



FILED  
OFFICE OF THE CITY CLERK  
OAKLAND

2013 OCT 10 PM 2:37

# AGENDA REPORT

**TO:** DEANNA J. SANTANA  
CITY ADMINISTRATOR

**FROM:** Rachel Flynn

**SUBJECT:** Local Amendments To 2013  
California Model Housing Law

**DATE:** September 26, 2013

City Administrator  
Approval

Date

10/9/13

**COUNCIL DISTRICT:** Citywide

## RECOMMENDATION

Staff recommends that the City Council adopt the following legislation to amend the 2013 triennial edition of the California Model Housing Law:

An Ordinance Adopting Amendments To The 2013 Edition Of The California Housing Law, California Code Of Regulations, Title 25, Division 1, Chapter 1, Subchapter 1, Division 32, And Amending The Oakland Municipal Code, Chapter 15.08 to comply with changes to state law; and

A Resolution Of Findings Made And Supporting Amendments To The 2013 Edition Of The California Housing Law, California Code Of Regulations, Title 25, Division 1, Chapter 1, Subchapter 1, Section 32 to comply with changes to state law

## OUTCOME

Adoption of the proposed legislation, which is required by the California Health and Safety Code before the January 1, 2014 statutory deadline, will formally incorporate Oakland's established local housing code standards and practices into the state codes for use in all housing projects within the jurisdiction.

## BACKGROUND/ LEGISLATIVE HISTORY

The California Health and Safety Code allows cities and counties to adopt local amendments to the triennial edition of the Model Housing Law before the January 1, 2014, statewide effective date. Amendments may be administrative, such as adopting the City's Master Fee Schedule, and non-administrative, such as adopting utility performance standards. Non-administrative

Item: \_\_\_\_\_

Community and Economic Development Committee

October 22, 2013

amendments must be no less restrictive than statewide regulations and may be supported by a Resolution of findings based on local climatic, topographic, and geologic conditions. The amending Ordinance must be adopted by the City Council and received by the State Building Standards Commission in Sacramento before the January 1st deadline.

The proposed amendments are essentially the same modifications that the City Council has periodically adopted in the previous twenty (20) years for the Model Housing Law. Administrative amendments supplement the City's legal authority to control the maintenance of residential and non-residential buildings and the abatement and appeals process. Because the California Health and Safety Code only mandates adoption of the Public Nuisance chapter of the 1997 edition of the Uniform Housing Code, Oakland must create administrative regulations simply to establish the legal authority to administer the Model Code. Technical amendments supplement building and fire regulations specific to the geographic location of Oakland (earthquake fault, vector-habitat climate, etc.).

## **ANALYSIS**

### **Administrative Amendments**

The proposed administrative amendments accomplish the following general objectives:

- Establish adjudication of appeals by a neutral Hearing Examiner;
- Establish remote ("virtual") inspections using electronic media provided by owners;
- Establish occupant and owner responsibilities for maintaining tenant spaces and buildings;
- Establish inspection, notification, and appeals processes consistent with California and federal law;
- Establish the City's Master Fee Schedule, invoicing, and collection processes for abatement actions.

### **Technical Amendments**

The California Health and Safety Code requires that technical amendments are equivalent to or more stringent than the Model Code. Since the California Health and Safety Code does not establish regulations for routine maintenance of buildings, the proposed technical amendments accomplish the following general objectives:

- Establish maintenance requirements for non-residential occupancies;
- Establish minimum operational requirements for structural, electrical, plumbing, mechanical, and fire and exiting;

- Establish minimum maintenance requirements for habitable occupancies (sanitation, sunlight and ventilation, overcrowding, food preparation, garbage disposal, etc.).

### **COORDINATION**

The Office of the City Attorney and the Budget Office have reviewed this report and resolution. Staff has done outreach to the general public, representatives of the rental housing industry, and staff bargaining units, including direct mailing, website and public counter postings, and information meetings.

### **COST SUMMARY/ IMPLICATIONS**

There is no fiscal impact. This is an administrative action mandated by State law. Resources from existing budgeted staff will continue to enforce the Model Maintenance Code.

### **SUSTAINABLE OPPORTUNITIES**

***Economic:*** Oakland amendments to the California Housing Law support the affordable rental housing and economic revitalization policies of the City .

***Environmental:*** Oakland amendments to the California Housing Law support the maintenance of rental housing and the reduction of public health irritants, contaminants, pollutants, toxics, and vectors for occupants and neighbors.


***Social Equity:*** Oakland amendments to the California Housing Law support the affordable rental housing policies of the City.

### **CEQA**

This report is not a project under CEQA.

For questions regarding this report, please contact Deborah Sandercock, Building Official, at 238-6435..

Respectfully submitted,



---

Rachel Flynn, Director  
Department of Planning and Building

Prepared by:

Deborah Sandercock, Building Official

FILED  
OFFICE OF THE CITY CLERK  
OAKLAND

2013 OCT 10 PM 2:38

APPROVED AS TO FORM AND LEGALITY

**DRAFT**

Office of the City Attorney

## OAKLAND CITY COUNCIL

ORDINANCE No. \_\_\_\_\_ C.M.S.

INTRODUCED BY COUNCILMEMBER \_\_\_\_\_

---

**AN ORDINANCE REPEALING THE OAKLAND AMENDMENTS TO THE 2010 EDITION OF THE CALIFORNIA HOUSING LAW, ADOPTING LOCAL AMENDMENTS TO THE 2013 EDITION OF THE STATE HOUSING LAW REGULATIONS, CALIFORNIA CODE OF REGULATIONS, TITLE 25, DIVISION 1, CHAPTER 1, SUBCHAPTER 1, SECTION 32, AMENDING OAKLAND MUNICIPAL CODE CHAPTER 15.08 TO COMPLY WITH CHANGES TO STATE LAW**

**WHEREAS**, pursuant to California Health & Safety Code sections 17922, 17950, and 17958, the 2013 Edition of the State Housing Law Regulations, California Code of Regulations (“C.C.R.”), Title 25, Division 1, Chapter 1, Subchapter 1, Section 32, shall become effective on January 1, 2014; and

**WHEREAS**, said edition of the State Housing Law Regulations is derived from the non-administrative regulations set forth in the 1997 Edition of the Uniform Housing Code, as formerly published by the International Conference of Building Officials and currently published by the International Code Council; and

**WHEREAS**, local jurisdictions are required to enforce said edition of the State Housing Law Regulations but may also enact more stringent standards when reasonably necessary because of local conditions caused by climate, geology or topography; and

**WHEREAS**, as in past State code adoption cycles, in this ordinance the City of Oakland repeals its existing Oakland Amendments To The 2010 Edition Of The California Housing Law (“2010 Oakland Amendments”) in their entirety and enacts new Oakland Amendments of the 2013 Edition of the State Housing Law Regulations (“2013 Oakland Amendments”); and

**WHEREAS**, the City Council of the City of Oakland does hereby determine that there is a need to enforce the most current edition of the State Housing Law Regulations, with local administrative and non-administrative amendments thereof, as recited herein for regulating and controlling the maintenance of all habitable residential and occupied non-residential buildings and structures and associated plumbing, mechanical, electrical, energy conservation, natural resource sustainable consumption (green building), and fire suppression systems within the

corporate boundaries of the City of Oakland; and

**WHEREAS**, the City Council of the City of Oakland further hereby determines that premises exist within the City which are substandard because there exist thereon substandard buildings occupied or designed to be occupied by human beings and such buildings are substandard because of failure to keep them in a proper state of repair or lack of proper sanitary facilities or lack of adequate lighting or ventilation or improper management or any combination of these factors has resulted in such buildings becoming so deteriorate so dilapidated so neglected so overcrowded with occupants or so unsanitary as to jeopardize or be detrimental to the health safety or general welfare and the comfortable enjoyment of living or the people of the City; and

**WHEREAS**, the City Council of the City of Oakland further hereby determines that substandard premises and such substandard buildings existing thereon contribute to the development of or increase in disease infant mortality crime and juvenile delinquency that conditions existing on such substandard premises are dangerous to the public health safety and the comfortable enjoyment of living of the people that conditions existing on such premises necessitate excessive and disproportionate expenditure of public funds for public health public safety crime prevention fire protection and other public services and that the conditions on such substandard premises cause a drain upon public revenue and impair the efficient and economical exercise of governmental functions in such areas; and

**WHEREAS**, the City Council of the City of Oakland further hereby determines that the elimination of substandard premises and of conditions dangerous or imminently hazardous to life or limb or health or safety of the public or other property and the prevention of the occurrence and recurrence of substandard premises and of dangerous or imminently hazardous conditions in the future is in the best interests of the citizens of Oakland, the State of California, and the entire United States and that the accomplishment of this end will be fostered and encouraged by the enactment and enforcement of this Ordinance; and

**WHEREAS**, the City Council of the City of Oakland further hereby determines that the adoption of local administrative and non-administrative amendments of the most current edition of the State Housing Law Regulations, which provide for certain changes, supplements, and deletions thereof as recited herein, will satisfy these needs by providing for minimum standards to safeguard life and limb, property, and public welfare; and

**WHEREAS**, California Health & Safety Code section 17958.7 provides that before making any changes or modifications to the State Housing Law Regulations and any other applicable provisions published by the State Building Standards Commission, the governing body must make an express finding that each such change or modification is reasonably necessary because of specified local conditions, and the findings must be filed with the State Building Standards Commission before the local changes or modifications can go into effect; and

**WHEREAS**, pursuant to California Health & Safety Code section 17958.7, the City Council of the City of Oakland, in a separate companion resolution, has made express findings

that said non-administrative amendments, which are equivalent to or more stringent than the most current State Housing Law Regulations, are reasonably necessary because of local climatic, topographic, and geologic conditions; and

**WHEREAS**, on October 22, 2013, at a duly noticed public hearing, the Community and Economic Development Committee considered this legislation; and

**WHEREAS**, the City Council of the City of Oakland further hereby determines that the enactment of this ordinance is essential to the public interest and that its enforcement should be liberally construed to effectuate the purposes as stated in this ordinance; and

**WHEREAS**, the actions contemplated in this ordinance are exempt from the California Environmental Quality Act (California Public Resources Code sections 21000 et seq.) pursuant to CEQA Guidelines 15061(b)(3) (no significant effect on the environment); now, therefore,

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

**SECTION 1. Recitals.** The City Council of the City of Oakland hereby determines that the preceding recitals are true and correct and hereby adopts and incorporates them into this ordinance.

**SECTION 2. Repeal of the Oakland Amendments To The 2010 Edition Of The California Housing Law.** The 2010 Oakland Amendments are hereby repealed in their entirety, and all provisions within any article, part, section, subsection, sentence, clause, or phrase of other ordinances that conflict within or between or among the provisions of this ordinance or the most current edition of the State Housing Law Regulations are hereby superseded. The 2010 Oakland Amendments being repealed were enacted by Ordinance No. 130346 C.M.S., which is available on the City of Oakland website.

**SECTION 3. Enactment of Local Amendments to the 2013 Edition of the State Housing Law Regulations (Amendments to Oakland Municipal Code Chapter 15.08).** The 2013 Oakland Amendments are hereby enacted. The 2013 Oakland Amendments being enacted amend Oakland Municipal Code Chapter 15.08, and are contained in Exhibit A entitled "City of Oakland Amendments," attached hereto and incorporated as if set forth fully herein. The most current edition of the State Housing Law Regulations, as amended herein, shall be the governing building maintenance code for the City of Oakland from and following January 1, 2014.

**SECTION 4. Continuation of Actions Under Prior Code.** Nothing contained in this ordinance shall be construed as abating any action now pending under or by virtue of any ordinance of the City of Oakland hereby repealed, nor shall this ordinance be construed as discontinuing, abating, modifying or altering any penalties accruing, or to accrue, or as waiving any right of the City under any such ordinance.

