



ALAMEDA COUNTY COMMUNITY DEVELOPMENT AGENCY

P L A N N I N G D E P A R T M E N T

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Agenda Item 4 March 9, 2023

March 2, 2023

Honorable Board of Supervisors
Administration Building
Oakland California

SUBJECT: **APPROVE THE AMERICAN RESCUE PLAN ACT (ARPA)
UNINCORPORATED AREA FUNDING TO IMPLEMENT A
MODIFIED RENTAL INSPECTION CODE ENFORCEMENT
PILOT PROGRAM - Tenant Complaints of Housing Quality,
Maintenance Concerns, and Substandard Code Violations in the
Unincorporated Area of Alameda County.**

RECOMMENDATION

Authorize the Community Development Agency (CDA) to proceed with the proposed two-year pilot program to be implemented by the Code Enforcement Division in the CDA Planning Department as part of the American Rescue Plan Act (ARPA) Unincorporated Area Funding Plan.

BACKGROUND

Planning and Code Enforcement staff have continued to refine the rollout of a pilot Rental Inspection program which was last discussed at the Transportation and Planning Committee on February 6th, 2023. At that time the Committee was supportive of a program that would fill a gap in County services, utilizing ARPA funding to create a program to respond to tenant complaints. Originally the program was discussed as a proactive rental inspection program in the ARPA Unincorporated Area Funding Plan but is now being proposed as a pilot complaint-based program to more fully determine what a long-term program may require once the pilot comes to an end. One and two-year reporting back to this Committee is anticipated as data is gathered on housing conditions and the program can be further refined.

At the February 6th meeting the committee received staff report for this pilot program, considered the information, took public comments and accepted staff's recommendations to move this item to the full Board of Supervisors for approval.

Tenants, tenant advocates and housing providers generally support the program but have raised concerns regarding harassment, retaliation and displacement of complaining tenants. The County (through CDA/Housing and Community Development) is considering a suite of tenant protection policies that can help address these concerns. Advocates also look forward to the outreach and education component of this program that may benefit all parties.

Discussions with representatives of the Rental Housing Organizations have also been held, and there is also general support of the program with a focus on using existing housing codes as opposed to adopting new ones.

Staff views the two-year pilot as a data gathering period to determine the full extent of need and resources/staff required for a long-term program, whether it be either complaint-based or proactive.

PURPOSE

This program will help improve and enhance the delivery of service and response related to tenant complaints and enforcement in the unincorporated county and it will help satisfy the county's compliance with the recently passed state law AB-838 (**see Attachment: 1**) effective July 1, 2022 requiring jurisdictions to respond to substandard housing complaints from tenants, residents, occupants and agents, provide adequate notice to the property owner and re-inspect for compliance.

The introduction of a pilot program at this time is appropriate as it would provide multiple benefits to County residents and fill existing gaps in service. This will be an added operation and no new ordinances are being proposed.

PROGRAM PARAMETERS

- The Code Enforcement Division will respond to tenant complaints of habitability and substandard conditions in the Unincorporated Alameda County.
- Provide training for Code Enforcement staff regarding housing quality standards and substandard conditions.
- Inspect the subject residence/unit.
- Reference existing Alameda County Housing Code Standards in chapter 15.24 of the Building Code (**see Attachment: 2**) and California Health and Safety Code Standards 17920.3 (**see Attachment: 3**) for buildings used for habitation to identify and document corrections and/or violations.
- Follow enforcement and abatement procedures referenced in Ordinance 6.65 of the Neighborhood Preservation Ordinance (**see Attachment: 4**) and/or Chapter 15.28 of the Building Code (**see Attachment: 5**).
 - Notification of violations/corrections
 - Re-inspection
 - Fines and Fees
 - Appeals and Hearings
 - Liens
 - Abatement procedures
 - Etc.

Note: For possible Red-Tag (do not occupy) unsafe conditions, support from the Building Department will be required for validation and posting.

