



## STAFF REPORT

**Date:** July 31, 2014  
**To:** Mayor and Members of City Council  
**From:** William R. Galstan, Special Counsel *William R. Galstan*  
**Cc:** Bryan Montgomery, City Manager; Doug Simms, Chief Building Official  
**Subject:** Ordinance to Amending Title 7 of the Oakley Municipal Code, Dealing with Uniform Building Codes

**FOR CONSIDERATION AT THE CITY COUNCIL MEETING ON AUGUST 12, 2014**

### **Summary and Recommendation**

Amend Title 7 of the Oakley Municipal Code, dealing with Uniform Building Codes.

### **Fiscal Impact**

None.

### **Background Information**

Title 7 of the Oakley Municipal Code-*Building and Housing Regulations* regulates building standards, safety, and related matters. It adopts by reference, incorporates, and makes minor revisions to various codes developed by the State of California and other entities for public health, safety and welfare, including but not limited to the California Building, Electrical, Mechanical, and Plumbing Codes. The purpose of the Ordinance is to make certain changes to Title 7 to bring it up to date by incorporating the latest version of various California codes.

### **Conclusion**

Staff recommends that the City Council adopt the proposed ordinance.

### **Attachments**

1. Proposed Ordinance

ORDINANCE NO. \_\_\_\_\_

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF OAKLEY AMENDING TITLE 7 OF THE OAKLEY MUNICIPAL CODE, DEALING WITH UNIFORM BUILDING CODES**

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

Section 1. Section 7.1.102 of the Oakley Municipal Code is hereby amended to read as follows:

**7.1.102 Adoption by reference.**

The following publications, including the specified appendices thereto, are hereby adopted by reference and incorporated into this Code, including the amendments made thereto in this Chapter:

- a) **The 2013 edition of the California Building Code, Volume 1 and 2, incorporating the 2012 edition of the International Building Code, including Appendix Chapters: C-Group U Agricultural Buildings, H-Signs, I-Patio Covers**, as published by the International Code Council, and as adopted by the California Building Standards Commission in Title 24, part 2 of the California Code of Regulations.
- b) **The 2013 edition of the California Residential Code including Appendix Chapters: G-Swimming Pools, Spas and Hot Tubs, and H-Patio Covers**, as published by the International Code Council, and as adopted by the California Building Standards Commission in Title 24, part 2.5 of the California Code of Regulations.
- c) **The 2013 edition of the California Electrical Code, incorporating the 2011 edition of the National Electrical Code** as published by the International Code Council, and as adopted by the California Building Standards Commission in Title 24, part 3 of the California Code of Regulations.
- d) **The 2013 edition of the California Mechanical Code, incorporating the 2012 edition of the Uniform Mechanical Code, excluding Appendix Chapters**, as published by the International Code Council, and as adopted by the California Building Standards Commission in Title 24, part 4 of the California Code of Regulations.
- e) **The 2013 edition of the California Plumbing Code, incorporating the 2012 edition of the Uniform Plumbing Code** as published by the International Code Council, and as adopted by the California Building Standards Commission in Title 24, part 5 of the California Code of Regulations.
- f) **The 2013 edition of the California Energy Code, including Appendix Chapter 1-A-Standards and Documents Referenced in the Energy Efficiency Regulations**, as published by the International Code Council, and as adopted by the California Building Standards Commission in Title 24, part 6 of the California Code of Regulations.

- g) **The 2013 edition of the California Historical Building Code including Appendix Chapter A**, as published by the International Code Council, and as adopted by the California Building Standards Commission in Title 24, part 8 of the California Code of Regulations.
- h) **The 2013 edition of the California Existing Building Code** as published by the International Code Council, and as adopted by the California Building Standards Commission in Title 24, part 10 of the California Code of Regulations.
- i) **The 2013 edition of the California Green Building Code**, as published by the International Code Council, and as adopted by the California Building Standards Commission in Title 24, part 11 of the California Code of Regulations.
- j) **The 2013 edition of the California Reference Standards**, as published by the International Code Council, and as adopted by the California Building Standards Commission in Title 24, part 12 of the California Code of Regulations.
- k) **The 2012 edition of the International Property Maintenance Code, including Appendix A-Boarding Standard**, as published by the International Code Council.