**SECTION 5. Severability.** If any article, part, section, subsection, sentence, clause, or

phrase of this ordinance be held to be invalid or unconstitutional, the offending portion shall be severed and shall not affect the validity of remaining portions which shall remain in full force and effect. The City Council of the City of Oakland hereby declares that it would have approved and adopted this ordinance and each article, part, section, subsection, sentence, clause, and phrase thereof irrespective of the fact that any one or more articles, parts, sections, subsections, sentences, clauses, phrases or other parts be declared unconstitutional.

**SECTION 6. Effective Date.** This Ordinance shall become effective on and following January 1, 2014.

**SECTION 7. Directions to the Building Official.** Upon final passage of this ordinance, the Building Official of the City of Oakland is hereby directed to transmit this ordinance with the Exhibit A attachment to the California Building Standards Commission before January 1, 2014 pursuant to the applicable provisions of State law.

IN COUNCIL, OAKLAND, CALIFORNIA, \_\_\_\_\_

PASSED BY THE FOLLOWING VOTE:

AYES- BROOKS, GALLO, GIBSON MCELHANEY, KALB, KAPLAN, REID, SCHAAF, and PRESIDENT KERNIGHAN

NOES-

ABSENT-

ABSTENTION-

ATTEST: \_\_\_\_\_

LaTonda Simmons  
City Clerk and Clerk of the Council  
of the City of Oakland, California

DATE OF ATTESTATION: \_\_\_\_\_



## EXHIBIT A

### AMENDMENTS TO TITLE 14 OF THE OAKLAND MUNICIPAL CODE

#### **14.04.270 Chapter 15 added.**

Chapter 15 is added to read as follows:

#### CHAPTER 15

#### SIGNS ADJACENT TO FREEWAYS

Sec. 1501. Signs Prohibited Adjacent to Freeways. No sign shall be erected, constructed, relocated or maintained in the City of Oakland if such sign is designed to have or has the advertising thereon maintained primarily to be viewed from a freeway, provided that the provisions of this section shall not apply to any sign constructed, painted or maintained on which the advertising is limited to one or all of the following:

1. The name of the person, firm or corporation occupying the premises and the type of business conducted by such person, firm or corporation.
2. The name of the product manufactured on the premises.
3. A sign not exceeding six square feet in area appertaining only to the lease, hire, sale, or display of the building or premises.
4. Time and temperature units.
5. New, relocated or wholly reconstructed advertising signs in the M-40 Heavy Industrial Zone as part of a billboard relocation agreement authorized by the City of Oakland or Oakland Redevelopment Agency prior to November 18, 1997 provided further that the restrictions contained in Ordinance No. 12025 C.M.S , as amended by Ordinance No. 12085 C.M.S., shall apply so that there shall be no increase in the number of billboard faces allowed to promote the sale of Tobacco Products or Alcoholic Beverages, regardless of the location of said billboard faces.
6. ~~Relocated or wholly reconstructed~~ advertising signs pursuant to a franchise agreement or relocation agreement authorized by the City Council, which expressly allows advertising signs and then only under the terms and conditions of such agreements.

## EXHIBIT B

### CITY OF OAKLAND AMENDMENTS

The following chapters of the 1997 edition of the Uniform Housing Code are incorporated herein by reference as corresponding articles in the Oakland Municipal Code, Chapter 15.08:

2013 Oakland Building Maintenance Code	1997 Uniform Housing Code
Article I - Scope	Chapter 1 - Title and Scope
Article II - Enforcement	Chapter 2 - Enforcement
Article III - Fees & Inspections	Chapter 3 - Permits and Inspections
Article IV - Definitions	Chapter 4 - Definitions
Article V - Habitable Space	Chapter 5 - Space & Occupancy Standards
Article VI - Structural	Chapter 6 - Structural Requirements
Article VII - Mechanical & Electrical	Chapter 7 - Mechanical Requirements
Article VIII - Exiting	Chapter 8 - Exits
Article IX - Fire Protection	Chapter 9 - Fire Protection
Article X - Substandard & Public Nuisance	Chapter 10 - Substandard Buildings
Article XI - Appeals	not applicable
not applicable	Chapter 11 - Notices & Orders
not applicable	Chapter 12 - Approval
not applicable	Chapter 13 - Procedures for Appeals
not applicable	Chapter 14 - Enforcement
not applicable	Chapter 15 - Performance of Work
not applicable	Chapter 16 - Recovery of Cost of Work

#### ARTICLE 1. Administrative Amendments

##### Article 1. Scope

###### Section 15.08.010 Title

These regulations shall be known as the Oakland Building Maintenance Code, may be cited as such and will be referred to herein as "this Code".

###### Section 15.08.020 Purpose

The purpose of this Code is to provide minimum standards to safeguard life or limb, health, property, and public welfare by regulations and controlling the use and occupancy, locations, and maintenance of all residential and non-residential buildings, structures, portions thereof, and real property within the City of Oakland.

The purpose of this Code is not to create or otherwise establish or designate any particular class

or group of persons who will or should be especially protected or benefited by the terms of this Code.

#### **Section 15.08.030 Scope**

The provisions of this Code shall apply to real property and to all residential and non-residential buildings or portions thereof used, or designed or intended to be used, for human occupancy and habitation and all accessory buildings and structures on the same lot or parcel. Such occupancies in existing buildings may be continued as provided in the Oakland Building Construction Code, except such structures as are found to be Substandard and Public Nuisance as defined in this Code.

Where any building or portion thereof is used or intended to be used as a combination apartment house and hotel or combination non-residential and residential occupancies, the provisions of this Code shall apply to the separate portions as if they were separate buildings.

Rooming houses, congregate residences, lodging houses, and Joint Live Work Quarters and Conversion Living Quarters shall comply with all the requirements of this Code for dwellings.

#### **Section 15.08.040 Application to Existing Buildings and Structures**

##### **A. Additions, Alterations, or Repairs (HSC Section 17958.8)**

For additions, alterations, or repairs, see the Oakland Building Construction Code.

Local ordinances or regulations governing alterations and repairs of existing buildings shall permit the replacement, retention, and extension of original materials and the use of original methods of construction as long as the hotel, lodging house, motel, apartment house, or dwelling, or portions thereof, or building and structure accessory thereto, complies with the provisions published in the State Building Standard Code and the other rules and regulations of the department or alternative local standards adopted pursuant to California Health and Safety Code (HCS) Section 17920.7 and does not become or continue to be a Substandard and Public Nuisance building.

##### **B. Relocation (HSC Section 17958.9)**

Buildings or structures moved into or relocated or repositioned or raised within the City of Oakland shall comply with the requirements in the Oakland Building Construction Code for new buildings and structures.

Local ordinances or regulations governing the moving of apartment houses and dwellings shall permit the retention of existing materials and methods of construction so long as the apartment house or dwelling complies with the building standards for foundations applicable to new construction, and does not become or continue to be a Substandard and Public Nuisance building (HSC Section 17922.3).

## Section 15.08.050 General Standards

All materials, assemblies, appliances, fixtures, equipment, and installations thereof; all arrangements of occupancies, exits, aisles, stairs, and doors; all parapets wall, cornices, spires, towers, tanks, statuary, signage, structural members, and all appendages and appurtenances thereto in buildings and structures regulated by this Code shall be so arranged, assembled, installed, maintained, and of sufficient size and so protected as to reduce and minimize all egress, fire, structural collapse, natural gas or chemical asphyxiation or toxicity or explosion, electrical shock, potable water cross-contamination, sewerage contamination, and other health and safety hazards.

The quality of all materials, assemblies, appliances, fixtures, and equipment; methods of connection, assembly and installation; allowable stress, strain, deflection, rate and volume and velocity of flow, pressure, temperature, and ampacity; and assumed loads and capacities to be used in the design, construction, and maintenance of all buildings and structures, plumbing and mechanical installations, and electrical systems shall be consistent with requirements of this Code and nationally recognized standards of quality and generally recognized and well-established methods of testing, design, installation and construction. Testing, listing, and affixed labeling shall be prima facie evidence of conformity with approved standards for safety to life and limb, property, and public welfare.

Non-compliance with any of the provisions of this Code, including failure to provide, obtain or maintain valid approvals, permits, certifications, tests, listing, affixed labeling, inspection approvals, or other conditions of permitting; failure to repair, demolish, remove, or rehabilitate unsafe materials, appliances, fixtures, or equipment; or failure to prevent, restrain, correct, or abate conditions unsafe or hazardous for occupancy or egress or fire protection or health due to inadequate maintenance, excess loading, dilapidation, or abandonment shall be is hereby declared to be prima facie evidence of an existing and continuing hazard to life and limb, and/ or to property, and/ or to public welfare.

## Section 15.08.060 Effect on Other Codes, Regulations, and Ordinances of Adoption of the Oakland Building Maintenance Code

Unless expressly stated herein, this Code is not intended to amend, repeal, or supersede provisions of any other codes, regulations, or ordinances of the City of Oakland, including but not limited to, the Demolition Ordinance, Earthquake Damage Abatement Ordinance, Dangerous Building Ordinance, Grading Ordinance, Blight Abatement Ordinance, Weed Abatement Ordinance, Administrative Penalty Ordinance, Window Security Bar Ordinance, Solid Waste Collection and Disposal and Recycling Ordinance, Oakland Planning Code, Oakland Building Construction Code, and Oakland Fire Code.

In any specific section or case where there is a conflict within or between or among provisions, the most restrictive which prescribes and establishes the higher standard of safety or public benefit shall prevail and control and where there is a conflict between a general requirement and

a specific requirement, the specific requirement shall apply.

Neither the adoption of this Code nor the repeal hereby of any City ordinance shall in any manner affect the prosecution for violation of ordinances, which violations were committed prior to the effective date hereof or be construed as a waiver of any license or fee or penalty at such effective date due and unpaid under such ordinance relating to the collection of any such license or fee penalty or the penal provisions applicable to any violations thereof.

For existing residential and non-residential buildings or structures which were not Substandard and Public Nuisance at the time of adoption of this Code and which have not subsequently become Substandard and Public Nuisance, the Building Official may allow application of standards contained within provision of the Oakland Building Maintenance Code or the Oakland Building Construction Code in effect at the time the building or structure was constructed, whichever is more stringent.

#### **Section 15.08.070 Effect of Modifications and Partial Invalidity**

Where any section of the California Model Housing Code recited herein is amended hereby, all provisions of the original section not so specifically amended shall remain in full force and effect and all amended provisions shall be considered as added thereto.

Where provisions set forth herein conflict with the provisions of the California Code of Regulations (CCR), Title 25, Part 1, Chapter 1, Subchapter 1 or the California Health and Safety Code (HSC), Division 13, Part 1.5, Section 17910 et seq., the enforcement of which by local jurisdictions is mandated by State legislation, the provision of the California Model Housing Code and the State Housing Law shall prevail and control.

Where any section, subsection, sentence, clause, phrase or other part of the California Model Housing Code recited herein and as amended hereby is for any reason held to be unconstitutional, such decision shall not affect the validity of the remaining portions of this Code. The Council of the City of Oakland hereby declares that it would have approved and adopted this Code and each chapter, section, subsection, sentence, clause, and phrase hereof irrespective of the fact that any one or more chapters, sections, subsections, sentences, clauses, phrases or other parts be declared unconstitutional.

### **Article II. Enforcement**

#### **Section 15.08.080 General**

##### **A. Authority**

The Building Official and his or her designees are hereby authorized and directed to enforce all of the provisions of this Code and Chapter 8.24 (Property Blight) of the Oakland Municipal Code. For such purposes, the Building Official shall have the powers of a law enforcement officer.

