

**ORDINANCE NO.07-08**

**AN ORDINANCE OF THE CITY COUNCIL OF THE  
CITY OF OAKLEY ADDING CHAPTER 30 TO TITLE 4 OF THE  
OAKLEY MUNICIPAL CODE ESTABLISHING A RENTAL  
DWELLING UNIT INSPECTION PROGRAM**

The City Council of the City of Oakley does ordain as follows:

SECTION 1. Chapter 30 of Title 4 of the Oakley Municipal Code is hereby added to read as follows:

**“CHAPTER 30. RENTAL DWELLING UNIT INSPECTION PROGRAM**

**Article 1 Purpose and Findings**

**4.30.102 Purpose.** This Chapter sets forth rules, regulations and specifications to proactively identify blighted and deteriorated rental housing stock; ensures the rehabilitation or abatement of housing that does not comply with state and local building and housing laws or with maintenance standards established by this Chapter, or is unsafe to occupy; and preserves and enhances the quality of life for residents of the City living and around in rental dwelling units.

**4.30.104 Findings.** The City Council hereby finds that this Chapter is necessary to preserve the health, safety and general welfare of the community. Rental housing sometimes experiences a lack of adequate maintenance, or is allowed to create public nuisances, due to the fact that owners may not inspect the property often, may not make repairs or abate nuisances as necessary, or because tenants are not concerned with property conditions that may adversely affect property values. These regulations are also necessary to protect the right of tenants to safe and decent housing when the owner does not take reasonable steps to inspect, repair or maintain rental housing and to maintain the quality of life for residents of the surrounding neighborhood.

**Article 2 General Provisions**

**4.30.202 Definitions.** For purposes of this Chapter, the following words and phrases shall have the meanings set forth below:

(a) *Community Development Director or Director.* The Director of the Community Development Department, or his/her designee.

(b) *Property Owner.* A person, persons, corporation, partnership, limited liability company, or any other entity holding fee title to the subject real property. If more than one person or entity owns the subject property, “property owner” refers to each person or entity holding any portion of the fee interest,

and the property owners' obligations under this Chapter are joint and several as to each.

(c) *Rental Dwelling Unit.* Any building or portion of a building in the City that contains living facilities, including provisions for sleeping, eating, cooking and sanitation, which is hired, rented, or leased by a person within the meaning of Civil Code Sec. 1940. A "rental dwelling unit" includes a single family dwelling, either attached or detached, or a unit in a multifamily or multipurpose dwelling, or a unit in a condominium or cooperative housing project, or any room or group of rooms located within a dwelling forming a single unit with facilities that are used or intended to be used for living, sleeping, cooking or eating. The definition of rental dwelling unit applies whether or not the unit is legally permitted.

(d) *Substandard Condition.* A dwelling unit or its premises that is:

- 1) Not in compliance with the California Building Standards Codes as adopted and amended by this Municipal Code; the State Housing Law; or the City's Neighborhood Preservation Ordinance, Section 4.29.102, et seq, of this Municipal Code or Title 7 (Building and Housing Regulations) of this Municipal Code; or
- 2) Unsafe to occupy pursuant to the Uniform Housing Code, as modified from time to time; or
- 3) Is in violation of any other provision of this Municipal Code, including but not limited to Chapter 22 of Title 4 (Residential Property and Littering Nuisances), Chapter 7 of Title 4 (Abandoned Vehicles), Chapter 23 of Title 4 (Weeds and Refuse), and Chapter 6 of Title 1 (Abatement of Nuisance).

#### **4.30.204 Application of Chapter.**

- (a) This Chapter applies to all existing rental dwelling units, including units owned, operated and/or subsidized by public agencies. This Chapter also applies to premises on which these units are located, including parking lots, driveways, landscaping, accessory structures, fences, walls, swimming pools, hot tubs and spas.
- (b) The provisions of this Chapter are supplementary and complementary to other provisions of this Code and applicable statutes. Nothing contained in this Chapter shall be construed to limit any existing right of the City to abate nuisances or to enforce any provisions of applicable law, statute, or this Code.