Section 2. Chapters 2 through 15 of Title 7 of the Oakley Municipal Code are hereby repealed.

Section 3. Chapter 2 is hereby added to Title 7 of the Oakley Municipal Code to read as follows:

## CHAPTER 2 AMENDMENTS TO CODES

### 7.2.102 Amendments to the California Building Code.

The 2013 California Building Code (CBC), Volume 1 and 2, are amended by the changes, additions, and deletions set forth in this Chapter. Section numbers used below are those of the 2013 California Building Code.

- (a) CBC Volume 1, Chapter 1 – Scope and Administration, Division II – Administration, is amended as follows:

- (1) Section 101.1 Title is amended to read as follows:

**Section 101.1 Title.** These regulations shall be known as the *Building Code of the City of Oakley* hereinafter referred to as “this Code”.

- (2) Section 101.4.3 Plumbing is amended in its entirety to read as follows:

**Section 101.4.3 Plumbing.** The provisions of the California Plumbing Code (CPC) shall apply to the installation, alteration, repair, and replacement of plumbing systems, including equipment, appliance, fixtures, fittings and appurtenances, and where connection to a water or sewage system and all aspects of a medical gas system.

- (3) Section 105 – Permits is amended to include subsections 105.2(14) – Residential decks to read as follows:

**Section 105.2(14). Residential decks.** Decks for Group R-3 occupancies and Group U occupancies accessory to R-3 occupancies, not exceeding 200 square feet (18.58m) in area, that are not more than 30 inches (762 mm) above grade at any point, are not attached to a dwelling and do not serve the exit door required by California Residential Code (CRC) section R311.1 – Egress door.

- (4) Section 105.5 – Permits is amended to read as follows:

**Section 105.5. Expiration.** Every permit issued by the building official under the provisions of this code shall expire by limitation and become null and void if the building, structure, equipment or work authorized by such permit is not commenced within 180 days from the date of such permit, or if the building, structure, equipment or work authorized by such permit is suspended or abandoned at any time after the work is commenced for a period of 180 days. Before such work can be recommenced, a new permit shall be first obtained to do so, and the fee therefore shall be one-half the amount required for a new permit for such work as set forth in the current fee schedule as adopted by the Council, provided no changes have been made or will be made to the original plans or specifications for such work, and provided further that such suspension or abandonment has not exceeded one year.

Any permittee holding an unexpired permit may apply for an extension of the time within which work may commence under that permit when the permittee is unable to commence work within the time frame required by this section for good and satisfactory reasons. The building official is authorized to grant, in writing, one or more extensions of time, for periods not more than 180 days each. The extension shall be requested in writing with justifiable cause demonstrated and accompanied by an extension request review fee, as required by the current fee schedule as adopted by the Council.

- (5) Section **109.2-Schedule of permit fees** is amended in its entirety to read as follows:

**Section 109.2 Schedule of permit fees.** On buildings, structures, electrical, gas, mechanical and plumbing systems or alterations requiring a permit, a fee for each permit shall be paid as required, in accordance with the current fee schedule as adopted by the Council.

The Council is hereby authorized to set and amend all fees prescribed by this Code. Said fees may be adjusted periodically by the Council to ensure the full recovery of City costs relating to building permits and inspections.

Permit fees and any required plan checks are based upon the value of the project. Electrical, plumbing and mechanical fees are based on a percentage of the building permit fee. The determination of value or valuation shall be made by the Chief Building Official. The Chief Building Official shall maintain the current fee schedule, and shall make it available for public review upon request.