## **B. Alternative Compliance**

Where there are practical difficulties involved in complying fully with the technical requirements of Articles V, VI, VII, VIII, and IX of this Code, the Building Official may grant modifications for individual cases. The Building Official shall find that a special individual reason makes the strict application of this Code impractical and that the modification does not lessen health and safety requirements and is equivalent in suitability, strength, effectiveness, fire resistivity, durability, and ampacity. The details of actions granting modifications shall be retained by the Building Official for the period required for retention of public records.

Whenever there is insufficient evidence of compliance with the provisions of this Code, or evidence that a material or method does not conform to the requirements of this Code or in order to substantiate claims for alternate materials or methods, the Building Official may require tests as evidence of compliance to be made at no expense to the City. Test methods shall be as specified in the Oakland Building Construction Code or by other recognized test standards. In the absence of recognized and accepted test methods, the Building Official shall specify the testing procedures. All tests shall be performed by an approved agency. Reports of tests shall be retained by the Building Official for the period required for retention of public records.

## **C. Right of Entry (HSC Sections 17971 and 17972)**

When it is necessary to make an inspection to enforce the provisions of this Code, or when the Building Official has reasonable cause to believe that there exists in a building or structure or upon a premises a condition that is contrary to or in violation of this Code that makes the building or structure or premises unsafe, dangerous or hazardous, the Building Official may enter the building or premises at reasonable times to inspect or to perform the duties imposed by this Code, provided that if such building or structure or premises be occupied that credentials be presented to the occupant and entry requested. If such building or premises be unoccupied and secured against entry, the Building Official shall first make a reasonable effort to locate the record owner of the property or other adult person having lawful charge or control of the building or structure or premises and request entry. If such entry is refused, the Building Official shall have recourse to the remedies provide by law to secure entry.

No person authorized by this Code to enter buildings shall enter an, occupied unit or space or other non-public area without the consent and presence of the owner or the owner's designated agent or the lawful and adult occupant of the unit or space or other non-public area or without a proper written order executed and issued by a court having jurisdiction to issue the order.

## **D. Unsecured Premises**

Whenever an unoccupied building or structure or accessory structure or lot or parcel or portion thereof is or has become unsecured and open to unauthorized entry and as a result is unsafe and constitutes an attractive nuisance and danger to the public health and welfare, the Building Official may clean and secure the premises and install perimeter fencing and gates and terminate

the serving utilities and maintain the premises against unsafe or unpermitted re-use or re-occupation. All charges therefore shall become an assessment against the property and the record owner.

Whenever such unsecured premises or portion thereof or condition therein is or has been determined to be a Nuisance as defined in Section 15.08.170 of this Code, the Building Official may immediately re-secure breached points of entry or construct suitable barriers to entry or otherwise temporarily abate the nuisance condition.

***For the purposes of this sub-section (15.08.080.D), the provisions of Section 15.08.380.C of this Code as pertains to notification of the record owner and to an expedited administrative hearing shall apply.***

#### **E. Responsibilities Defined**

Owners remain liable for violation of duties imposed by this Code even though an obligation is also imposed on the occupants of the building, and even though owner has, by agreement, imposed on the occupant the duty of furnishing required equipment or of complying with this Code.

Building and structures and parts thereof shall be maintained in a safe and sanitary condition. The owner or the owner's designated agent shall be responsible for such maintenance. To determine compliance with this subsection, the building may be re-inspected.

Owners, in addition to being responsible for maintaining buildings in a sound structural condition, shall be responsible for keeping that part of the building or premises which the owner occupies or controls in a clean, sanitary and safe condition, including the shared or public areas in a building containing two or more dwelling units.

Owners shall, when required by this Code or the Health Officer, furnish and maintain such approved sanitary facilities as required, and shall furnish and maintain approved devices, equipment or facilities for the prevention of insect and rodent infestation, and when infestation has take place, shall be responsible for the extermination of any insects, rodents or other pests when such extermination is not specifically made the responsibility of the occupant by law or ruling.

Occupants of a dwelling unit, in addition to being responsible for keeping in a clean, sanitary and safe condition that part of the dwelling or dwelling unit or premises which they occupy and control, shall dispose of their rubbish, garbage and other organic waste in a manner required by the Oakland Municipal Code, Chapter 8.24 (Property Blight) and Chapter 8.28 (Solid Waste Collection and Disposal and Recycling), and approved by the Health Officer.

Occupants shall, when required by this Code, the Oakland Municipal Code, Chapters 8.24 and 8.28, or the Health Officer, furnish and maintain approved devices, equipment or facilities necessary to keep their premises safe and sanitary.

## **Section 15.08.090 Substandard and Public Nuisance Buildings and Real Property**

Buildings, structures, or portions thereof, and real property that are determined to be Substandard as defined in Article X of this Code are hereby declared to Public Nuisances and shall have the Certificate of Occupancy revoked and shall be abated either by repair and rehabilitation or demolition and may be ordered vacated in accordance with the procedure specified in Article XI of this Code.

## **Section 15.08.100 Appeals**

### **A. Deteriorated Conditions**

The record owner may appeal from the initial issuance of an order, decision, or determination made relative to the applications and interpretations of Articles V, VI, VII, VIII, and IX of this Code by filing a written request which shall contain the following information:

1. A brief statement in ordinary and concise language of that specific action protested, together with any material facts claimed to support the contentions of the appellant.
2. A brief statement in ordinary and concise language of the relief sought and the reasons why it is claimed the protested action was a result of error or abuse of discretion and therefore should be reversed, modified, or otherwise set aside.

Such written request (appeal) together with fees as established in the Master Fee Schedule shall be received by the Building Official within twenty-one (21) calendar days from the date of the service, as set forth in Section 15.08.110.B of this Code, of the initial issuance of such order, decision, or determination. Failure by the record owner to file such written request along with full payment of fees within the period of time prescribed herein shall constitute a waiver of his or her right to an administrative adjudication of such action or to any portion thereof.

### **B. Hazardous Conditions**

The record owner may appeal from orders, decisions, or determinations made relative to the applications and interpretations of Article X of this Code, to a Hearing Examiner, who shall be a person who is qualified by experience and training to pass on matters pertaining to health and safety and welfare of the public, and who may not be an employee of the City of Oakland.

The Hearing Examiner shall have no authority relative to interpretations of the administrative (non-technical) provisions of this Code. The Hearing Examiner shall not be empowered to waive non-administrative (technical) requirements of Article X of this Code, but may grant reasonable alternatives in exceptional cases where it is demonstratively impractical or physically impossible to comply strictly with such requirements.

### **C. Review of Administrative Actions**



The limitation period provided pursuant to California Code of Civil Procedure Section 1094.6 shall apply to all petitions filed seeking judicial review of administrative actions made by the Building Official or Hearing Examiner.

#### Section 15.08.110 Abatement of Violations

##### A. General

It shall be unlawful for any person, firm, or corporation to erect, construct, enlarge, alter, repair, move, improve, convert, demolish, equip, use, occupy or maintain any building, or structure, portion thereof, or real property or cause or allow the same to be done in violation of this Code.

In addition to the penalties provided by law and ordinance, a violator shall be liable for such costs, expenses, accruing interest, and disbursements paid or incurred by the City or any of its contractors in correction, abatement, and prosecution of the violation.

Pursuant to Section 836.5 of the California Penal Code, the Building Official and his or her designees are hereby authorized to enforce this Code and cause the arrest of violators thereof.

The City Administrator, or his or her designee, shall have the power to designate by written order that particular officers or employees shall be authorized to enforce particular provisions of this Code, in addition to those officers enumerated herein. Officers or employees so designated shall have the authority to cause the arrest of persons who violate any of such provisions.

Conviction of an infraction and any subsequent convictions under the provisions of this Code shall be punishable by the maximum fines prescribed by law. Any violations beyond the third conviction within a one-year period may be charged by the City Attorney or the District Attorney as a misdemeanor, and the penalty for conviction of the same shall be punishable by the maximum fines and sentence of imprisonment in the County Jail prescribed by law.

A certified copy of each judgment imposing fine or cost or both upon any owner of any real property for a violation of this Code pertaining to the building, structure, portion thereof, or the real property shall, upon the entry of judgment, be filed forthwith with the Alameda County Clerk-Recorder.

Pursuant to Section 409.5 of the California Penal Code, failure to vacate immediately or to impede in any way whatsoever the vacation of any building, structure, portion thereof, or real property which has been determined by the Building Official to be an Imminent Hazard as provided in Section 15.08.380.C of this Code shall constitute a misdemeanor offense and shall be cause for arrest and removal from the premises in addition to all other penalties provided by law.

##### B. Notification

The initial Notice or Order shall be served to the record owner of the property by one or more of

the following methods of service:

1. personal delivery with acknowledged receipt; or
2. mailing with certified postage to the record owner's address as it appears on the last equalized assessment roll of the Alameda County Tax Assessor or as otherwise may be known to the Building Official; or
3. constructive public notification, including but not limited to the following:
  - a. publication in a newspaper of general circulation; or
  - b. conspicuous posting on or in the vicinity of the property.

Failure to serve any person required by this Code to be served or failure of such person to receive such notification shall not invalidate any proceedings hereunder as to any other person duly served or relieve any such person from any duty or obligation imposed by this Code.

### **Article III. Fees and Inspections**

#### **Section 15.08.120 General**

No building or structure regulated by this Code shall be erected, constructed, enlarged, altered, repaired, moved, improved, removed, converted, or demolished unless separate permits for each building or structure have first been obtained from the Building Official in the manner and according to the applicable conditions prescribed in the Oakland Building Construction Code and the Oakland Planning Code.

#### **Section 15.08.130 Fees, Costs, Penalties, and Interest**

##### **A. Abatement of Violations**

The fees and costs incurred and the penalties assessed and the interest accrued in obtaining Real Property Ownership Reports, and in repairing, cleaning, remediating, removing, or demolishing a building, structure, or real property, including costs incurred in relocating occupants of the building and in securing a building, structure, or real property from unauthorized access, and in ascertaining violations or affecting abatement thereof and in collecting such fees, costs, penalties, and accruing interest shall be charged against the property and owners.

Such fees, costs, penalties, and accruing interest shall be as established in the Master Fee Schedule of the City of Oakland and may be recovered by all appropriate legal means, including but not limited to nuisance abatement lien, prospective lien and special assessment of the general tax levy, priority lien and special assessment of the general tax levy, or civil and small claims court action brought by the City of Oakland, and combinations of such actions.

The City may recover from the property owner all costs incurred for processing and recording of such liens and special assessments authorized by this Code and for providing notice to the property owner as part of its foreclosure action or for other actions to enforce such liens and special assessments and to recover costs incurred, including attorneys' fees.

#### **B. Demand for Payment**

Prior to recordation of a nuisance abatement lien or a priority lien and special assessment of the general tax levy, the Building Official shall provide the property owner an itemized list of the fees, costs, penalties, and interest accruing to such lien, with a Demand for Payment thereof. Such Demand shall indicate that failure to pay expeditiously will result in a collection action as set forth in this Code.

#### **C. Collection**

Whenever such fees, costs, penalties, and accruing interest are not fully paid within seven (7) calendar days after service of such Demand, the Building Official or the City may undertake collection by one or more of the following means:

##### **1. Priority Lien**

The Building Official or the City may file a certificate of Priority Lien and Special Assessment of the General Tax Levy with the Office of the Alameda County Clerk-Recorder for recordation on the property title which shall be a priority lien against the property described therein until such amounts with accrued interest have been paid in full. The amount of such lien shall draw interest thereon at a rate as established in the Master Fee Schedule or such higher rate as may be established by the Alameda County Tax Assessor and Tax Collector for collection of municipal and county taxes from and after the date of service of the such demand. The statute of limitations shall not run against the right of City of Oakland to enforce payment.