Rental property owners are responsible for tenants that may be temporarily or permanently relocated or displaced because of substandard housing conditions and necessary repairs per AB1482 Tenant Protection Act of 2019. Tenants may seek legal advice and pursue civil action using the state's relocation assistance regulations if the owner does not take any action. Code Enforcement inspectors will engage the tenant and landlord to make them aware of their rights, roles and responsibilities and refer them to voluntary mediation services if needed.

DATA COLLECTION

- Information and data reported to program staff and gather during visits to properties will be collected to evaluate the program and to recommend what ideal system can be in place after the end of the pilot program:
- Examples of data to collect:
 - Number and type of complaints
 - Number and type of units
 - General location of complaints
 - Referrals
 - Overall conditions
 - Remediation

OUTREACH AND EDUCATION

- Develop a campaign to provide information, outreach and education to tenants and housing providers.
 - Handouts, flyers etc. related to habitability complaints and how to file a complaint.
 - Series of public presentations to promote awareness.
 - Workshops for tenants and housing providers to provide education regarding rights, roles and responsibilities related to housing conditions and needed repairs and the enforcement process.
 - Update the existing Code Enforcement website to include general information, complaint form and referrals.

REPORTING

- Provide a report to the Transportation and Planning committee after the first year to on the program status and recommend any adjustments if needed.
- Provide a report towards the middle of the second year to evaluate the overall program and to see if the complaint-based system will continue or have a new system instead, such as a pro-active rental inspection program after the end of the pilot period.

FUNDING

Utilize funds secured through the American Rescue Plan (ARPA) that was approved by the Board of Supervisors earlier this year. The full Board of Supervisors is required to act on re-programming these funds for the purposes of a complaint-based rental inspection program.

ESTIMATED COST

- Develop program by existing staff
- Provide staff training (in house and outside independent trainers)
- Materials, printing, supplies etc.
- Add part time investigator (up to 50% FTE per year for 2 years)
- Add part time clerical support (up to 20% FTE per year for 2 years)
- County Counsel staff (up to 25% FTE)
- Hearing Officer (as needed for appeal hearing)

- Itemized breakdown (see **Attachment: 6**)

Total Cost Estimate for the 2-year program: \$665K

Long term funding that may include fees paid by property owners to cover a permanent proactive program should be discussed before the end of the pilot. Fees paid by property owners cannot be used for a compliant based program, pursuant to State law.

CONCLUSION

Staff believes the proposed pilot program is timely, appropriately funded and enjoys general support from tenants and property owners alike. Approval from your Board will allow staff to launch the program with regular updates to examine program outcomes. Staff recommends the Board approve the proposed two-year pilot program to be implemented by the Code Enforcement Division in the CDA Planning Department.

The complete record is attached.

Very truly yours,

DocuSigned by:
Sandra Rivera
4C216765DCDF437...
Sandra Rivera, Director
Community Development Agency

Attachments:

- AB-838
- Chapter 15.24 of the Building Code
- California Health and Safety Code Standards 17920.3
- Ordinance 6.65 of the Neighborhood Preservation Ordinance
- Chapter 15.28 of the Building Code
- Estimated Cost Analysis

*California*

LEGISLATIVE INFORMATION

ATTACHMENT: 1[Home](#)[Bill Information](#)[California Law](#)[Publications](#)[Other Resources](#)[My Subscriptions](#)[My Favorites](#)**AB-838 State Housing Law: enforcement response to complaints. (2021-2022)**

SHARE THIS:



Date Published: 09/29/2021 02:00 PM

Assembly Bill No. 838**CHAPTER 351**

An act to add Section 17970.5 to the Health and Safety Code, relating to building standards.

[Approved by Governor September 28, 2021. Filed with Secretary of State
September 28, 2021.]

LEGISLATIVE COUNSEL'S DIGEST

AB 838, Friedman. State Housing Law: enforcement response to complaints.

Existing law, the State Housing Law, a violation of which is a crime, establishes statewide construction and occupancy standards for buildings used for human habitation. Existing law authorizes a city or county to designate and charge a specified department or officer with the enforcement of the State Housing Law, the building standards published in the California Building Standards Code, or any other rules and regulations adopted pursuant to the State Housing Law for the protection of the public health, safety, and general welfare.