- (6) Section **109.4-Work commencing before permit issuance** is amended to include subsection **109.4.1-Investigation, investigation fees, work without a permit**:

**Section 109.4.1 Investigation, investigation fees, and work without a permit.** Whenever any work for which a permit is required by this code has been commenced without first obtaining said permit, an investigation shall be made before a permit may be issued for such work. An investigation fee shall be collected whether or not a permit is then or subsequently issued. The investigation fee shall be equal to the amount of the permit fee required by this code. The minimum investigation fee shall be the same as the minimum fee set forth in the current fee schedule as adopted by the Council. The payment of such investigation fee shall not exempt any person from compliance with all other provisions of this code nor from any penalty prescribed by law.

- (7) Section **109.6-Refunds** is amended in its entirety to read as follows:

**Section 109.6 Refunds.** The Building Official may authorize the refunding of not more than 80% of the permit fees paid when no work has commenced under a permit in accordance with this code or when an application for a permit for which a plan review fee has been paid is withdrawn or canceled before any plan review effort has been expended.

- (8) Section **109-Fees** is amended to include Subsection **109.7-Re-inspections** and Section **109.8-Plan review fees**:

**Section 109.7 Re-inspections.** A re-inspection fee may be assessed for each inspection or re-inspection when such portion of work for which inspection is scheduled and is not complete or when corrections called for previously are not complete.

This section is not to be interpreted as requiring re-inspection fees the first time a job is rejected for failure to comply with the requirements of this code, but as controlling the practice of calling for inspections before the job is ready for such inspection or re-inspection.

To obtain a re-inspection, the applicant shall call and schedule a re-inspection and pay the re-inspection fee set forth in the current fee schedule as adopted by the Council.

In instances where re-inspection fees have been assessed, no additional inspection of the work will be performed until the required fees have been paid.

**Section 109.8 Plan review fees.** When submittal documents are required, a plan review fee shall be paid at the time of submittal for plan review. Said plan review fee shall be a percent of the building permit fee as shown in the current fee schedule as adopted by the Council.

The plan review fees specified in this section are separate fees from the permit fees specified in the current fee schedule as adopted by the Council and are in addition to the permit fees.

When submittal documents are incomplete or changed so as to require additional plan review or when the project involves deferred submittal items as defined in Section **107.3.4.1** – *Deferred submittals*, an additional plan review fee shall be charged at the rate shown in the current fee schedule as adopted by the Council.

- (9) Section **113-Board of appeals** is amended for existing sections **113.1-General**,

**Section 113.1 General.** Any appeals of City determinations under this chapter shall occur as specified in Title 1 Chapter 8 of this code.

**Sec. 7.2.104 Amendments to the California Residential Code.** The 2013 California Building Code (CRC) is amended by the changes, additions, and deletions set forth in this chapter. Section numbers used below are those of the 2013 California Residential Code.

- (a) CRC Part 1-*Administrative*, Chapter 1 – *Scope and Application*, Division II - *Administration*, is amended as follows:

- (1) Section **R100-General** subsection **R101.1-Title** is amended in its entirety to read as follows:

**Section R101.1-Title.** These provisions shall be known as the *Residential Code for One- and Two-family Dwellings of the City of Oakley*, and shall be cited as such and will be referred to herein as “this code.”

- (2) Section **R102- Applicability** subsection **R102.4.1-Conflicts** is amended in its entirety to read as follows:

**Section R102.4.1-Conflicts.** When conflicts occur between the administrative provisions of this code and the adopted provisions of CBC Chapter 1-*Scope and Administration*, Division II-*Administration*, the provisions which have greater specificity shall apply.

Where conflicts occur between provisions of this code and referenced codes and standards, the provisions of this code shall apply.

**Sec. 7.2.106. Amendments to the California Electrical Code.** The 2013 California Electrical Code (CEC) is adopted as published by the California Building Standards Commission. Section numbers used below are those of the 2013 California Electrical Code. Administrative provisions, as amended and adopted by the City of Oakley, prescribed in the Building Code of the City of Oakley, shall be used for the administration of this code.

**Sec. 7.2.108. Amendments to the California Mechanical Code.** The 2013 California Mechanical Code (CMC) is amended by the changes, additions, and deletions set forth in this chapter. Section numbers used below are those of the 2013 California Mechanical Code.