##### **2. Special Assessment of the General Tax Levy**

The Building Official or the City may transmit such amounts with accrued interest to the Alameda County Tax Assessor and Tax Collector, who shall thereupon enter a Special Assessment of the General Tax Levy on the County Assessment Book opposite the description of the particular lot or parcel of land, and such Special Assessment shall be collected together with all other taxes levied against the property. Such Special Assessment shall be subject to the same penalties and interest and to the same procedure under foreclosure and sale, in the case of delinquency, as provided for all other municipal and county taxes against the property, and all laws applicable to the levy, collection, and enforcement of general property taxes are hereby made applicable to such special assessment.

##### **3. Nuisance Abatement Lien**

The Building Official or the City may file a Nuisance Abatement Lien with the Alameda County Clerk-Recorder for recordation on the property title which shall, from the date of recordation, have the force, effect, and priority of a Judgment Lien. Such Nuisance Abatement Lien may be foreclosed by an action brought by the City of Oakland for a money judgment.

**D. Service**

**1. Demand For Payment**

The initial Demand shall be served to the record owner of the property by one or more of the following methods of service:

a. mailing with regular postage to the owner's address as it appears on the last equalized assessment roll of the Alameda County Tax Assessor, or as otherwise may be known to the Building Official; or

b. personnel delivery with acknowledged receipt; or

c. public notification, including but not limited to the following:

i. publication in a newspaper of general circulation; or

ii. conspicuous posting on or in the vicinity of the property.

**2. Nuisance Abatement Lien**

The notice of a Nuisance Abatement Lien shall be served in the same manner as a summons in a civil action in accordance with Article 3 (commencing with Section 415.10) of Chapter 4 of Title 5 of Part 2 of the Code of Civil Procedure. Whenever the record owner cannot be found after diligent search, the notice may be served by posting a copy thereof in a conspicuous place upon the property for not less than ten (10) calendar days and publication thereof in a newspaper of general circulation published in the county in which the property is located pursuant to Government code Section 6062.

Failure to serve any person required by this Code to be served or failure of such person to receive such notification shall not invalidate any proceedings hereunder as to any other person duly served or relieve any such person from any duty or obligation imposed by this Code.

**E. Notice Content**

**1. Prospective Lien and Priority Lien**

Such liens authorized by this Code shall specify the amount of the lien, identify the agency of the City on whose behalf the lien is imposed, identify the street address (where assigned by the City) and parcel number assigned by the Alameda County Tax Assessor of the property on which the

assessment is imposed, and the name and address of the record owner of the property.

## **2. Nuisance Abatement Lien**

Such lien authorized by this Code shall specify the amount of the lien, identify the agency of the City on whose behalf the lien is imposed, the date of the abatement order, the street address (where assigned by the City), the legal description of the property and the parcel number assigned by the Alameda County Tax Assessor on which the lien is imposed, and the name and address of the record owner of the property

### **F. Lien Release**

In the event that a priority lien or a nuisance abatement lien is discharged or satisfied, either through payment in full or foreclosure, a notice of such action shall be filed with the Alameda County Clerk-Recorder for recordation on the property title.

### **Section 15.08.140 Permit Inspection**

Buildings, or structures, portions thereof, and real property within the scope of this Code and all construction or work for which a permit is required shall be subject to inspection by the Building Official in accordance with and in the manner provided by this Code and the Oakland Building Construction Code and the Oakland Planning Code, as currently adopted and amended.

### **Section 15.08.150 Certificate of Occupancy**

#### **A. General**

It shall be unlawful to occupy or otherwise use or let to another for occupancy or other use any building or structure or portion thereof for which a Certificate of Occupancy has not been issued where such Certificate is required by the Oakland Building Construction Code.

A Certificate of Occupancy shall limit the use and occupancy of a building or structure and shall continue as valid until such Certificate is revoked or expires, or until such time as a change in the occupancy or use of the building or structure or a Substandard condition as defined in Article X of this Code shall occur, or until the building or structure is demolished.

A Certificate of Occupancy shall not be construed as authority to violate, cancel, alter, or set aside any of the provisions or requirement of any laws or ordinances of the City of Oakland nor shall such issuance thereafter prevent requiring corrections of errors or of violations of any applicable law or ordinance of the City of Oakland.

#### **B. Issuance**

The record owner of a property or the owner's designated agent may request the re-issuance of a Certificate of Occupancy. At the time of filing of such request, a fee shall be paid as established

in the Master Fee Schedule.

The re-issuance of a Certificate of Occupancy or the renewal of a revoked or expired Certificate of Occupancy shall be approved by the Building Official only after all of the following have been completed:

1. application by the record owner of the property or the owner's designated agent for a Report of Permit Record; and
2. application by the record owner of the property or the owner's designated agent for a Certificate of Occupancy; and
3. application for and issuance of all approvals, valid house numbers and street names, and permits required by the Oakland Building Construction Code and the Oakland Planning Code and Oakland Municipal Code; and
4. execution by the record owner of the property or the owner's designated agent and a prospective purchaser of the property of a Conditions of Compliance agreement, as applicable; and
5. approval of permit final inspections; and
6. approval of Certificate of Occupancy final inspections; and
7. payment of all associated fees, assessments, securities and deposits, penalties, and accrued interest.

A temporary Certificate of Occupancy may be issued for re-occupation or re-use of a building, structure, portion thereof, or real property prior to the completion of the rehabilitation of the building or structure or repair of the real property if the Building Official finds that no substantial hazard will result from the re-occupation or re-use, but such temporary Certificate shall expire at the conclusion of the time limitation set forth therein and thereafter shall be no longer valid.

### **C. Revocation**

An existing or temporary Certificate of Occupancy may be revoked for one or more of the following causes and thereafter no longer be valid:

1. any occupancy or use not specifically authorized by or any violation of or failure to comply with a condition of the issuance of an existing or temporary the Certificate of Occupancy; or
2. continued existence of Substandard and Public Nuisance conditions as defined in Article X of this Code; or
3. discovery of any false statement or misrepresentation made by the applicant; or

4. any condition which jeopardizes the health or safety of the occupants or the public.

Any building or structure for which a Certificate of Occupancy or temporary Certificate of Occupancy has expired or has been revoked may be ordered vacated in accordance with Article XI of this Code.

#### Section 15.08.160 Report of Permit Record

The record owner of a property or the owner's designated agent may request a determination, insofar as ascertainable from available City building and planning permit records, for an existing building or structure of its approved occupancy or use, the number of approved dwelling units, the number and designations of approved habitable rooms or spaces, and the valid house number or numbers and street name. At the time of tiling of such request, a fee shall be paid as established in the Master Fee Schedule.

Additional relevant information may also be requested pertaining to the date and type of original construction; previously approved occupancy or use; the number of approved parking spaces and accessory buildings on the lot or parcel; previous permit applications and associated approvals, variances, and final inspections; previous Certificates of Occupancy; and retained plot plans, construction plans, and engineering and inspection reports.

### Article IV Definitions

#### Section 15.08.170 Definitions (HSC Section 17910, et. seq.)

For the purpose of this Code, certain terms, phrases, words, and their derivatives shall be construed as specified either in this Section or as specified in the Oakland Building Construction Code. Where terms are not defined, they shall have their ordinary accepted meanings within the context with which they are used. *Webster's Third New International Dictionary of the English Language, Unabridged*, copyright 1986, shall be considered as providing ordinary accepted meanings. Words in the singular include the plural and the plural the singular. Words used in the masculine gender include the feminine and the feminine the masculine.

**ACCESSORY BUILDING** is a detached subordinate building, the use of which is customarily incidental to that of the main building or the main use of the land and which is located on the same lot or parcel with the main building of use.

**APARTMENT HOUSE** is a residential building or portion thereof which contains three or more dwelling units and, for the purposes of this Code, includes residential condominiums and Joint Live Work Quarters and Urban Core/ Conversion Residence Quarters as defined in the Oakland Building Code.

**BEDROOM** is a sleeping room having a minimum 2 feet 4 inches wide by 6 feet 8 inches high

door opening communicating directly with other internal areas of a dwelling unit and containing a separate closet.

**BUILDING CODE** is the Oakland Building Construction Code, as currently adopted and amended.

**BUILDING OFFICIAL** is the Deputy Director - Building Services, of the Department of Building and Planning of the City of Oakland, or his or her designee, and his or her successor in title.

**COMMUNITY KITCHEN** is a kitchen in a hotel or lodging house used individually or collectively by the occupants, but not used commercially to serve a dining room or the public.

**CONGREGATE RESIDENCE** is any residential building or portion thereof that contains facilities for living, sleeping and sanitation, as required by this Code, and may include facilities for eating and cooking, for occupancy by other than a family. A congregate residence may be a shelter, convent, monastery, dormitory, fraternity or sorority house, but does not include jails, hospitals, nursing homes, hotels, motels, or lodging houses.

**COURT** is a space, open and unobstructed to the sky, located at or above finished grade on a lot and bounded on three or more sides by walls of a building.

**DWELLING** is a residential building or portion thereof which contains not more than two dwelling units.

**DWELLING UNIT** is a residential building, or portion thereof, which contains living facilities, including provisions for sleeping, eating, cooking, and sanitation for not more than one family or a congregate residence for not more than 10 persons.

**EFFICIENCY DWELLING UNIT** is a dwelling unit containing only one habitable room and meeting the requirements of Section 15.08.210.B, Exception 1, of this Code.

**FIRE CHIEF** is the Chief of the Fire Services Agency of the City of Oakland, or his or her designee, and his or her successor in title.

**GUEST ROOM** is a room or rooms used or intended to be by used for sleeping purposes by a person hiring or occupying the room or rooms. Every 100 square feet of superficial floor area in a dormitory shall be considered to be a guest room.

**HABITABLE SPACE (ROOM)** is space in a residential building or structure intended or used for living, sleeping, eating, or cooking. Bathrooms, water closet compartments, closets, halls, storage or utility space, and similar areas are not considered habitable space.

**HEALTH OFFICER** is head of the Department of Environmental Health of Alameda County, or his or her designee.



**HEARING EXAMINER** is a person who is qualified by training and experience to conduct administrative hearings of appeals in accordance with Article IX of this Code.

**HOT WATER** is portable water supplied to plumbing fixtures at a temperature of not less than 110<sup>0</sup> F.

**HOTEL (MOTEL)** is a residential building containing six or more guest rooms intended or designed to be used, or which are used, rented, or hired out to be occupied, or which are occupied for sleeping purposes by guests.

**HOUSEKEEPING ROOM** is a dwelling unit containing only one habitable room and meeting the requirements of Section 15.08.210.B, Exception 2, of this Code.

**LODGING HOUSE** is any building or portion thereof containing not more than five guest rooms where rent is paid in money, goods, labor, or otherwise.

**LOT** is a subdivided piece or parcel of land fronting on a public street or a private access easement and described by reference to a recorded plat or by metes and bounds.

**MECHANICAL CODE** is the Oakland Building Construction Code, as currently adopted and amended.

**NUISANCE** is one or more of the following:

1. a public nuisance known at common law or in equity jurisprudence;
2. an attractive nuisance that may prove detrimental to children whether in a building, on the premises of a building, or on an unoccupied lot, including but not limited to, an abandoned well, shaft, basement, pool or pond, or excavation; an abandoned refrigerator or motor vehicle; a structurally unsound fence or structure; lumber, trash, fence, debris, or vegetation; or narcotics or other controlled substances and related paraphernalia that may prove a hazard for inquisitive minors;
3. whatever is unsafe to life and limb, as determined by the Building Official or the Fire Chief, or detrimental to public health or the health of the occupants, as determined by the Health Officer;
4. overcrowding a room with occupants;
5. insufficient ventilation or illumination;
6. inadequate or unsanitary sewage disposal system or plumbing facilities;
7. uncleanliness, as determined by the Health Officer;

8. whatever renders air, food or drink unwholesome or detrimental to the health of human beings, as determined by the Health Officer.

