the 2019 CBC if it is equivalent or more stringent than the current CBC provisions. Adopting Alternative JLWQ Provisions that are less restrictive than the 2019 CBC would be a violation of State law. As shown in ***Attachment A***, most of the proposed Alternative JLWQ Provisions are less stringent than the 2019 CBC and, therefore, cannot be adopted into Oakland's local amendments.

Those that are different than the 2019 CBC but that provide equivalent safety are discussed as items 5 and 6 of ***Attachment A***. These items relate to sleeping mezzanines and existing building exits. Staff intends to prepare a draft Ordinance for the City Council to consider

these standards as local amendments at a future meeting, based on Council's action on the proposed recommendations.

Furthermore, Staff has identified the following administrative opportunities to bring existing converted JLWQ into safety compliance without further City Council action: (a) utilizing the AMMR process for JLWQ of any size/occupancy, ensuring that each unit provides equivalent safety to the current California Model Building Construction Codes, and (b) implementing recommendations based on the findings developed through the Planning and Building Department's ongoing contract with an outside consultant to research and conduct studies in developing alternative JLWQ code provisions.

FISCAL IMPACT

There is no fiscal impact associated with this informational report.

PUBLIC OUTREACH / INTEREST

Public outreach was not conducted in the development of this informational report. However, the Planning and Building Department has contracted with an outside consultant to research and conduct studies in developing additional code amendments relating to JLWQ conversions.

COORDINATION

The Office of the City Attorney has reviewed this informational report.

SUSTAINABLE OPPORTUNITIES

Economic: There are no economic opportunities.

Environmental: There are no environmental opportunities.

Race & Equity: There are no racial equity opportunities associated with this informational report.

ACTION REQUESTED OF THE CITY COUNCIL

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For questions regarding this report, please contact William A. Gilchrist, Director of the Planning and Building Department, 238-2229.

Respectfully submitted,

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Attachments (1):

Attachment A - Comparison of key means of egress provisions between the recommended JLWQ provisions and the 2019 CBC

ATTACHMENT A – COMPARISON OF KEY MEANS OF EGRESS PROVISIONS BETWEEN THE RECOMMENDED JLWQ PROVISIONS AND THE 2019 CBC

Item	2019 CBC Provisions (2020 Adoption)	Recommended 2020 JLWQ Provisions by Council Resolution[1]	Difference Between 2019 CBC and Recommended Provisions	Does the Recommended Provision Constitute a Violation of the CBC?	Remarks
1	The live/work unit is permitted to be not greater than 3,000 square feet in area (Ref. **CBC 419.1.1**)	The recommended provisions propose communal "live/work" style accommodations with common spaces on the order of 10,000 square feet have been proposed	The proposed live/work provisions exceed the area limitations set forth in the CBC (10,000 sf vs. 3,000 sf)	**YES:** Would waive the explicitly stated provision that a live/work unit may not exceed 3,000 sf, which is neither equivalent nor more stringent as compared with the state regulations	Alternative provisions, via an Alternative Means and Methods Request (AMMR), may be pursued to compartmentalize the JLWQ unit into 3,000 square feet functional areas.
2	Emergency Escape and Rescue Openings (EERO): Sleeping Rooms and Basements provided with EERO openings that open directly into a public way or to a yard or court that opens to a public way (Ref. **CBC 1030.1**)	**Section 3B.12.6.2 Sleeping Area.** If a sleeping area is in the common atmosphere of a room, the required EERO may be located in the room provided: 1. The required emergency escape and rescue window or door is directly visually ascertainable from the sleeping area which it serves 2. A direct path of travel, which may include stairways, is provided between each sleeping area and its required EERO. More than one sleeping area may use the same EERO as long as the EERO serving each sleeping area meets the above requirements	2019 CBC requires the EERO be located within each sleeping room and that the EERO is located next to a yard or court which, by CBC definition, is unobstructed to the sky. The recommended provisions to council only require the EERO to be "visually ascertainable" from the sleeping area so long as there exist direct paths of travel from the sleeping areas to the EERO	**YES:** The purpose of the EERO is to provide a method for firefighters to extract unconscious or otherwise incapacitated residents (i.e. via smoke inhalation) who are most likely to be in their sleeping quarters. By only requiring the EERO to be within sight of the sleeping area, the proposed amendment would require a firefighter to expend additional time and effort to find victims who have succumbed to smoke inhalation placing the firefighter and victims in more risk by increasing rescue times. Additionally, an inhabitant would have to travel additional distances and possibly over and through potential obstructions in search of the EERO.	With the adoption of the 2019 California Building Code, new provisions have been incorporated to omit the requirement for EERO's which, by means of diligent egress planning, would render the need for alternate EERO provisions obsolete.
3	Emergency Escape and Rescue Openings (EERO): Sleeping Rooms and Basements provided with EERO openings that open directly into a public way or to a yard or court that opens to a public way (Ref. **CBC 1030.1**)	**Section 3B.12.6.3 Alternative Emergency Escape and Rescue in Existing Buildings.** In an existing building where no exterior wall of the sleeping area of an individual space or JLWQ abuts a public street, public alley, yard or exit court any one of the following alternatives may be used: 1. An EERO may open directly into a corridor if the corridor is constructed to meet the requirements for an extent of stairway enclosure pursuant to Section [1011.2] including provisions for openings and doors,	The proposed alternative EERO provisions would not provide EERO with direct frontage onto a public way or yard or court that opens to a public way as required by CBC 1030.1.	**YES**: 1. Would require firefighters to traverse an enclosed, although "protected", building element. Firefighters would have to expend additional time and energy traveling through the building searching for occupants. Additionally, inhabitants would have to travel through the building possibly encountering obstacles.	The alternative EERO provisions may have been considered adequate for the number of occupants allowed per prior planning regulations. However, the current planning regulations allow as many as fourteen occupants (higher if accompanied with a Conditional Use Permit). Such provisions would be ineffective for the