- (a) CMC Chapter 1 – *Administration*, Division II - *Administration*, Part 1-*General*, is amended as follows:

- (1) Section **101-Title, Scope and General** subsection **101.3.1-Conflicts** is amended in its entirety to read as follows:

**Section 101.3.1-Conflicts.** Where, in a specific case, different sections of this code or referenced standards specify different materials, methods of construction, or other requirements, the most restrictive shall govern as determined by the authority having jurisdiction. Where there is a conflict between a general requirement and a specific requirement, the specific requirement shall prevail.

When conflicts occur between the administrative provisions of this code and the adopted provisions of CBC Chapter 1-*Scope and Administration*, Division II-*Administration*, the provisions which have greater specificity shall apply.

Where conflicts occur between provisions of this code and referenced codes and standards, the provisions of this code shall apply.

- (b) CMC Chapter 1 – *Administration*, Division II - *Administration*, Part III-*Permits and Inspections*, is amended as follows:

- (1) Section **114-Fees** subsection **114.2-Permit fees** and subsection **114.3-Plan Review Fees**. is amended in its entirety to read as follows:

**Section 114.2-Permit fees.** The fee for each permit shall be as set forth in the most current fee schedule as adopted by the Council.

**Section 114.3-Plan Review fees.** Where plans or other data are required to be submitted in accordance with section **112.2-Plans and specifications**, a plan review fee shall be paid at the time of submitting plans and specifications for review. The plan review fees for mechanical work shall be in accordance with the most current fee schedule as adopted by the Council.

**Sec. 7.2.110. Amendments to the California Plumbing Code.** The 2013 California Plumbing Code (CPC) is amended by the changes, additions, and deletions set forth in this chapter. Section numbers used below are those of the 2013 California Plumbing Code.

- (a) CPC Chapter 1 – *Administration*, Division II - *Administration*, is amended as follows:

- (1) Section **101-General** subsection **101.4-Conflicts Between Codes** is amended in its entirety to read as follows:

**Section 101.4-Conflicts Between Codes.** Where the requirements within the jurisdiction of this plumbing code conflict with the requirements of the mechanical code, this code shall prevail. In instances where the code, applicable standards, or the manufacturer's installation instructions conflict, the more stringent provisions shall prevail. Where there is a conflict between a general requirement and a specific requirement, the specific requirement shall prevail.

When conflicts occur between the administrative provisions of this code and the adopted provisions of CBC Chapter 1-*Scope and Administration*, Division II-*Administration*, the provisions which have greater specificity shall apply.

Where conflicts occur between provisions of this code and referenced codes and standards, the provisions of this code shall apply.

- (2) Section **103-Permits and Inspections** subsection **103.4-Fees** and subsection **103.4.1-Plan Review Fees** is amended in its entirety to read as follows:

**Section 103.4-Fees.** The fee for each permit shall be as set forth in the most current fee schedule as adopted by the Council.

**Section 103.4.1-Plan Review fees.** Where plans or other data are required to be submitted by section **103.2.1-Plans and specifications**, a plan review fee shall be paid at the time of submitting plans and specifications for review. The plan review fees for plumbing work shall be in accordance with the most current fee schedule as adopted by the Council.

**Sec. 7.2.112. Amendments to the International Property Maintenance Code.** The 2012 International Property Maintenance Code (IPMC) is amended by the changes, additions, and deletions set forth in this chapter. Section numbers used below are those of the 2012 International Property Maintenance Code.

- (a) IPMC Chapter 1 – *Scope and Administration*, Part 1 – *Scope and Application* is amended as follows:

- (1) Section **101-General** is amended to read as follows:

**Section 101 General.** These regulations shall be known as the Property Maintenance Code of the City of Oakley, hereinafter referred to as “this code.”