**OCCUPANT** is any person using any building or structure or portion thereof as habitable space, with or without the knowledge or consent of the property owner.

**OPEN STORAGE** is storage on private property other than in a completely enclosed building. Materials shall be deemed to be held in Open Storage even though screened from public view, or view of residents of adjacent property, by a fence or other such partition.

**OPERATOR** is any person who has charge, care, or control of a building, or part thereof, in which dwelling units or guest rooms are let.

**PLUMBING CODE** is the Oakland Building Construction Code, as currently adopted and amended.

**PUBLIC CORRIDOR (HALLWAY)** is an enclosed, continuous and unobstructed means of egress to a public way which includes an intervening hallway, passageway, vestibule, stairway, landing, or platform within a building, but not within any apartment, guest room, or suite of rooms.

**RECYCLABLES** are materials, goods, vehicles, machinery, appliances, products or articles, either new or used, with or without monetary value, which are suitable for re-use.

**RESIDENTIAL BUILDING** is a building or structure, or portion thereof, which is used or designed or intended to be used for human habitation including living, sleeping, cooking or eating or any combination thereof

**ROOM** is an unsubdivided and enclosed portion of the interior of a building but not including an enclosed show window.

**RUBBISH** is combustible and noncombustible waste material, other than garbage (solid organic waste), including, but not limited to, paper stock, rags, cartons, boxes, wood, excelsior, rubber, leather, vegetation trimmings and cuttings, cans, metal, mineral matter, glass, crockery, dust, and the residue from burning wood, coal, or coke.

**SLEEPING ROOM** is a habitable room in a residential building which does not contain a water heater, water closet, bidet, bathtub, shower receptor, clothes washer or dryer, or food cooking appliance; and does not open directly into a garage or carport; and otherwise meets minimum standards of health and safety for sleeping as determined by the Building Official.

**VENT SHAFT** is a court which is used to ventilate a water closet, bath, shower receptor, utility room or other service room.

**WINDOW** is a glazed exterior opening, including a glazed door, which opens onto a yard, court, or a vent shaft.

**YARD** is an open space, other than a court, unobstructed from the ground to the sky, except where specifically provided by this Code, on the lot on which a building is situated.

**SECTION 15.08.180 Oakland Building Construction Code Definitions**

Wherever terms, phrases, words, and their derivatives in this Code are not defined herein but are defined in the Oakland Building Construction Code, such definitions in the Oakland Building Construction Code shall control.

**ARTICLE 2. Non-Administrative (Technical) Amendments**

**Article V. Habitable Space**

**Section 15.08.190 Scope**

This Article shall apply to all residential buildings and structures and to non-residential buildings and structures as specifically indicated.

**Section 15.08.200 Yards and Courts**

**A. Location on Property (HSC 17910 et seq.)**

Residential buildings and structures shall be located with respect to property lines and to other buildings on the same property as required by the Oakland Building Construction Code and as permitted by applicable codes at the time of construction.

**B. Yards**

Every yard having required residential window openings therein shall be not less than 3 feet in width for one- and two-story buildings. For residential buildings and structures more than two stories in height, the minimum width of the yard shall be increased at the rate of 1 foot for each additional story. Where yards completely surround the building, the required width may be reduced by 1 foot. For residential buildings and structures exceeding 14 stories in height, the required width of yard shall be computed on the basis of 14 stories.

**C. Courts**

Every court having required residential window openings therein shall be not less than 3 feet in width. Courts having windows opening on opposite sides shall be not less than 6 feet in width. Courts bounded on three or more sides by the walls of the building shall be not less than 10 feet

in length unless bounded on one end by a public way or yard. For residential buildings and structures more than two stories in height, the court shall be increased 1 foot in width and 2 feet in length for each additional story. For residential buildings and structures exceeding 14 stories in height, the required dimensions shall be computed on the basis of 14 stories.

Adequate access shall be provided to the bottom of all such courts for cleaning purposes. Every court more than two stories in height shall be provided with a horizontal air intake at the bottom not less than 10 square feet in area and leading to the exterior of the building unless abutting a yard or public way. The construction of the air intake shall be as required for the court walls of the building, but in no case shall be less than one-hour fire-resistive.

## **Section 15.08.210 Room Dimensions**

### **A. Ceiling Heights**

Habitable space in residential buildings and structures shall have a ceiling height of not less than 7 feet 6 inches except as otherwise permitted in this Section. Kitchens, halls, bathrooms and toilet compartments may have a ceiling height of not less than 7 feet measured to the lowest projection from the ceiling. Where exposed beam ceiling members are spaced at less than 48 inches on center, ceiling height shall be measured to the bottom of these members. Where exposed beam ceiling members are spaced at 48 inches or more on center, ceiling height shall be measured to the bottom of the deck supported by these members, provided that the bottom of the members is not less than 7 feet above the floor.

If any such room has a sloping ceiling, the prescribed ceiling height of the room is required in only one-half the area thereof. No portion of the room measuring less than 5 feet from the finished floor to the finished ceiling shall be included in any computation of the minimum area thereof.

If any such room has a furred ceiling, the prescribed ceiling height is required in two-thirds the area thereof, but in no case shall the height of the furred ceiling be less than 7 feet.

### **B. Floor Area**

Dwelling units and congregate residences shall have at least one habitable room that shall have not less than 120 square feet of floor area. Other habitable rooms, except kitchens, shall have an area of not less than 70 square feet. Where more than two persons occupy a room used for sleeping purposes, the required floor area shall be increased at the rate of 50 square feet for each occupant in excess of two.

#### **Exception:**

1. Efficiency Dwelling Unit meeting the following requirements:
  - a. The unit shall have a combined living, eating, and sleeping room of not less than 220 square

feet of superficial floor area. An additional 100 square feet of superficial floor area shall be provided for each occupant of such unit in excess of two.

- b. The unit shall be provided with a separate closet.
- c. The unit shall be provided with an approved kitchen sink, non-portable cooking appliance and refrigeration appliance in close proximity to each other, each having a clear working space of not less than 30 inches in front. Light and ventilation conforming to this Code shall be provided.
- d. The unit shall be provided with an approved cabinet adjacent to the kitchen sink for storing food, crockery, cutlery, and cooking utensils; and
- e. The unit shall be provided with a separate bathroom containing a water closet, lavatory and bathtub or shower receptor.

**2. Housekeeping Room meeting the following requirements:**

- a. The unit shall have a combined living, eating, and sleeping room of not less than 150 square feet of superficial floor area. The unit shall be occupied by not more than one person.
- b. The room shall be provided with an approved kitchen sink, non-portable cooking appliance, and refrigeration appliance in close proximity to each other and having a clear working space of not less than 30 inches in front and used solely by the occupant of the room for preparation of the occupant's food. Light and ventilation conforming to this Code shall be provided.
- c. The room shall be provided with an approved cabinet adjacent to the kitchen sink for storing food, crockery, cutlery, and cooking utensils.
- d. Where a separate bathroom containing a water closet, lavatory, and bathtub or shower receptor is not provided within the unit, the residential building shall have at least one water closet and lavatory and at least one bathtub or shower receptor in separate compartments on a public corridor for each four or fraction part thereof Housekeeping Rooms on a floor.

**C. Width**

No habitable room other than a kitchen shall be less than 7 feet in any horizontal dimension.

Each water closet stool shall be located in a clear space not less than 30 inches in width and a clear space in front of the water closet stool of not less than 24 inches shall be provided.

**Section 15.08.220 Light and Ventilation (HSC Section 17910 et seq.)**

**A. General**

For the purposes of determining the light or ventilation required by this section, any habitable room may be considered as a portion of an adjoining habitable room when one-half of the area of the common wall is open and unobstructed and provides an opening of not less than one-tenth of the floor area of the interior room or 25 square feet, whichever is greater.

Exterior opening for natural light or ventilation required by this Section shall open directly onto a public right-of-way or a yard or court located on the same lot as the residential building or structure.

**Exception:**

1. Required windows may open into a roofed porch where the porch:
  - a. abuts a public way, yard or court; and
  - b. has a ceiling height of not less than 7 feet; and
  - c. has a longer side at least 65 percent open and unobstructed.
2. Skylights

**B. Light**

Habitable rooms shall be provided with natural light as required by the Oakland Building Construction Code.

**C. Ventilation**

Habitable rooms shall be provided with natural ventilation as required by the Oakland Building Construction Code.

In lieu of required openable exterior openings for natural ventilation, a mechanical ventilating system as required by the Oakland Building Construction Code may be provided laundry rooms, bathrooms and water closet compartments, and in public corridors.

**D. Corridors**

All public corridors, stairs, and other exitways shall be adequately lighted at all times in accordance with the Oakland Building Construction Code

**Section 15.08.230 Sanitation (HSC Section 17910, et seq.)**

**A. Dwelling Units, Lodging Houses, and Congregate Residences**

Dwelling units, lodging houses, and congregate residences shall be provided with a bathroom equipped with plumbing fixtures consisting of a water closet, lavatory and either a bathtub or a shower receptor.

## **B. Hotels and Motels**

Hotels and motels or subdivisions thereof where both genders are accommodated shall contain at least two separate toilet facilities that are conspicuously identified for male or female use, each of which contains at least one water closet.

**Exception:** Guest rooms may have one unidentified toilet facility.

Additional water closets shall be provided on each floor for each gender at the rate of one for every additional 10 guests, or fractional part thereof, in excess of 10.

## **C. Kitchen**

Each dwelling unit shall be provided with a kitchen. Every kitchen shall be provided with an approved kitchen sink, cooking appliance, refrigeration appliance and cabinet for storing food, crockery, cutlery, and cooking utensils. Wooden sinks or sinks of similarly absorbent material shall not be permitted. Drainboards shall be maintained water-proofed.

## **D. Plumbing Fixtures**

All plumbing fixtures shall be approved and connected to an approved sanitary sewer. All plumbing fixtures shall be connected to an approved system of potable water supply and provided with hot and cold running water necessary for its normal operation.

## **E. Water Closet Compartments**

Walls and floors of water closet compartments, except in dwellings, shall be finished in accordance with the Oakland Building Construction Code.

## **F. Room Separations**

Every water closet, bathtub or shower receptor required by this Code shall be installed in a room that will afford privacy to the occupant.

## **G. Sanitary Facilities**

All sanitary facilities, including but not limited to plumbing fixtures, sanitary sewer, and garbage receptacles, shall be installed and maintained in a safe and sanitary condition and in accordance with applicable requirements of the Oakland Building Construction Code and Oakland Municipal Code.

## **H. Basements**

Window wells for habitable space in basements of residential buildings or structures shall conform with the requirements of the Oakland Building Construction Code.

## **I. Subdivision of Rooms**

No portion of any room in a dwelling, dwelling unit, efficiency dwelling unit, housekeeping room, apartment house, lodging house, congregate residence, hotel, or motel shall be enclosed or subdivided, wholly or in part by a curtain, portiere, fixed or movable partition or other contrivance or device so as to reduce the minimum floor area and width required by this Code.

## **J. Kitchen Separation**

Every kitchen shall be separated from a sleeping room by a floor-to-ceiling partition with an opening not greater than 21 square feet unless such opening is closed with a tight-fitting door or doors.

**Exception:** Housekeeping rooms and efficiency dwelling units.

## **K. Guest Room Cooking**

Food shall not be cooked or otherwise prepared in a guest room except in a kitchen.

**Exception:** Microwave oven used solely to heat pre-prepared food.

## **L. Prohibited Use**

No person shall use or occupy or allow another person to use or occupy any residential or non-residential building or structure or portion thereof for living, sleeping, cooking, or eating purposes unless such space or room or rooms conform with the requirements of this Code for habitable space and of the Oakland Planning Code.