#### **4.30.206 Exemptions.**

The following types of rental dwelling units are exempted from the application of this Chapter:

- (a) All mobile homes, manufactured homes, recreational vehicles, and other dwelling units located in a mobile home park.
- (b) Hotels and motels.
- (c) Units that are unavailable for rent as indicated by a statement that the property owner has submitted to the Director that the unit is not available for rent, and that prior to offering the unit available for rent, the property owner will notify the Director and register the units as described in this Chapter.

**4.30.208 Administration.** This Chapter shall be administered and enforced by the Community Development Director. The Director may establish administrative procedures for implementing this Chapter.

**4.30.210 Registration.** In order to assist the Director to identify the rental dwelling units located within the City of Oakley that are subject to this Chapter, every owner of rental dwelling units not exempted by this Chapter shall register the rental dwelling unit with the Director, providing the owner's name and address, the address of the rental dwelling unit, and the number of units existing at that address. The Property Owner shall register with the Director all rental dwelling units within the City of Oakley no later than July 1, 2008. It shall be unlawful to rent or lease one or more rental dwelling units without registering such unit(s) with the Director. Any rental dwelling unit acquired by a property owner after July 1, 2008 must be registered by the property owner within thirty (30) days of the date of offering the unit for rent or lease or from the date of a tenant or lessee assuming occupancy.

**Article 3 Standards**

**4.30.302 Responsibility for Property Maintenance.** Every property owner of a rental dwelling unit located in the City of Oakley shall:

- (a) Maintain the unit and the site on which it is located so that no substandard condition or violation of this Code exists at the unit or site;
- (b) Correct all substandard conditions identified during a City inspection, before re-inspection occurs; and
- (c) Be liable and responsible for violations of this Code irrespective of any contract or agreement with any third party concerning the rental dwelling unit and/or its premises.

**4.30.304 Site Maintenance Standards.**

- (a) Rental dwelling units and premises shall comply with the general nuisance standards for all properties within Oakley as specified in Section 1.6.103 of this Code, as it may be amended from time to time.

(b) Rental dwelling units shall not be kept in a substandard condition and, in addition, shall meet the following site maintenance conditions:

(i) All rental dwelling units and their premises must be clear of weeds, vegetation, junk (including but not limited to abandoned, unused or non-operational appliances, equipment, vehicles, machinery, or household furnishings), dead organic matter, debris, garbage, stagnant water, combustible materials, and similar materials or conditions that constitute fire, health, or safety hazards.

(ii) In the case of multiple dwelling units on one site, all parking areas must be clear of potholes, cracks or other deterioration. All striping and signage, including parking signage and fire lane or access signage, must be clearly legible and maintained in good condition.

(iii) All landscaped areas must be maintained so as not to constitute a public safety hazard and all dead, severely damaged, or overgrown plant materials shall be removed.

(iv) If upon inspection, the inspector reasonably determines that landscape areas in a multi-family rental dwelling unit constitute a public health, safety or welfare hazard, the property owner shall submit a landscape plan to the Community Development Department for approval. If a rental dwelling unit and premises are in a land use district requiring a development plan, the landscape plan must conform to the development plan initially approved by the City. All other landscape plans must provide for the replacement of all dead or severely damaged plant material with plant material equivalent to that removed. Landscape areas include right-of-way and detention or pond areas. Driveways, hardscape parking areas, patios or walks are not included as landscape areas.

(v) In the case of multiple rental dwelling units on one site, refuse enclosures, if required, must be installed and maintained. All refuse must be kept inside the enclosure. Oversized trash that will not fit within the refuse enclosure, or designated receptacles, must be removed from the property or premises.

#### **Article 4 Enforcement**

##### **4.30.402 Inspections of Rental Housing Units.**

(a) Unless otherwise exempt under this Chapter, every rental dwelling unit shall be subject to an annual exterior inspection by the Director or designee to determine whether any substandard condition exists at a rental dwelling unit or its premises, to determine whether there is a violation of this Chapter or of this Code and to ensure determine compliance with the requirements as described in this Chapter.