Existing law deems a building, portion of a building, or premises on which a building is located to be a substandard building if any one of specified conditions exists to the extent that it endangers the life, limb, health, property, safety, or welfare of the public or its occupants. Existing law deems a building, portion of a building, or premises on which a building is located to be in violation of the State Housing Law if it contains lead hazards, as specified, that are likely to endanger the health of the public or the occupants.

This bill would, beginning July 1, 2022, require a city or county that receives a complaint of a substandard building or a lead hazard violation, as described above, from a tenant, resident, or occupant, or an agent of a tenant, resident, or occupant, except as specified, to inspect the building, portion of the building intended for human occupancy, or premises of the building, document the lead hazard violations that would be discovered based upon a reasonably competent and diligent visual inspection of the property, and identify any building, portion of a building intended for human occupancy, or premises on which such a building is located that is determined to be substandard, as applicable. The bill would require the city or county, as applicable, to advise the owner or operator of each violation and of each action that is required to be taken to remedy the violation and to schedule a reinspection to verify correction of the violations. The bill would require a city or county to provide free, certified copies of an inspection report and citations issued, if any, to the complaining tenant, resident, occupant, or agent, and to all potentially affected tenants, residents, occupants, or the agents of those individuals, as specified. The bill would prohibit the inspection or the report from being subject to any unreasonable conditions, as specified, and prohibit a city, county, or city and county from collecting a fee, cost, or charge from a property owner or property owner's agent for any inspection of, or any inspection report about, that owner's or agent's property that is conducted or issued pursuant to the bill's provisions, unless the inspection reveals one or more material lead hazard violations or deems and declares the property substandard,

as described above. The bill would prohibit a city or county from unreasonably refusing to communicate with a tenant, resident, occupant, or agent regarding a matter covered by this bill.

By imposing new duties on local government officials, this bill would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for specified reasons.

Vote: majority Appropriation: no Fiscal Committee: yes Local Program: yes

THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

SECTION 1. Section 17970.5 is added to the Health and Safety Code, to read:

17970.5. (a) Notwithstanding any other provision of this part, a city or county that receives a complaint from a tenant, resident, or occupant, or an agent of a tenant, resident, or occupant, regarding a potential violation of Section 17920.10 or regarding a building being substandard pursuant to Section 17920.3 shall do all of the following:

(1) Inspect the building or portion thereof intended for human occupancy, including any dwelling unit, guestroom, or suite of rooms, or the premises on which it is located, that may be in violation of Section 17920.10 or that may be substandard pursuant to Section 17920.3.

(2) Document any violations of Section 17920.10 that would be discovered based upon a reasonably competent and diligent visual inspection of the property and identify any building or portion thereof intended for human occupancy, including any dwelling unit, guestroom, or suite of rooms, or the premises on which it is located, that is determined to be substandard pursuant to Section 17920.3, as applicable. The documentation shall be included in the inspection report described in subdivision (d).

(3) As applicable, advise the owner or operator of each violation and of each action that is required to be taken to remedy the violation and schedule a reinspection to verify correction of the violations.

(b) A city or county shall perform an inspection conducted pursuant to subdivision (a) at least as promptly as that city or county conducts an inspection in response to a request for final inspection pursuant to Section 110 of the California Building Code.

(c) Notwithstanding subdivisions (a) and (b), a city or county is not required to conduct an inspection in response to either of the following types of complaints:

(1) A complaint that does not allege one or more substandard conditions.

(2) A complaint submitted by a tenant, resident, or occupant who, within the past 180 days, submitted a complaint about the same property that the chief building inspector or their designee reasonably determined, after inspection, was frivolous or unfounded.

(d) A city or county shall provide free, certified copies of an inspection report and citations issued pursuant to this section, if any, to the complaining tenant, resident, occupant, or their agent. If inspection reveals a condition potentially affecting multiple tenants, residents, or occupants, including, but not limited to, conditions relating to the premises, common areas, or structural features, then the city or county shall provide free copies of the inspection report and citations issued to all potentially affected tenants, residents, occupants, or their agents.