## **M. Lot Drainage**

All portions of a lot surrounding a residential or non-residential building or structure, including but not limited to yards, courts, driveways, areaways, parking areas, vent shafts, and passageways, shall be graded and drained to an approved facility to preclude the ponding or retention of surface water.

**Exception:** Group R, Division 3 occupancy

Surface water and its collection system shall not be drained or connected to a sanitary sewer system.

## **N. Lot Surfacing**

Whenever necessary for proper sanitation or for the protection of the health of the occupants, portion or portions of a lot surrounding a residential building or structure, including but not



limited to yards, courts, driveways, areaways, parking areas, vent shafts, and passageways, shall be surfaced with an approved hardened material such as portland cement concrete or asphalt concrete.

## **O. Room Finishes**

Walls and ceilings of habitable rooms in residential buildings or structures shall be finished, sealed, coated, or covered in an approved manner. Approved materials shall be applied as required to maintain surfaces clean and sanitary. Exterior walls or portions thereof and floors of habitable rooms below surrounding finished grade level shall be maintained water-proof. Walls of courts and vent shafts shall be painted and maintained light-colored.

## **P. Garbage Receptacles**

Approved solid waste (garbage) receptacles and adequate collection service for residential and non-residential buildings and structures shall be provided as required by Chapter 8.28 (Solid Waste Collection and Disposal and Recycling) of the Oakland Municipal Code.

Garbage receptacles and garbage chutes, shafts, covers, and doors shall be maintained clean and tightly closed. Garbage receptacles shall be stored in an approved location.

Garbage chutes and shafts and walls of closets, compartments, and rooms used for storing garbage receptacles in residential and non-residential buildings or structure shall be concrete, concrete block, or lined with galvanized metal.

## **Q. Vector Control**

### **1. General**

Every room, corridor, hallway, passageway, stairway, wall, partition, ceiling, floor, skylight, glass window, door, carpet, rug, matting, window curtain or shade or drapery, water closet compartment, toilet room, bathroom, slop sink room, crawl space, washroom, plumbing fixture, drain, roof, closet, cellar, basement, yard, court, and the premises of every residential and non-residential building or structure shall be kept in every part clean, sanitary, and free from all accumulation debris, filth, rubbish, garbage and other offensive matter, insects, rodents and other vector.

Neither any article that is dangerous or detrimental to life and limb or to the health of occupants; nor any feed, hay, straw, excelsior, cotton, paper stock, rags, junk, or any other material that may create a fire hazard or provide harborage for rodents or other vector, shall be kept, stored, or handled in any part of a dwelling, dwelling unit, lodging house, apartment house, congregate residence, hotel, or motel, or of the lot on which such building is located, except upon written permit obtained from the officer or agency authorized by law to issue such permit.

### **2. Openings and Penetrations**

Residential and non-residential buildings or structures used for the following activities or occupancies shall be constructed and maintained impervious to the ingress of insects, rodents, and other vector:

- a. Group 1 and Group R, Division 1, and Group R, Division 3 occupancies;
- b. storing, processing, packaging, or milling of food, meats, fats, oils, dairy products, hay, straw, grain, or feed;
- c. raising or housing chickens, birds, poultry, horses, cows, sheep, goats, swine, or other fowl, animals livestock, or domestic pets

Foundations and foundation walls shall extend for the full perimeter of building or structure and shall be constructed of concrete or masonry.

**Exception:** Type V construction with a floor area not greater than 120 square feet, provided that the floor joists of such a building or structure have not less than 18 inches clearance above the ground and that the exterior perimeter of the underfloor area is fully open on three or more sides and that the underfloor area is maintained clear and free of storage and of debris, vegetation, and other materials.

Foundation wall openings for underfloor access and ventilation shall conform with the requirements of the **Oakland Building Code**.

Chimneys, piping, ducting, and other penetrations of the basement and first floor shall have metal shields which tightly encircle the penetration and underlay the flooring.

Stores and warehouses shall have concrete floors. Interior surfaces of exterior walls of stores shall be covered with gypsum wallboard or plaster.

## **R. Operator**

The owner or manager, custodian, housekeeper, or homeowners' association representative or other responsible person shall reside or maintain continuous (24-hour) attendance upon the premises and shall have charge of every hotel or motel with 12 or more guest rooms or apartment house, Joint Live Work Quarters, Conversion Residence Quarters, or residential condominium with sixteen or more dwelling units. A notice displaying the name, address, and telephone number of the owner or the owner's designated agent shall be prominently posted in a conspicuous place on the premises of every apartment house having more than three but less than sixteen dwelling units and every hotel and motel having more than three but less than twelve guest rooms and in every lodging house having more than three guest rooms.

## **Section 15.08.240 Security**

Windows, exit doors, fire doors, penthouse doors, and roof scuttles in residential and non-residential buildings and structures shall conform with the requirements of the Oakland Building Code for locking devices, exiting and emergency escape, and security bars and grills and shall be maintained unobstructed and in proper repair and good working order.

Windows in residential buildings and structures which are within 6 feet vertically of finished grade or are accessible from a one-story porch, roof or other fixed appurtenance shall be provided with approved locking devices and maintained in proper repair and good working order.

## **Article VI. Structural**

### **Section 15.08.250 General (HSC Section 17910, et seq.)**

#### **A. General**

Building or structures may be of any type of construction permitted by the Oakland Building Construction Code. Roofs, floors, walls, foundations, and all other structural components of building and structures shall be capable of resisting any and all forces and loads to which they may be subjected. All structural elements shall be proportioned and joined in accordance with the stress limitations and design criteria as specified in the appropriate sections of the Oakland Building Construction Code. Buildings of every permitted type of construction shall comply with the applicable requirements of the Oakland Building Construction Code.

#### **B. Shelter**

Every building or structure shall be weather protected to provide shelter for the occupants against the elements and to exclude dampness.

#### **C. Protection of Materials**

All wood shall be protected against insect damage and decay as provided in the Oakland Building Construction Code.

## **Article VII. Mechanical and Electrical**

### **Section 15.08.260 Mechanical and Electrical Systems (HSC Section 17910 et seq.)**

#### **A. Heating System**

All habitable space shall be provided with heating facilities capable of maintaining a room temperature of 70<sup>0</sup> F at a point 3 feet above the floor. Such facilities shall be installed and maintained in a safe condition and in accordance with the Oakland Building Construction Code and all other applicable laws. Unvented heaters shall not be permitted. All heating devices or

appliances shall be of an approved type.

When room heating facilities are not under direct control of the tenant or occupant, the property owner shall continually operate such facilities to maintain a room temperature of 70<sup>0</sup> F at point 3 feet above the floor 24 hours-a-day in all habitable space.

Each tenant or occupant shall have independent thermostatic control of the room temperature.

#### **B. Ventilation System**

Ventilation for habitable rooms, water closet compartments, bathrooms, laundry rooms, and public corridors and similar areas and for fuel-burning appliances shall be provided as required in the Oakland Building Construction Code and in this Code. Where mechanical ventilation is provided in lieu of the natural ventilation required by Section 15.08.220 of this Code, such mechanical ventilating system shall be maintained in operation during the occupancy of any building or portion thereof

#### **C. Electrical System**

All electrical equipment, wiring, appliances, and fixtures shall be installed and maintained in a safe manner in accordance with the Oakland Building Construction Code and other all applicable laws. All electrical equipment, wiring, and fixtures shall be of an approved type. Where there is electrical power available within 300 feet of any residential building or structure, such building or structure shall be connected to such electrical power.

Every habitable room shall contain at least two electrical convenience receptacles or one convenience receptacle and one switched electric light fixture. Every water closet compartment, bathroom, laundry room, furnace room, and public corridor shall contain at least one switched electric light fixture. Switching devices controlling electrical equipment, appliances, and fixtures shall be of an approved type and shall not be readily accessible to a bathtub or shower receptor.

### **Article VIII. Exiting**

#### **Section 15.08.270 General**

Rooms shall have access directly to the outside or to a public corridor. All residential and non-residential buildings and structures or portions thereof shall be provided with exits, exitways, and appurtenances as required by the Oakland Building Construction Code.

Sleeping rooms below the fourth story shall have at least one operable window or exterior door approved for emergency escape or rescue. The units shall be operable from the inside to provide a full clear opening without the used of separate tools.

#### **Section 15.08.280 Fire Assemblies**

Fire assemblies which customarily or repeatedly are maintained in an open position shall have automatic closing devices installed and properly maintained in working order.

**Section 15.08.290 Transoms**

All Group R, Division 1 and Division 2 occupancies shall have no transoms, windows or similar fenestration from dwelling units or guest rooms opening onto a public corridor. All such existing openings shall be fixed in a closed position and covered with a minimum of 0.75 inch thick plywood or 0.5 inch thick gypsum wallboard or equivalent material.

**Section 15.08.300 Wooden Stairs**

No closet or other storage compartment shall be constructed under any wooden interior or exterior stair or landing in a Group R, Division 1 or Division 2 occupancy more than two stories in height. Such space shall be entirely open and maintained free of all storage, utility meters, heating facilities, and similar encumbrances, unless such space is enclosed as required by the Oakland Building Construction Code for a stairway enclosure without doors or other openings communicating with interior spaces.

**Article IX. Fire Protection**

**Section 15.08.310 General**

All residential and non-residential buildings or structures or portions thereof shall be provided with the degree of fire-resistive construction as required by the Oakland Building Construction Code of the appropriate occupancy, type of construction, and location on the property, and shall be provided with the appropriate fire-extinguishing systems or equipment required by the Oakland Fire Code and the Oakland Building Construction Code

**Section 15.08.320 Smoke Detectors**

Where installed in residential buildings or structures, approved devices used to detect the products and components of combustion (smoke detectors) shall have captive screws or other approved method to preclude unauthorized tampering or removal of the device and shall be maintained in proper working order.

**Article X. Substandard and Public Nuisance Buildings**

**Section 15.08.340 Definitions**

**A. General**

Any residential or non-residential building, structure, or portion thereof which is determined to be an Unsafe in accordance with the Oakland Building Construction Code; or any residential or non-residential building, structure or portion thereof, including but not limited to any dwelling unit, guest room or suite of rooms, commercial office or retail sales space, classroom or associated locker room or toilet room, assembly space, or any real property in which there exists any of the conditions referenced in this Section to an extent that is Unsafe to the life, limb, health, property, safety or welfare of the public or the occupants thereof shall be deemed and hereby is declared to be Substandard and a Public Nuisance.

#### **B. Inadequate Sanitation**

Residential and non-residential buildings, structures, or portions thereof shall be deemed Substandard and a Public Nuisance when they are unsanitary. Inadequate sanitation shall include, but not be limited to, the following:

1. Lack of, or improper water closets, lavatory, bathtub, or shower receptor in a dwelling unit, congregate residence, or lodging house.
2. Lack of, or improper water closets, lavatories, and bathtubs or shower receptors per number of guests in a hotel (motel).
3. Lack of, or improper kitchen sink in a dwelling unit.
4. Lack of, or inadequate hot and cold running potable water to plumbing fixtures in a hotel residential occupancy.
5. Lack of or inadequate running potable water to plumbing fixtures in a non-residential occupancy.
6. Lack of, or inadequate, or improper operation of heating system required by this Code or the Oakland Building Construction Code.
7. Lack of, or inadequate, or improper operation of ventilating system required by this Code or the Oakland Building Construction Code.
8. Lack of minimum amounts of natural light and ventilation required by this Code.
9. Room and space dimension less than required by this Code or the Oakland Building Construction Code.
10. Lack of, or improper, electrical lighting required by this Code or the Oakland Building Construction Code.
11. Dampness of habitable rooms or classrooms and associated locker rooms, toilet rooms, and assembly areas.