- (2) Section **102.3-Application of other codes** is amended to read as follows:

**Section 102.3 Application of other codes.** Repairs, additions or alterations to a structure, or changes of occupancy, shall be done in accordance with the procedures and provisions of the effective California Existing Building Code, California Building Code, California Residential Code, California Electrical Code, California Mechanical Code, California Plumbing Code, California Energy Code, California Historical Building Code, California Fire Code, California Existing Building Code and the California Reference Standards.

(b) IPMC Chapter 1 – *Scope and Administration*, Part 2 – *Administration and Enforcement* is amended as follows:

(1) Section **103.1-*General*** is amended to read as follows:

**Section 103.1 *General.*** The Authority for the enforcement of this code shall rest with the City Manager

(2) Section **103.2-*Appointment*** is amended to read as follows:

**Section 103.2 *Appointment.*** The *code official* referenced in this Code shall be a building official hired, appointed or retained in accordance with the Oakley Municipal Code.

(3) Section **103.5-*Fees*** is amended to read as follows:

**Section 103.5 *Fees.*** The fees for activities and services performed by the department in carrying out its responsibilities under this code shall be as indicated in the most current fee schedule as adopted by the Council.

(4) Section **106.3-*Prosecution of violations*** is amended to read as follows:

**Section 106.3 *Prosecution of violations.*** Any person failing to comply with a notice of violation or order served in accordance with section **107-*Notices and orders*** shall be deemed guilty of a misdemeanor in accordance with Oakley Municipal Code Title 1, Chapter 5.

(6) Section **111-*Means of appeal*** is amended to read as follows, ***General.*** Any appeals of City determinations under this chapter shall occur as specified in Title 1 Chapter 8 of this code

**Section 113.4.3 *Extension of time to perform work.*** Upon receipt of an application from the person required to conform to the order and by agreement of such person to comply with the order if allowed additional time, not to exceed an additional 120 days, within which to complete said repair, rehabilitation or demolition, if the code official determines that such an extension of time will not create or perpetuate a situation imminently dangerous to life or property. The code official's authority to extend time is limited to the physical repair, rehabilitation or demolition of the premises and will not in any way affect the time to appeal the notice and order.

**Section 113.4.4 *Summary abatement.***

(a) If a declared dangerous structure or public nuisance is not completely abated by the owner of the property within the time prescribed, the Chief Building Official or authorized agent may request from the Council the authority and funding to cause the dangerous structure or declared

public nuisance to be abated by county personnel or private contract. In furtherance of this section, the Chief Building Official or designee is expressly authorized to enter upon the premises for the purpose of abating the dangerous structure or declared public nuisance.

- (b) Where required by state or federal law, a warrant shall be obtained prior to entry onto the premises for the purpose of abating the nuisance, unless written consent to enter is received from the owner or occupant of the premises or warrantless entry is otherwise permissible under state or federal law. Where a warrant is required, notice shall be given to the owner or occupant of the issuance of the warrant 24 hours prior to the entry, unless the warrant provides otherwise.

**Section 113.4.5 *Cost of abatement.*** The Chief Building Official or his designee shall keep an accounting of the costs and expenses of abating such dangerous structure or declared public nuisance, and shall render a statement of such costs to the person or persons receiving the notice and order.

- (a) Such person or persons receiving the notice and order shall be liable to the City for any and all costs and expenses to the City involved in abating the dangerous structure or declared public nuisance.
- (b) Costs and expenses as referred to in this section shall include but are not limited to, any and all direct costs related to personnel salaries and benefits, operational overhead, fees for experts, consultants or contractors, legal costs or expenses including attorney fees, claims against the county arising as a consequence of the dangerous structure or declared public nuisance and procedures associated with collecting moneys due hereunder.

**Section 113.4.6 *Assessment of Costs-Lien against property.*** The total cost of abating a dangerous structure or declared public nuisance shall constitute a special assessment against the premises to which it relates, and upon recordation in the office of the County Recorder of a notice of lien, shall constitute a lien on the property for the amount of such assessment.

