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CITY OF OAKLAND



CITY HALL • 1 FRANK H. OGAWA PLAZA • OAKLAND, CALIFORNIA 94612

REBECCA KAPLAN
Councilmember At-Large
atlarge@oaklandnet.com

(510) 238-7008
FAX: (510) 238-6910
TDD: (510) 839-6451

Date: March 14, 2019
To: Members of City Council and Members of the Public
From: Council President Kaplan
Re: **Request that the City Council Hold a Public Hearing and, Upon Conclusion, Adopt: Ordinance Repealing Part Of The Oakland Amendments To The 2016 Edition Of The State Housing Law Regulations And The California Model Building Construction Codes Implemented Through Ordinances No. 13407 And No. 13408 In The Oakland Municipal Code By Striking Out Sections 15.04.3.2545 And 15.04.3.2550 And Amending Section 15.08.210.A By Adopting The Existing 2016 California Residential Code To Require A Minimum Ceiling Height of 7 Feet For Habitable Spaces And 6 Feet 8 Inches For Bathrooms, Toilet Rooms, And Laundry Rooms In Buildings Within The Scope Of The California Residential Code As Set Forth In California Residential Code Section 1.1.3**

Dear Colleagues on the City Council and Members of the Public,

RECOMMENDATION

Our recommendation is to eliminate our Oakland amendments to the 2016 edition of the State Housing Law Regulations and the California Model Building Construction Codes that govern minimum ceiling heights for dwelling units in residential buildings within the scope of California Residential Code section 1.1.3. These residential buildings would include one- and two-family dwellings, efficiency dwelling units, and townhouses not more than three stories above grade plane in height with a separate means of egress and structures accessory thereto with certain exceptions as stated in California Residential Code section 1.1.3. As a city, in 2016, we made local amendments to ceiling height standards that differ from California Residential Code standards. This ordinance makes changes to our Oakland Municipal Code by striking out Sections 15.04.3.2545 And 15.04.3.2550 and amending Section 15.08.210.A. by adopting the existing 2016 California Residential Code requirements for a minimum ceiling height of 7 feet for habitable spaces and 6 feet 8 inches for bathrooms, toilet rooms, and laundry rooms for dwelling units that are governed by the California Residential Code.

EXECUTIVE SUMMARY

Adoption of the proposed legislation to align ourselves with California Residential Code as it relates to minimum ceiling height requirements for residential units that are governed by the California Residential Code.

BACKGROUND | LEGISLATIVE HISTORY

The California Health and Safety Code allows cities and counties to adopt local amendments to Model Housing Law. Amendments must be no less restrictive than statewide regulations and may

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be supported by a Resolution of findings based on local climatic, topographic, and geologic conditions. In 2016, via Ordinances No. 13407 and No. 13408 the City Council adopted modifications as it has consistently done for the last 25 years. It is also the prerogative of the city council to discuss whether these local amendments continue to serve the public good.

In 2010, the California Building Standards Commission announced the recent adoption of the 2010 California Building Standards Code, California Code of Regulations, Title 24 with a start date of January 1, 2011 and one of the most significant changes was the change of minimum ceiling heights in the California Residential Code based on changes approved by the International Residential Code. The California Residential Code is based on International Residential Code published by the International Code Council.

Despite this change by the International Council and the State, Oakland continued to use the previous minimum ceiling standards and adopted this as a local amendment. At this time, we are moving this Ordinance to align with the 2016 State of California Residential Code only for buildings covered by the code.

Please note, the scope of the California Residential Code applies "to the construction, alteration, movement, enlargement, replacement, repair, equipment, use and occupancy, location, maintenance, removal and demolition of every detached one- and two-family dwelling and townhouse not more than three stories above grade plane in height with a separate means of egress and structures accessory thereto throughout the State of California." There are certain limited exceptions under section 1.1.3 of the California Residential Code.

ANALYSIS

This Ordinance will help facilitate construction and legalization of units by balancing concerns around health, safety, and habitability with the very present housing and affordability crisis. According to recent reports, construction materials saw a 4.4 percent price increase, due in large part to the rising cost of cement, steel, and lumber¹ and overall construction costs rose 10% in 2018 in the bay area.² Along with rising construction costs, meeting the previous requirement may have been cost prohibitive because, in some cases, it may have required house lifting where an owner could easily spend \$100,000³ just to life a house a few inches.

This change to our Oakland Municipal Code, is one of many the Council should adopt to help facilitate the construction of residential units, thereby increasing supply, to ease our housing crisis.