12. Infestation of insects, vermin, rodents, or other vector.
13. General dilapidation or improper maintenance.
14. Lack of, or improper connection to approved sanitary sewer system.
15. Lack of, or inadequate, or improper operation of garbage and rubbish storage and removal facilities.

### C. Structural Hazards

Residential and non-residential buildings or structures or portions thereof shall be deemed Substandard and a Public Nuisance when they are or contain structural hazards. Structural hazards shall include, but not be limited to, the following:

1. Deteriorated, damaged, or inadequate foundations.
2. Defective, damaged, or deteriorated flooring, floor supports, stairs and landings, or balconies and their load-bearing connections.
3. Flooring, floor supports, stairs and landings, or balconies and their load-bearing connections of insufficient size to carry imposed loads with safety.
4. Members of walls, partitions, posts and columns, moment-resisting frame, or other vertical supports and their load bearing connections that split, lean, list, fracture, or buckle due to defective material, damage, or deterioration.
5. Members of walls, partitions, posts and columns, moment-resisting frame, or other vertical supports and their load bearing connections that are of insufficient size to carry imposed loads with safety.
6. Members of ceilings, roofs, ceiling and roof supports, or other horizontal members and their load bearing connections which sag, split, fracture, or buckle due to defective material, damage, or deterioration.
7. Members of ceilings, roofs, ceiling and roof supports, or other horizontal members and their load bearing connections that are of insufficient size to carry imposed loads with safety.
8. Fireplaces or chimneys which list, bulge or settle due to defective material, damage, or deterioration.
9. Fireplaces or chimneys which are of insufficient size or strength to carry imposed loads with safety.

#### **D. Nuisance**

Buildings, structures, portions thereof, or real property in which there exists any nuisance as defined in this Code are deemed Substandard and a Public Nuisance.

#### **E. Hazardous Electrical Wiring and Equipment**

Electrical wiring and equipment which was installed in violation of code requirements in effect at the time of installation or electrical wiring and equipment not installed in accordance with generally accepted construction practices in area where no codes were in effect or which has not been maintained in good conditions or which is not being used in a safe manner shall be considered Substandard and a Public Nuisance.

#### **F. Hazardous Plumbing**

Plumbing which was installed in violation of code requirements in effect at the time of installation or plumbing not installed in accordance with generally accepted construction practices in areas where no codes were in effect or which has not been maintained in good condition or which is not free of cross-connections or siphonage between fixtures shall be considered Substandard and a Public Nuisance.

#### **G. Hazardous Mechanical Equipment**

Mechanical equipment which was installed in violation of code requirements in effect at the time of installation or mechanical equipment not installed in accordance with generally accepted construction practices in areas where no codes were in effect or which has not been maintained in good and safe condition shall be considered Substandard and a Public Nuisance.

#### **H. Faulty Weather Protection**

Residential and non-residential buildings or structures or portions thereof shall be considered Substandard and a Public Nuisance when they have faulty weather protection which shall include, but not be limited to, the following:

1. Deteriorated, crumbling or loose plaster or gypsum wallboard.
2. Deteriorated or ineffective waterproofing of exterior walls, roof, foundations or floors, including broken windows or doors.
3. Defective or lack of weather protection for exterior wall coverings, including lack of paint, or weathering due to lack of paint or other approved protective covering.
4. Broken, rotted, split or buckled exterior wall coverings or roof coverings.

#### **I. Fire Hazard**



Any residential or non-residential building, structure, or portion thereof, device, apparatus, equipment, combustible waste or vegetation which, in the opinion of the Fire Chief, is in such a condition as to cause a fire or explosion or provide a ready fuel to augment the spread and intensity of fire or explosion arising from any cause shall be considered a Substandard and a Public Nuisance.

**J. Faulty Materials of Construction**

The use of materials of construction, except those which are specifically allowed or approved by this Code and the Oakland Building Construction Code, and which have been adequately maintained in good and safe condition, shall cause a residential or non-residential building or structure to be Substandard and a Public Nuisance.

**K. Hazardous or Unsanitary Premises**

The accumulation of weeds, vegetation, junk, dead organic matter, debris, garbage, offal, rat harborages, stagnant water, combustible materials, surface or subsurface toxic substances, storage or use of chemicals, gas, oil or toxic or flammable liquids, and similar materials or conditions on a premises constitutes fire, health or safety hazards which shall be abated in accordance with the procedure specified in Section 15.08.350 of this Code.

**L. Inadequate Exits**

Except for those buildings or structures or portions thereof which have been provided with adequate exit facilities conforming to the provisions of this Code, residential and non-residential buildings or structures or portions thereof whose existing facilities were installed in violation of code requirements in effect at the time of their construction or whose exit facilities have not been increased in number or width in relation to any increase in occupant load due to alterations, additions or change in use or occupancy subsequent to the time of construction shall be considered Substandard and a Public Nuisance,

Notwithstanding compliance with code requirements in effect at the time their construction, residential and non-residential buildings or structures or portions thereof shall be considered Substandard and a Public Nuisance when the Building Official finds that an unsafe condition exists through an improper location of or length of travel to required exits, or a lack of an adequate number or width of required exits, or when other conditions exist which are dangerous to human life including, but not limited to, lack of or unapproved or improperly installed or improperly maintained illumination of required exits, directional signage to required exits, door and window release and security devices, and other obstructions to or within the exiting path of travel or emergency escape.

**M. Inadequate Fire-Protection or Firefighting Equipment**

Residential and non-residential buildings or structures or portions thereof shall be considered

Substandard and a Public Nuisance when they are not provided with the fire-resistive construction or fire-extinguishing systems or equipment required by this Code, except those buildings or structures or portions thereof which conformed with all applicable laws at the time of their construction and whose fire-resistive integrity and fire-extinguishing systems or equipment have been adequately maintained and improved in relation to any increase in occupant load, alteration or addition, or any change in occupancy.

**N. Improper Occupancy**

All residential and non-residential buildings or structures or portions thereof which were not designed or intended to be used or approved for their current occupancies shall be considered Substandard and a Public Nuisance.

**O. Lateral Stability (HSC Section 17920.3)**

Inadequate structural resistance to horizontal forces.

**P. Geotechnical Instability**

In-situ geology or changes or improvements to the in-situ topography which causes subsidence or a landslide and which becomes a hazard to adjacent properties or the public right-of-way or public easement.

**ARTICLE 3. Administrative Amendments**

**Article XI. Declaration of Public Nuisance - Substandard**

**Section 15.08.350 General**

**A. Commencement of Proceedings**

When the Building Official has inspected or caused to be inspected residential or non-residential buildings or structures or portions thereof and has found and determined that such buildings or structures or portions thereof are Substandard and a Public Nuisance, the Building Official shall commence proceedings to cause the vacation and either the repair and rehabilitation or demolition of the building or structure or portion thereof

**B. Declaration**

The Building Official shall issue a Declaration of Public Nuisance - Substandard directed to the record owner of the property. The Declaration shall contain:

1. The street address and a legal description sufficient for identification of the premises upon which the building or structure is located.

2. A statement that the Building Official has found the building or structure or portion thereof to be Substandard and a Public Nuisance with a brief and concise description of the conditions found to render the building or structure or portion thereof Unsafe under the provisions of Section 15.08.340.A of this Code.

3. A statement of the action required to be taken as determined by the Building Official.

a. The Declaration shall require that all required permits be secured therefore and the work either for repair and rehabilitation or for demolition physically be commenced within 30 calendar days from the date of the Declaration and be completed within 60 calendar days from the date of commencement of work. The Building Official may grant extensions to the permit issuance and completion requirements specified herein as may be reasonable under all of the circumstances

b. If the Building Official has determined that the building or structure must be vacated as provided in Section 15.08.380 of this Code, the Declaration shall require that the building or structure shall be vacated within a certain time from the date of the Declaration as determined by the Building Official to be reasonable.

4. Statements advising that if required repair and rehabilitation or demolition work (without vacation also being required) is not commenced within the time specified, the Building Official:

a. will order the building or structure vacated and posted to prevent further occupancy until the work is completed; and

b. may proceed to cause the demolition work to be done and charge the costs thereof against the property and the record owner.

5. Statements advising:

a. that any person having record title in the building or structure may appeal from the Declaration of the Building Official to the Hearing Examiner, provided that the appeal is made in writing as provided in Section 15.08.410 of this Code; and that fees are paid as established in the Master Fee Schedule; and that the appeal is received by the Building Official within ~~30~~ 14 calendar days from the date of service of such Declaration, or such other time period as provided for herein whenever conditions exist which are Dangerous or an Imminent Hazard as provided in Section 15.08.380 of this Code; and

b. that failure to appeal will constitute a waiver of all right to an administrative hearing and determination of the matter.

### C. Method of Service

The Declaration of Public Nuisance - Substandard, and any amended or supplemental Declaration, shall be served as provided in Section 15.08.110.B of this Code upon the record owner, and one copy thereof shall be served by mailing with regular postage on each of the

following if known to the Building Official or disclosed from official public records:

1. the holder of any mortgage of deed of trust or other lien or encumbrance of record; and
2. the owner or holder of any lease of record; and
3. the holder of any other estate or legal interest of record in or to the building or the land on which it is located.

The failure of the Building Official to serve any person required herein to be served shall not invalidate any proceedings hereunder as to any other person duly served or relieve any such person from any duty or obligation imposed by the provisions of this Section.

#### **Section 15.08.360 Recordation of Declaration**

If compliance is not had with the Declaration of Public Nuisance - Substandard within the time specified therein, and no appeal has been properly and timely received, the Building Official shall file in the Office of the Alameda County Clerk-Recorder a certificate describing the property and certifying the following:

1. that the building or structure is Substandard and a Public Nuisance; and
2. that the record owner of the property has been so notified.

Whenever the corrections ordered shall thereafter have been completed or the building or structure demolished so that it not longer exists as Substandard and a Public Nuisance on the property described in the certificate, the Building Official shall file a new certificate with the Alameda County Recorder certifying the building or structure has been demolished or all required corrections have been made so that the building or structure is no longer Substandard and a Public Nuisance, whichever is appropriate.

#### **Section 15.08.370 Repair and Rehabilitation or Demolition**

A. Any building or structure declared Substandard and a Public Nuisance under this Code shall be made to comply with one of the following:

1. the building or structure shall be repaired and rehabilitated in accordance with the current edition of the Oakland Building Construction Code and other current codes applicable to the type of Substandard conditions requiring repair; or
2. the building or structure shall be demolished.

B. Compliance

1. Application for permits to repair and rehabilitate or demolish a Substandard and Public

Nuisance building or structure shall be made within thirty days after recordation of the Declaration with the Alameda County Recorder. All permits must be obtained within thirty days after such recordation, and all work shall be finalized and approved within sixty days after obtaining such permits. Failure to obtain such permits and complete the required work as specified herein shall result in the demolition of the building by the Building Official. The Building Official may grant extensions to the permit issuance and completion requirements specified herein as may be reasonable under all of the circumstances.

2. Conditions of Compliance including, but not limited to, issuance of required permits and Certificate of Occupancy and Report of Permit Record, establishment of performance durations, and payment of all fees, charges, assessments, penalties, liens, accrued interest, residential tenant relocation costs, performance completion security, and performance monitoring deposit shall be required for all such repair and rehabilitation or demolition.

**Section 15.08.380 Order to Vacate**

**A. Vacant Building**

1. A building or structure declared Substandard and a Public Nuisance under this Code which by action of the record owner of the property or by Order of the Building Official has become unoccupied shall be secured and maintained against entry and shall not be re-occupied for any circumstance until the violations causing the Substandard conditions have been fully corrected and a renewal Certificate of Occupancy has been obtained by the record owner and all fees, costs, penalties, and interest have been paid.