- (a) After such recordation, a copy of the lien may be turned over to the County Auditor, who shall then enter the amount of the lien on the assessment rolls as a special assessment. Thereafter, said amount shall be collected at the same time and in the same manner as ordinary municipal taxes are collected, and shall be subject to the same penalties and the same procedure under foreclosure and sale in case of delinquency as provided for ordinary municipal taxes.
- (b) After such recordation, such lien may be foreclosed by judicial or other sale in the manner and means provided by law.

**Section 113.4.7 Alternative enforcement.** Nothing in this chapter shall be deemed to prevent the City Attorney from commencing with any other available civil or criminal proceedings to abate a dangerous structure or declared public nuisance under applicable provision of state law as an alternative to the proceedings set forth in this chapter.

- (7) Section **202-General Definitions** is amended to include the following definitions to be incorporated in alphabetical order:

PUBLIC NUISANCE. Shall mean anything which;

- (a) is injurious to health or is indecent or offensive to the senses or any obstruction to the free use of property, so as to interfere with the comfortable enjoyment of life or property; and
- (b) affects at the same time an entire community or neighborhood or any considerable number of persons, although the extent of the annoyance or damage inflicted upon individuals may be unequal.

“Public nuisance” shall include, but not be limited to the following;

- (c) any attractive nuisance which may prove detrimental to children, whether in a building, on the premises of a building, or upon an unoccupied lot. This includes any abandoned wells or shafts;
- (d) whatever is dangerous to human life or is detrimental to health and safety as determined by the code official; and
- (e) inadequate or unsanitary sewage or plumbing facilities.

- (8) Section **302-Exterior property areas** subsections **302.4-Weeds**, and **304.14-Insect screens** are amended as follows:

**Section 302.4-Weeds** Insert 6 inches.

**Section 304.14 Insect screens.** Every door, window and other outside opening required for ventilation of habitable rooms, food preparation areas, food service areas or any areas where products to be included or utilized in food for human consumption are processed, manufactured, packaged or stored shall be supplied with approved-tightly fitting screens of minimum 16 mesh per inch (16 mesh per 25mm), and every screen door used for insect control shall have a self-closing device in good working condition.

**Exception:** Screens shall not be required where other *approved* means, such as air curtains or insect repellent fans, are employed.

- (9) **Section 602-Heating facilities** is amended to repeal the exception listed for **Section 602.2-Residential occupancies**, **Section 602.3-Heat supply** and **Section 602.4-Occupiable work spaces**.

**Sec. 7.2.114. Violations: Penalties.** Any person violating the provisions of this chapter shall be deemed guilty of a misdemeanor or infraction as changed by the prosecuting attorney and shall be punishable as set forth in City of Oakley Municipal Code.

Section 4. Severability.

In the event any section or portion of this ordinance shall be determined to be invalid or unconstitutional, such section or portions shall be deemed severable and all other sections or portions hereof shall remain in full force and effect.

Section 5. California Environmental Quality Act (CEQA) finding.

This ordinance is exempt from CEQA pursuant to CEQA Guidelines Section 15061(b)(3), Review for Exemption, because it can be seen with certainty that this ordinance will not have a significant effect on the environment; therefore it is not subject to CEQA.

Section 6. Effective Date.

The ordinance shall take effect and be in force thirty (30) days from and after the date of its passage. The City Clerk shall cause the ordinance to be published within fifteen (15) days after its passage in a newspaper of general circulation, or by publishing a summary of the proposed ordinance, posting a certified copy of the proposed ordinance in the City Clerk's Office at least five (5) days prior to the City Council meeting at which the ordinance is to be adopted, and within fifteen (15) days after its adoption, publishing a summary of the ordinance with the names of the Council Members voting for and against the ordinance.

The foregoing ordinance was adopted with the reading waived at a regular meeting of the Oakley City Council on \_\_\_\_\_, 2014 by the following vote:

AYES:

NOES:

ABSTENTIONS:

ABSENT:

APPROVED:

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Randy Pope, Mayor

ATTEST:

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Libby Vreonis, City Clerk

Date