¹ <https://turnercenter.berkeley.edu/construction-costs-series>

² <https://www.bizjournals.com/sanfrancisco/news/2018/04/26/construction-costs-killing-new-bay-area-housing.html>

³ <https://www.improvenet.com/r/costs-and-prices/raise-foundation-cost-estimator>

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FISCAL IMPACT

There is no fiscal impact. This is an administrative action. Resources from existing budgeted staff will continue to enforce the Model Maintenance Codes and Model Housing Law.

PUBLIC OUTREACH /INTEREST

Council President Kaplan's office has spoken with the Mayor's office, building construction industry and design professionals as well as reached out to residents and housing and building inspectors and engineers to discuss this item. Council President Kaplan's office is also reaching out to Tim Low, Acting Building Official.

COORDINATION

The Office of the City Attorney is reviewing this report.

SUSTAINABLE OPPORTUNITIES

Economic: Aligning ourselves with the California Residential Code supports the affordable rental housing and economic revitalization policies of the City.

Environmental: Aligning ourselves with the California Residential Code continues to support the maintenance of rental housing and provide for the health and safety of occupants and neighbors.

Social Equity: Aligning ourselves with the California Residential Code supports the affordable rental housing policies of the City. Oakland amendments to the California Housing Law support the affordable rental housing policies of the City.

ACTION REQUESTED OF THE CITY COUNCIL

Upon receiving an affirmative recommendation from the Community and Economic Development (CED) Committee, we request that the City Council hold a public hearing and, upon conclusion, adopt this Ordinance.

Sincerely,

Rebecca Kaplan
Council President

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APPROVED AS TO FORM AND LEGALITY

DRAFT

INTRODUCED BY COUNCIL PRESIDENT KAPLAN

CITY ATTORNEY'S OFFICE

OAKLAND CITY COUNCIL

ORDINANCE NO. _____ C.M.S.

ORDINANCE REPEALING PART OF THE OAKLAND AMENDMENTS TO THE 2016 EDITION OF THE STATE HOUSING LAW REGULATIONS AND THE CALIFORNIA MODEL BUILDING CONSTRUCTION CODES IMPLEMENTED THROUGH ORDINANCE NO. 13407 AND NO. 13408 IN THE OAKLAND MUNICIPAL CODE BY STRIKING OUT SECTIONS 15.04.3.2545 AND 15.04.3.2550 AND AMENDING SECTION 15.08.210.A BY ADOPTING THE EXISTING 2016 CALIFORNIA RESIDENTIAL CODE TO REQUIRE A MINIMUM CEILING HEIGHT OF 7' FEET FOR HABITABLE SPACES AND 6 FEET 8 INCHES FOR BATHROOMS TOILET ROOMS, AND LAUNDRY ROOMS IN BUILDINGS WITHIN THE SCOPE OF THE CALIFORNIA RESIDENTIAL CODE AS SET FORTH IN CALIFORNIA RESIDENTIAL CODE SECTION 1.1.3

WHEREAS, pursuant to California Health & Safety Code Sections 17958, 17958.5 and 17958.7, local jurisdictions are authorized to make local amendments to the building standards in Title 24, including green building standards, applying to residential occupancies, including hotels, motels, apartments, and dwellings, and to the California Department of Housing and Community Development regulations in Title 25, Division 1, Chapter 1, Subchapter 1, that are reasonably necessary because of local climatic, geological, or topographical conditions; and

WHEREAS, there is no specific requirement in the State Housing Law that local amendments provide more restrictive building standards and Title 24 provisions are the minimum standards, thus local amendments can be the equivalent or more restrictive, but not less restrictive; and

WHEREAS, the City of Oakland is required to enforce the State Housing Law Regulations and the California Model Building Construction Code but may also enact more stringent standards when reasonably necessary because of local conditions caused by climate, geology or topography; and

WHEREAS, the 2016 Edition of the State Housing Law Regulations and the California Model Building Construction Code went into effect on January 1, 2017, and in Ordinance No. 13407 and 13408, the City of Oakland repealed its existing Oakland Amendments to the 2013 Edition of the California Housing Law Regulations ("2013 Oakland Amendments") and the California Model Building Construction Code in their entirety and enacted new Oakland Amendments ("2016 Oakland Amendments"); and

WHEREAS, this Ordinance seeks to repeal the 2016 Oakland amendments as codified in the Oakland Municipal Code Sections 15.04.3.2545, 15.04.3.2550, and amend 15.08.210.A to adopt the 2016 California Residential Code Regulations that govern minimum ceiling height requirements for residential buildings that fall under the scope of the California Residential Code, establishing 7 feet for habitable spaces and 6 feet, 8 inches for bathrooms, toilet rooms, and laundry rooms; and