2. The Building Official shall prominently post at or upon each entrance of a building or structure declared Substandard and a Public Nuisance and at such other conspicuous locations on the premises as are deemed necessary, an Order which shall be in substantially the following form:

City of Oakland

**DO NOT ENTER**

**UNSAFE TO OCCUPY  
SUBSTANDARD PREMISES**

The premises has been declared a Public Nuisance and shall remain vacant and shall not be entered or re-occupied for any circumstance without prior written approval from the Building Official

The Owner of Record of this property at the time of this posting is

---

It is a misdemeanor punishable by a fine of \$100 to enter or to occupy this building or to remove or mark this notice without written authorization from the Building Official. Subsequent violations can result in punishment of up to six months in jail and/or fines of up to \$1,000

## **B. Dangerous Building or Structure**

Whenever a building or structure declared Substandard and a Public Nuisance under this Code is in such Unsafe condition as to make it dangerous either to life and limb of the occupants or to private or public property or to health or safety of the public, it shall be ordered to be vacated and secured and maintained against unauthorized entry.

## **C. Imminent Hazard**

1. Whenever a building, structure, portion thereof, or real property, whether declared Substandard and a Public Nuisance under this Code or otherwise, is in such immediately dangerous condition due to the existence of or to the perilous risk from natural gas explosion, or electrical shock, or chemical toxicity or asphyxiation, or structural collapse, or riparian inundation, or geotechnical instability, or sewage contamination, or potable water cross-contamination, or urban-wildland conflagration, or other immediately dangerous conditions as determined by the Building Official as to make it a clear and certain endangerment to property, or a manifestly unhealthy or unsafe environment for the public, or an imminent hazard to life and limb of the occupants or City employees in the performance of their official duties, the Building Official may cause the immediate vacation of the premises and all other endangered property similarly in perilous risk and the immediate abatement by the City or its contractors of all immediately dangerous and perilous conditions or defects.

2. Whenever the Building Official will cause the immediate vacation of the premises and all other endangered property similarly in perilous risk or the immediate abatement by the City or its contractors of all dangerous and perilous conditions or defects or both, reasonable measures shall be taken to notify the record owner of the property of the pending abatement actions, including, but not limited to, visual communication by posting of the premises and oral communication by telephone or in person and written communication by personal delivery or telegraph or facsimile, unless circumstances and time do not otherwise warrant and permit.

3. Whenever the Building Official will cause or has caused the immediate vacation of the premises and all other endangered property similarly in perilous risk or the immediate abatement by the City or its contractors of all dangerous and perilous conditions or defects or both, an expedited administrative hearing as provided in Section 15.08.410 of this Code shall be scheduled within two days (excluding weekends and City observed holidays) of receipt by the Building Official of a written appeal and fees as established in the Master Fee Schedule from the record owner of the property.

## **Article XII. Appeal**

### **Section 15.08.410 General**

## A. Administrative Hearing

The record owner may appeal from an action under Section 15.08.350 of this Code by filing a written request with the Building Official and paying a fee as established in the Master Fee Schedule. A request for an Administrative Hearing shall contain the following information:

1. A brief statement setting forth the legal interest of each of the appellants in the building or structure or the land involved in the Declaration of Public Nuisance - Substandard.
2. A brief statement in ordinary and concise language of that specific action protested, together with any material facts claimed to support the contentions of the appellant.
3. A brief statement in ordinary and concise language of the relief sought and the reasons why it is claimed the protested action was a result of error or abuse of discretion by the Building Official and therefore should be reversed, modified, or otherwise set aside.
4. The signatures of all appellants and their requested mailing addresses.
5. The verification (by declaration under penalty of perjury) of all appellants as to the truth of the matters stated in the appeal.

The written appeal and fees as established in the Master Fee Schedule shall be received by the Building Official within 14 calendar days from the date of the service of the Declaration of Public Nuisance - Substandard, provided, however, that if the building or structure is in such condition as to make it Dangerous or an Imminent Hazard and is ordered vacated in accordance with Section 15.08.380 of this Code, such appeal and fees shall be received by the Building Official within 7 calendar days from the date of the service of the Declaration or Order of the Building Official.

## B. Scheduling and Noticing for Hearing

As soon as practicable after receiving the written appeal and fees, the Building Official shall fix a date, time, and place for the hearing of the appeal by the Hearing Examiner. Written notice of the time and place of the hearing shall be given at least ~~10~~ 7 days prior to the date of the hearing to each appellant.

### **15.08.420 Effect of Failure to Appeal**

Failure of any person to file an appeal and pay fees in accordance with the provisions of Sections 15.08.410 of this Code shall constitute a waiver of the right to an administrative hearing and adjudication of the Declaration or Order or to any portion thereof

### **Section 15.08.430 Scope of Hearing on Appeal**

Only those matters or issues specifically raised by the appellant's written appeal shall be considered by the Hearing Examiner in the hearing of the appeal.

The Hearing Examiner shall have the power to administer oaths, and may request that the City Clerk issue subpoenas under the seal of the City. Willful failure to appear for testimony in response to any subpoena or to produce at any time under subpoena "duces tecum" shall be punished as an infraction.

**Section 15.08.440 Staying of Enforcement**

Except for vacation orders made pursuant to Section 1104 15.08.380 of this Code, enforcement of any Declaration shall be stayed during the pendency of an appeal there from which is properly and timely received by the Building Official.

**Section 15.08.450 Effect of Administrative Hearing**

Decisions made and determinations rendered by the Hearing Examiner shall be in all cases final and conclusive.

**Section 15.08.460 Review of Administrative Determination**

The limitation period provided pursuant to California Code of Civil Procedure Section 1094.6 shall apply to all petition filers seeking judicial review of administrative determination made by the Hearing Examiner.



2013 OCT 10 PM 2:38

# OAKLAND CITY COUNCIL

Approved as to Form and Legality

*Alena Chen*  
Office of the City Attorney

RESOLUTION NO. \_\_\_\_\_ C.M.S.

Introduced by Councilmember \_\_\_\_\_

---

**RESOLUTION OF FINDINGS SUPPORTING LOCAL AMENDMENTS TO THE 2013 EDITION OF THE STATE HOUSING LAW REGULATIONS, CALIFORNIA CODE OF REGULATIONS, TITLE 25, DIVISION 1, CHAPTER 1, SUBCHAPTER 1, SECTION 32, TO COMPLY WITH CHANGES TO STATE LAW**

**WHEREAS**, pursuant to California Health & Safety Code sections 17922, 17950, and 17958, the 2013 Edition of the State Housing Law Regulations, California Code of Regulations (“C.C.R.”), Title 25, Division 1, Chapter 1, Subchapter 1, Section 32, shall become effective on January 1, 2014; and

**WHEREAS**, said edition of the State Housing Law Regulations is derived from the non-administrative regulations set forth in the 1997 Edition of the Uniform Housing Code, as formerly published by the International Conference of Building Officials and currently published by the International Code Council; and

**WHEREAS**, local jurisdictions are required to enforce said edition of the State Housing Law Regulations but may also enact more stringent standards when reasonably necessary because of local conditions caused by climate, geology or topography; and

**WHEREAS**, California Health & Safety Code section 17958.7 provides that before making any changes or modifications to the State Housing Law Regulations and any other applicable provisions published by the State Building Standards Commission, the governing body must make an express finding that each such change or modification is reasonably necessary because of specified local conditions, and the findings must be filed with the State Building Standards Commission before the local changes or modifications can go into effect; and

**WHEREAS**, the actions contemplated in this resolution are exempt from the California Environmental Quality Act (California Public Resources Code sections 21000 et seq.) pursuant to CEQA Guidelines 15061(b)(3) (no significant effect on the environment); now, therefore, be it

**RESOLVED:** That the City of Oakland is unique among California communities with respect to local climatic, geological, topographical, and other conditions. A specific list of findings that support the City of Oakland’s modifications to the 2013 State Housing Law Regulations and a section-by-section correlation of each modification with a specific finding are

contained in Exhibit A entitled "Standard Findings for City of Oakland Amendments," attached hereto and incorporated as if set forth fully herein; and be it

**FURTHER RESOLVED:** That pursuant to California Health & Safety Code section 17958.7, the City Council finds and determines that the local conditions described in Exhibit A constitute a general summary of the most significant local conditions giving rise to the need for modification of the 2013 State Housing Law Regulations published by the State Building Standards Commission; and be it

**FURTHER RESOLVED:** That the City Council further finds and determines that the proposed modifications are reasonably necessary based upon the local conditions set forth in Exhibit A; and be it

**FURTHER RESOLVED:** That the City Council of the City of Oakland further finds and determines that the local amendments to the State Housing Law Regulations, as set forth in a separate companion ordinance adopting said amendments as the Oakland Building Maintenance Code, impose substantially the same non-administrative regulatory requirements as, and are thus equivalent to or more stringent than the most current State Housing Law Regulations; and be it

**FURTHER RESOLVED:** That this Resolution shall become effective immediately, unless otherwise required by the Charter of the City of Oakland; and be it

**FURTHER RESOLVED:** That the Building Official of the City of Oakland is hereby directed to transmit this Resolution with the Exhibit A attachment, along with a copy of said separate companion ordinance adopting local amendments to the 2013 Edition of the State Housing Law Regulations, to the California Building Standards Commission before January 1, 2014, pursuant to the applicable provisions of State law.

IN COUNCIL, OAKLAND, CALIFORNIA, \_\_\_\_\_

PASSED BY THE FOLLOWING VOTE:

AYES - BROOKS, GALLO, GIBSON MCELHANEY, KALB, KAPLAN, REID, SCHAAF and PRESIDENT KERNIGHAN

NOES -

ABSENT -

ABSTENTION -

ATTEST: \_\_\_\_\_

LaTonda Simmons  
City Clerk and Clerk of the Council  
of the City of Oakland, California

## **EXHIBIT A**

### **STANDARD FINDINGS FOR CITY OF OAKLAND AMENDMENTS**

The City Council of the City of Oakland finds that the following local amendments of the 2013 Edition of the State Housing Law Regulations are reasonable and necessary as a result of the following unique local climatic, topographic, and geologic conditions:

**I. State Housing Law Regulations - Uniform Housing Code - Chapter 10 - Substandard Buildings, Health & Safety Code section 17920**

Addition of the definition of geotechnical instability is necessitated by the unique local conditions in Oakland which contains older housing stock particularly susceptible to differential land subsidence due to poor alluvial soil bearing quality water saturation of subsurface supporting soil strata extensive seismic hazard zones of liquefaction and landslide risk by the California Geological Survey and the proximity of the Hayward earthquake fault.

**II. State Housing Law Regulations - Uniform Housing Code - Chapter 11 - Notices and Orders of the Building Official, Health & Safety Code section 17980**

Changes to the noticing provisions are necessitated by the fact the City annually mails in excess of 3,000 pieces of correspondence to property owners regarding abatement of substandard and public nuisance conditions on properties located in Oakland. The large volume of mail is in part a result of the unique local conditions in Oakland which contains older housing stock particularly susceptible to extended climatic periods of draught and precipitation and to poor drainage characteristics of the level topography and alluvial soils causing rapid decay of exposed wooden elements of buildings and explosive population growth of vermin and destructive insects. The changes will not adversely affect the property owner's ability to receive proper and actual notification of abatement orders issued by the Building Official.

**III. State Housing Law Regulations - Uniform Housing Code - Chapter 12 – Appeal, Health & Safety Code section 17920**

Changes to the appeal procedures are necessitated by the fact the City annually inspects and abates in excess of 8,000 substandard properties in Oakland. This large work load is in part a result of the unique local conditions in Oakland which contains older housing stock particularly susceptible to differential land subsidence due to poor alluvial soil bearing quality and water saturation and to prevailing wind damage due to topographic orientation of buildings. The changes provide staff the ability to make determinations of substandard conditions more rapidly and will not adversely affect the property owner's ability to appeal actions of the Building Official.