- (b) If a rental dwelling unit or its premises fails to pass an inspection, the Director or designee will provide the Property Owner with written notice of any deficiencies noted during the inspection and/or re-inspection of the dwelling unit or its premises.
- (c) A rental dwelling unit shall be subject to re-inspections as frequently as necessary to ensure that all deficiencies are corrected.
- (d) Inspections by the City pursuant to this program shall be exterior inspections only, unless an interior inspection is authorized by the owner or tenant. Nothing herein shall prevent the City from obtaining an inspection warrant for an interior inspection without the consent of the owner or tenant, nor from conducting an emergency inspection under exigent circumstances. Nothing herein shall prevent the City from conducting any other property inspection or taking any other enforcement action authorized by federal, state, or local law.

**4.30.404 Notice and Order to Correct.**

- (a) If any substandard condition or violation exists, the Director or designee may provide the property owner with a written “Notice and Order to Correct” that describes the substandard condition or violation. The notice will provide a reasonable period of time for correction, depending on the severity of the condition, from 24 hours to 60 days from the date of the notice.
- (b) If the property owner applies in writing to the Director for an extension within the original correction period, the Director may extend the period for correction if the Director determines that the property owner has established that the correction has been diligently pursued but could not be completed within the original correction period.
- (c) The Notice and Order shall be mailed first class mail to the property owner at the property owner’s last address as it appears on the latest equalized tax assessment roll of Contra Costa County.

**4.30.406 Permits.** Before beginning any correction of the substandard condition or violation, the property owner shall obtain all necessary permits and pay all required fees for the permits, including, without limitation, any penalty imposed by this Code by reason of any repair, improvement, or maintenance which had been done in the past without a required permit, inspection or final approval.

**4.30.408 Re-Inspections.** One or more re-inspections may be conducted to verify that the substandard condition(s) or violation(s) identified in the Notice and Order have been corrected. Following the expiration of the correction period and any extensions, the property owner shall pay a re-inspection fee and associated penalties, if any, and arrange with the Director for re-inspection of the property. If the owner does

not contact the Director, the City may cause a re-inspection to be made at its own discretion. The property owner shall pay any re-inspection fees and/or costs, including attorneys' fees for the City if legal services were utilized, for the re-inspection(s). Any substandard condition or violation not discovered in the initial inspection but discovered during a re-inspection may be the subject of a subsequent Notice and Order.

**4.30.410 Relocation of Tenants.** If it becomes necessary in the opinion of the Director to vacate any rental dwelling unit because of an unsafe or unsanitary condition, or to carry out the correction of any Notice and Order, the costs and expenses of any tenant shall be the responsibility of the property owner. The owner may appeal such costs and expenses to the City Manager, whose decision shall be final.

**4.30.412 Remedies.** Failure to correct the substandard condition or violation after a Notice and Order within the time specified in the Notice and Order, may result in the issuance of administrative citations, abatement of any nuisances using any remedy allowed under this Chapter, this Municipal Code, uniform codes adopted by reference, state law, a proceeding in equity, criminal and/or civil penalties, recordation of a notice of pending action, and/or any other enforcement method permitted by law. Remedies may include the City notifying the state Franchise Tax Board of the Property Owner's noncompliance for the purposes of disallowing state income tax deduction of interest, depreciation, taxes or amortization deductions, pursuant to California Revenue and Taxation Code Sections 17274 and 24436.5, and related statutes. Conducting the business of renting dwelling units in violation of this Chapter or without making corrections shall also constitute an unfair business practice subject to enforcement provisions authorized by state law.

**4.30.414 Appeals.** The Property Owner may appeal any determination of the Director or designee in the same manner as an appeal is taken from the issuance of an administrative citation as described in this Code.