WHEREAS, the intent of this Ordinance is that it only apply to residential buildings within the scope of the California Residential Code section 1.1.3, defined as one- and two-family dwellings, efficiency dwelling units, and townhouses not more than three stories above grade plane in height with a separate means of egress and structures accessory thereto with certain exceptions as stated in California Residential Code section 1.1.3; and

WHEREAS, the 2016 California Residential Code, Chapter 3, Section R305.1 maintains minimum standard ceiling heights for "Habitable space, hallways and portions of basements containing these spaces shall have a ceiling height of not less than 7 feet (2134 mm). Bathrooms, toilet rooms and laundry rooms shall have a ceiling height of not less than 6 feet 8 inches (2032 mm);" and

WHEREAS, pursuant to California Health & Safety Code section 17958.7, this proposed change is equivalent to the most current State Housing Law Regulations and the California Model Building Construction Codes, and is reasonably necessary; and

WHEREAS, in the City of Oakland a housing and affordability crisis exists where only 20% of households in Alameda County can afford the median priced home and the median rent in Oakland increased by 50% between 2012 and 2017 and the addition of new residential units could offer needed relief on the housing market; and

WHEREAS, amending the Oakland Municipal Code for ceiling height minimums to be consistent with the California Residential Code ensures serves the public good by striking a balance between health and safety with the demand to build more housing in the Bay Area and to facilitate construction and legalization of residential housing units; and

WHEREAS, the City Council of the City of Oakland hereby further 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 pursuant to CEQA Guidelines sections 15378, 15061(b)(3) (general rule), 15303 (new construction or conversion of small structures); and 15183 (Projects Consistent with a Community Plan, General Plan, or Zoning). Each of the foregoing provides a separate and independent basis for CEQA compliance and, when viewed collectively, provides an overall basis for CEQA compliance; and

NOW, THEREFORE, THE CITY 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 an integral part of the City Council's decision, and hereby adopts and incorporates them into this Ordinance.

SECTION 2. Repeal. Repeal the Oakland amendments to the 2016 edition of the State Housing Law Regulations and the 2016 California Model Building Construction Codes codified in the Oakland Municipal Code Sections 15.04.3.2545, 15.04.3.2550, and 15.08.210.A and adopt the 2016 California Residential Code regulations for residential ceiling heights under R305.1 for those buildings covered by the California Residential Code.

SECTION 3. Purpose and Intent. Adopt the 2016 California Residential Code Chapter 3, Section R305.1, that governs a portion of Oakland Municipal Code Chapter 15.08, Section 15.08.210.A that include changing the minimum ceiling requirements to 7 Feet for habitable spaces and 6 feet 8 inches for bathrooms, toilet rooms, and laundry rooms for those as one- and two-family dwellings, efficiency dwelling units, and townhouses not more than three stories above grade plane in height with a separate means of egress and structures accessory thereto with certain exceptions as stated in California Residential Code section 1.1.3. It is the purpose and intent of this Ordinance to expressly enact changes to the 2016 California State Housing Law Regulations and the 2016 California Model Building Construction Codes that are consistent with 2016 California State Housing Law requirements, explicitly the California Residential Code, in order to allow and more easily facilitate the construction of needed residential housing stock while still preserving the public peace, health, safety, and general welfare of the citizens and residents of, and travelers through, the City of Oakland, as authorized by the California Health & Safety Code; and

SECTION 4. Enactment of Amendments to the Oakland Municipal Code. The Amendments are hereby enacted, 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 and the 2016 California Model Building Construction Codes, as amended herein, shall be the governing building maintenance code for the City of Oakland from and following January 1, 2017.

SECTION 6. Severability. If any section, subsection, sentence, clause or phrase of this Ordinance is for any reason held to be invalid or unconstitutional by decision of

any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of the Chapter. The City Council hereby declares that it would have passed this Ordinance and each section, subsection, clause or phrase thereof irrespective of the fact that one or more other sections, subsections, clauses or phrases may be declared invalid or unconstitutional.

SECTION 7. Effective Date. This Ordinance shall become effective immediately on final adoption if it receives six or more affirmative votes; otherwise it shall become effective upon the seventh day after final adoption.

SECTION 8. Conforming Changes. The City Council hereby authorizes the City Administrator or designee to make non-substantive, technical conforming changes (essentially correction of typographical and clerical errors), prior to formal publication of the Amendments in the Oakland Municipal Code.

SECTION 9. California Environmental Quality Act. the actions contemplated in this Ordinance are exempt from the California Environmental Quality Act pursuant to CEQA Guidelines sections 15378, 15061(b)(3) (general rule), 15303 (new construction or conversion of small structures); and 15183 (Projects Consistent with a Community Plan, General Plan, or Zoning). Each of the foregoing provides a separate and independent basis for CEQA compliance and, when viewed collectively, provides an overall basis for CEQA compliance.