(e) A city, county, or city and county shall not collect a fee, cost, or charge from a property owner or property owner's agent for any inspection of, or any inspection report about, that owner's or agent's property that is conducted or issued pursuant to this section, unless the inspection reveals one or more material violations of Section 17920.10 or deems and declares the property substandard pursuant to Section 17920.3.

(f) Nothing in this section limits or alters the existing authority of a city, county, or city and county to impose fees on rental property owners to support a rental property inspection program, or to otherwise impose generally applicable charges, fees, or assessments to cover the costs of inspections or inspection reports required by this section.

(g) An inspection or report required by this section shall not be subject to any unreasonable conditions, including any requirements that:

- (1) The tenant, resident, occupant, or agent first make a demand for correction upon the owner of the property.
- (2) The tenant be current on rent.
- (3) The tenant otherwise be in compliance with their rental agreement.
- (4) The tenant, resident, or occupant not be involved in a legal dispute with the owner of the property.

(h) A city or county shall not unreasonably refuse to communicate with a tenant, resident, occupant, or the agent of a tenant, resident, or occupant regarding any matter covered by this section.

(i) The requirements of this section shall not be construed to impose a mandatory duty pursuant to Section 815.6 of the Government Code, and shall not be construed to affect the availability of any immunity otherwise applicable to the city or county or its employees, including, but not limited to, Sections 818.2, 818.4, 818.6, 820.2, 821, 821.2, and 821.4 of the Government Code.

(j) (1) An action to enforce the requirements of this section shall be brought pursuant to Section 1085 of the Code of Civil Procedure.

(2) For purposes of Section 1085 of the Code of Civil Procedure, the requirements of this section shall be construed as acts which the law specially enjoins, as a duty resulting from an office, trust, or station.

(k) This section shall become operative July 1, 2022.

SEC. 2. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because a local agency or school district has the authority to levy service charges, fees, or assessments sufficient to pay for the program or level of service mandated by this act, within the meaning of Section 17556 of the Government Code, and because the only other costs that may be incurred by a local agency or school district under this act would result from a legislative mandate that is within the scope of paragraph (7) of subdivision (b) of Section 3 of Article I of the California Constitution.

Chapter 15.24 HOUSING CODE¹

Sections:

15.24.010 General.

These regulations, consisting of the 1997 Edition of the Uniform Housing Code (UHC), as amended by this Chapter, shall be known as the Housing Code of the County of Alameda, may be cited as such and will be referred to herein as "this code". See also California State Housing Law, California Health and Safety Code Division 13, Part 1.5 Regulation of Buildings Used for Human Habitation, Section 17910, et seq.

(Ord. No. 2019-59 , § 6, 11-26-19)

15.24.020 UHC Ch. 1, Title and Scope.

{Not adopted}

(Ord. No. 2019-59 , § 6, 11-26-19)

15.24.030 UHC Ch. 2, Enforcement.

{Not adopted, except Sections 201.1 and 202 are adopted and amended to read as follows}

SECTION 201.1 Authority. The building official, or other enforcement officer designated by him/her, is hereby authorized and directed to enforce all of the provisions of this code. For such purposes, the building official shall have the powers of a law enforcement officer.

SECTION 202 — SUBSTANDARD BUILDINGS[BID]

Buildings or portions thereof that are determined to be substandard as defined in this code are hereby declared to be public nuisances and shall be abated by repair, rehabilitation, demolition, or removal as determined by the building official in accordance with the procedures specified in equity or law, including any relevant provisions in the AC General Ordinance Code.

(Ord. No. 2019-59 , § 6, 11-26-19)

15.24.040 UHC Ch. 3, Permits and Inspections.

{Not adopted}

¹Editor's note(s)—Ord. No. 2019-59 , § 2, adopted November 26, 2019, repealed the former Chapter 15.24, §§ 15.24.010 and 15.24.020, and § 6 of Ord. No. 2019-59 enacted a new Chapter 15.24 as set out herein. The former Chapter 15.24 pertained to similar subject matter and derived from Ord. No. 2016-63 , adopted November 22, 2016.