## **Article 5 Licenses, Fees and Costs**

**4.30.502 Annual Fee.** All Property Owners of residential rental units subject to a rental dwelling unit inspection shall pay a fee in an amount established by resolution of the City Council. The fee shall represent the estimated average time and the actual cost and expense of maintaining the rental dwelling units and providing the annual inspection, and will be used to finance the cost of the Rental Dwelling Unit Inspection program. Should the property owner fail to pay the required inspection fee, the City will recover it, in addition to accrued interest and penalties, utilizing any remedies provided by law including, but not limited to, nuisance abatement or municipal tax lien procedures established by Ordinance or state law. Penalty amounts shall be as designated by the Council by resolution and, for Building Code violations, shall reflect penalty amounts contained in the Uniform Building Code for violation of that Code.

**4.30.504 Re-Inspection Fee.** Upon inspection, the Community Development Director or designee may instruct the owner to perform work, take action, or refrain from

action to verify compliance with said codes. If the Community Development Director or designee discovers upon re-inspection that the work, action, or inaction requested was not performed, the cited party shall be charged a re-inspection fee in an amount established by Resolution of the City Council. Should the cited party fail to pay the required re-inspection fee, the City will recover it, in addition to accrued interest and penalties, utilizing any remedies provided by law including nuisance abatement or municipal tax lien procedures established by Ordinance or state law.

SECTION 2. SEVERABILITY. If any provision of this ordinance or the application thereof to any person or circumstance is held invalid, the remainder of the ordinance, including the application of such part or provision to other persons or circumstances shall not be affected thereby and shall continue in full force and effect. To this end, the provisions of this ordinance are severable. The City Council hereby declares that it would have passed each section, subsection, subdivision, paragraph, sentence, clause, or phrase thereof, irrespective of the fact that any one or more sections, subsections, subdivisions, paragraphs, sentences, clauses or phrases may be held unconstitutional, invalid or unenforceable.

SECTION 3. CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA)  
FINDING. This ordinance is not subject to the California Environmental Quality Act (“CEQA”) pursuant to §§ 15060 (c)(2) (the activity will not result in a direct or reasonably foreseeable indirect physical change in the environment) and 15060 (c)(3) the activity is not a project (as defined in § 15378) of the CEQA Guideline (Title 14, Chapter 3 of the California Code of Regulations) because it has no potential for resulting in physical change to the environment, directly or indirectly. This ordinance requires the maintenance of existing residential dwelling units.

SECTION 4. EFFECTIVE DATE, OPERATIVE DATE AND POSTING. In accordance with Section 36937 of the Government Code, this ordinance shall take effect and be in force thirty (30) days from and after the date of its passage. To ensure that this ordinance will be implemented in an efficient manner, the requirements to register rental dwelling units shall become effective and immediately enforceable on July 1, 2008. The City Clerk of the City of Oakley shall cause this ordinance to be posted in at least three (3) public places in the City of Oakley in accordance with Section 36933 of the Government Code.

The foregoing Ordinance No. 07-08 was introduced with the reading waived at a regular meeting of the City Council of the City of Oakley on the 8<sup>th</sup> day of April, 2008. The Ordinance was adopted with the second reading waived at a regular meeting of the City Council of the City of Oakley on the 22nd day of April, 2008, and ordered passed to print by the following vote, to wit:

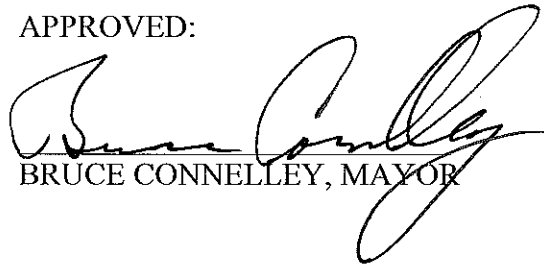
AYES: Anderson, Connelley, Nix, Rios, Romick

NOES: None

ABSENT: None

ABSTENTIONS: None

APPROVED:



BRUCE CONNELLEY, MAYOR

ATTEST:



NANCY ORTENBLAD, CITY CLERK