SECTION 10. Directions to the Building Official. Upon final passage of this Ordinance, the City Administrator designee is hereby directed to file a copy of this ordinance with the Exhibit A attachment, with the California Building Standards Commission.

IN COUNCIL, OAKLAND, CALIFORNIA,

PASSED BY THE FOLLOWING VOTE:

AYES - FORTUNATO BAS, GALLO, GIBSON MCELHANEY, KALB, REID, TAYLOR, THAO AND
PRESIDENT KAPLAN

NOES -

ABSENT -

ABSTENTION -

ATTEST: _____

LATONDA SIMMONS

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

Date of Attestation: _____

EXHIBIT A

CITY OF OAKLAND AMENDMENTS

Oakland Municipal Code, Chapter 15.04 –
OAKLAND AMENDMENTS TO CALIFORNIA MODEL BUILDING CONSTRUCTION
CODES
Part 2.5 - California Residential Code

15.04.3.2545 - CRC Section R305.1 amended.

~~In Section R305.1 of the California Residential Code, replace the first sentence starting with "Habitable space, hallways and portions of basements" with the new sentence "Habitable spaces, not including kitchens, shall have a ceiling height of not less than 7 feet 6 inches (2286mm)."~~

Oakland Municipal Code, Chapter 15.04 –
OAKLAND AMENDMENTS TO CALIFORNIA MODEL BUILDING CONSTRUCTION
CODES
Part 2.5 - California Residential Code

Section 15.04.3.2550 - CRC Section R305.1 amended.

~~In Section R305.1 of the California Residential Code, replace the second sentence starting with "Bathrooms, toilet rooms and laundry rooms ..." with the new sentence "Bathrooms, toilet rooms, kitchens, laundry rooms and other non-habitable spaces shall have a ceiling height of not less than 7 feet (2134mm)."~~

Oakland Municipal Code, Chapter 15.08
OAKLAND BUILDING MAINTENANCE CODE
Article V. - Habitable Space

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 unless otherwise permitted in this Section. 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.

In residential buildings within the scope of the California Residential Code, section 1.1.3, which include one- and two-family dwellings, efficiency dwelling units, and townhouses not more than three stories above grade plane in height with a separate means of egress and structures accessory (with certain exceptions outlined in California Residential Code section 1.1.3), the ceiling height shall be 7 feet for habitable spaces and 6 feet 8 inches for bathrooms, toilet rooms, and laundry rooms.

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 or 6 feet 8 inches in bathrooms, toilet rooms, and laundry rooms in buildings within the scope of California Residential Code section 1.1.3.

NOTICE AND DIGEST

ORDINANCE REPEALING PART OF THE OAKLAND AMENDMENTS TO THE 2016 EDITION OF THE STATE HOUSING LAW REGULATIONS AND THE CALIFORNIA MODEL BUILDING CONSTRUCTION CODES IMPLEMENTED THROUGH ORDINANCE NO. 13407 AND NO. 13408 IN THE OAKLAND MUNICIPAL CODE BY STRIKING OUT SECTION 15.04.3.2545 AND SECTION 15.04.3.2550 AND AMENDING SECTION 15.08.210.A BY ADOPTING THE EXISTING 2016 CALIFORNIA RESIDENTIAL CODE TO REQUIRE A MINIMUM CEILING HEIGHT OF 7' FEET FOR HABITABLE SPACES AND 6 FEET 8 INCHES FOR BATHROOMS TOILET ROOMS, AND LAUNDRY ROOMS IN BUILDINGS WITHIN THE SCOPE OF THE CALIFORNIA RESIDENTIAL CODE AS SET FORTH IN CALIFORNIA RESIDENTIAL CODE SECTION 1.1.3

The State Housing Law Regulations establish minimum technical standards for maintenance of habitable structures throughout the state. This ordinance repeals in two sections of the Oakland Municipal Code the Oakland amendments to the State Housing Law Regulations, and adopts amendments in line with the California Residential Code, which provide administrative guidelines and supplemental technical regulations pertinent to the City's building inventory, topography, geology, infrastructure needs, and life/safety requirements. This Ordinance seeks to repeal the Oakland amendments to the 2016 edition of the State Housing Law Regulations codified in the Oakland Municipal Code Sections 15.04.3.2545, 15.04.3.2550, and 15.08.210.A and adopt the 2016 California Residential Code Regulations that govern those sections to revert back to the California Residential Code changing the minimum ceiling requirements to 7 feet for habitable spaces and 6 feet 8 inches for bathrooms, toilet rooms, and laundry rooms in residential buildings within the scope of California Residential Code section 1.1.3.