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3 (cont.)	See page 1	appropriate for the configuration of the building in which it is located. 2. A one-hour fire-resistive compartment with one-hour label exit door and equipped with a ships ladder to the roof. Emergency lighting, a counter-balanced roof hatch, and marked exit path across the roof to an approved fire escape or escape ladder shall be provided. 3. If a court without access to a public way on the property is available, then an approved fire escape or escape ladders may either lead to the roof similar to alternative 2 above, or to the bottom of the court. An approved fire department access path to the bottom of the court shall be provided. 4. When the roof is part of an alternative emergency escape and rescue method, the roof structure at the exit path and the queuing area to the escape ladder or stair off of the roof shall consider the live loads added to Table 3B.16-A in Section 3B.16. The queuing area provided shall be 3 square feet per occupant for the occupant load served by the alternative EERO	See page 1	2. Would require firefighters and inhabitants to traverse obstacles (i.e. ship's ladder to roof, roof hatches, etc....) above levels which may already be on or above a fire. Additional hazards such as falling off the roof are introduced. Violates the Exit discharge provisions in the 2019 CBC prohibiting reentering a building when in the exit discharge component of a means of egress system. 3. Similar to Item 2 above. 4. No explicit requirement to provide equivalent fire protection of structural elements supporting escape and rescue path. The requirement for a queuing area indicates anticipated escape and rescue times due to bottlenecks along the route.	increased demand on the means of egress. With the adoption of the 2019 California Building Code, new provisions have been incorporated to omit the requirement for EERO's which, by means of diligent egress planning, would render the need for alternate EERO provisions obsolete.
4	2019 CBC Stair Requirements (ref: **CBC 1011**) 1. 36" minimum width 2. 7" max rise, 11" min tread 3. 6 ft. 8-inch minimum headroom 4. 36" minimum landing length Handrails located 34"-38" above stair nosing	**3B.12.4.8 Existing Stairways Serving Two or More Individual Units or Ten or More Occupants** 1. Section 3B.12.4.9 Width of existing stairways shall not be less than 30" clear from wall to wall 2. Section 3B.12.4.10 Rise and run of existing stairways... the maximum rise does not exceed eight inches and the minimum tread is not less than nine inches. 3. Section 3B.12.4.11 Headroom of existing stairways shall not be less than 6 feet 6 inches. 4. Section 3B.12.4.12 Existing landings of existing stairways... shall not be less than 30 inches in the direction of travel. 5. Section 3B.12.4.13 The top of existing handrails shall not be less than 32 inches in height above landings and the nosing of treads	2019 CBC Requirements vs. Recommended Provisions 1. 36" vs. 30" minimum width 2. 7" max rise, 11" min tread vs 9" rise and 8" tread 3. 6'-8" vs. 6'-6" minimum headroom 4. 36" vs. 30" minimum landing length 5. Handrails located 34"-38" vs. 32" above stair nosing	**YES**: Means of egress stairways would be narrower, steeper, have less headroom clearance, and landing dimensions would be narrower and shorter than allowed by the CBC.	

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5	No corresponding provision	**3B.8.1.2 Sleeping Mezzanine** **3B.8.1.3 Headroom** The minimum sleeping mezzanine headroom shall be a headroom "envelope" clearance to the ceiling or any projections from the ceiling that has a height of 4' with an increasing height of 4" vertical to 12" horizontal... **3B.8.1.5 Floor Area** The area dimensions of a sleeping mezzanine may be 5' minimum deep by 7' minimum long or 7' minimum deep by 5' minimum long with a maximum area of 120 square feet... **3B.8.1.6 Sleeping Bunk** A built-in sleeping bunk... shall have space dimensions as provided herein. **3B.8.1.7 Headroom** The minimum built-in sleeping bunk headroom clearance shall be a headroom "envelope" clearance to the ceiling or any projections from the ceiling with a height of 3' and with an increasing height of 4" vertical to 12" horizontal or steeper running towards the access to the built-in sleeping bunk. The minimum clearance for a flat ceiling shall be 42 inches above the built-in sleeping bunk floor. **3B.8.1.8 Floor Area** A built-in sleeping bunk shall meet the area dimensions requirements for a sleeping mezzanine pursuant to Section 4B.8.2.3. However, the area of the built-in sleeping bunk may not exceed 60 square feet. **Section 3B.12.4.3 Ship Stair** A ship stair (ship's ladder)... may provide access to a private mezzanine, sleeping mezzanine, or built-in sleeping bunk within an individual unit of JLWQ Occupancy... **Section 3B.12.4.4 Ladder** A ladder may provide access to a sleeping mezzanine or a built-in sleeping bunk within an individual JLWQ Occupancy...	NA	No	Because the CBC does not specifically address Sleeping Mezzanines and Sleeping Bunks, and because the Planning and Building Department does not consider such accommodations adversely affecting the safety of JLWQ, they can be incorporated as amendments to the California Existing Building Code.

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6	California Existing Building Code and California Historical Building Code allows the use of fire escapes for existing buildings	**Section 3B.12.3.3 Existing Building Exits** One of the required exits for an existing Building... may be a fire escape in conformance with Section 8-502 of the California Historical Building Code.	Minor	No	The Planning and Building Department believes the use of a fire escape as one of the required exits could be incorporated as an amendment to the California Existing Building Code.

1. Technical Amendment to Agenda Item 9.1, Introduced at November 19, 2019 Oakland Council Meeting as *Revised Attachment A, Statement of Findings* and *Attachment B, Restoring Chapter 3B Use and Occupancy, Division 1, Requirements for Joint Living and Work Quarters...*