15.24.050 UHC Ch. 4, Definitions, Section 401, Definitions [BID].

{Not adopted, except that the following definitions are adopted and amended to read as follows}

HEALTH OFFICER. The health officer of the County.

NUISANCE. The following shall be defined as nuisances:

1. Any nuisance as defined in Section 17920 of the Health and Safety Code, or any public nuisance known at common law or in equity jurisprudence.

2. Any attractive nuisance that may prove detrimental to children whether in a building, on the premises of a building or on an unoccupied lot. This includes any abandoned wells, shafts, basements or excavations; abandoned refrigerators and motor vehicles; any structurally unsound fences or structures; or any lumber, trash, fences, debris or vegetation that may prove a hazard for inquisitive minors.

3. Whatever is dangerous to human life or is detrimental to health, as determined by the health officer.

4. Overcrowding a room with occupants.

5. Insufficient ventilation or illumination.

6. Inadequate or unsanitary sewage 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.

(Ord. No. 2019-59 , § 6, 11-26-19)

15.24.060 UHC Ch. 5, through UHC Ch. 9.

{Not adopted}

(Ord. No. 2019-59 , § 6, 11-26-19)

15.24.070 UHC Ch. 10, Substandard Buildings, Section 1001, Definition [BID].

1001.1 General. Any building or portion thereof that is determined to be an unsafe building in accordance with AC Section 15.08.150 of this title, or any building or portion thereof, including any dwelling unit, guest room or suite of rooms, or the premises on which the same is located, in which there exists any of the conditions referenced in this section to an extent that endangers the life, limb, health, property, safety or welfare of the public or the occupants thereof, shall be deemed and hereby are declared to be substandard buildings.

1001.2through1001.10{See UHC}

1001.11 Hazardous or insanitary premises. The accumulation of weeds, vegetation, junk, dead organic matter, debris, garbage, offal, rat harborages, stagnant water, combustible materials, and similar materials or conditions on a premises constitutes fire, health or safety hazards that shall be abated in accordance with the procedures specified in equity or law, including any relevant provisions in the General Ordinance Code.

1001.12through1001.14{See UHC}

(Ord. No. 2019-59 , § 6, 11-26-19)

15.24.080 UHC Ch. 11 through UHC Ch. 15.

{Not adopted}

(Ord. No. 2019-59 , § 6, 11-26-19)

Code:

Section: 1 or 2 or 1001

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HEALTH AND SAFETY CODE - HSC**DIVISION 13. HOUSING [17000 - 19997]** (*Division 13 enacted by Stats. 1939, Ch. 60.*)**PART 1.5. REGULATION OF BUILDINGS USED FOR HUMAN HABITATION [17910 - 17998.3]** (*Part 1.5 added by Stats. 1961, Ch. 1844.*)**CHAPTER 2. Rules and Regulations [17920 - 17929]** (*Chapter 2 added by Stats. 1961, Ch. 1844.*)

17920.3. Any building or portion thereof including any dwelling unit, guestroom or suite of rooms, or the premises on which the same is located, in which there exists any of the following listed conditions to an extent that endangers the life, limb, health, property, safety, or welfare of the public or the occupants thereof shall be deemed and hereby is declared to be a substandard building:

(a) Inadequate sanitation shall include, but not be limited to, the following:

- (1) Lack of, or improper water closet, lavatory, or bathtub or shower in a dwelling unit.
- (2) Lack of, or improper water closets, lavatories, and bathtubs or showers per number of guests in a hotel.
- (3) Lack of, or improper kitchen sink.
- (4) Lack of hot and cold running water to plumbing fixtures in a hotel.
- (5) Lack of hot and cold running water to plumbing fixtures in a dwelling unit.
- (6) Lack of adequate heating.
- (7) Lack of, or improper operation of required ventilating equipment.
- (8) Lack of minimum amounts of natural light and ventilation required by this code.
- (9) Room and space dimensions less than required by this code.
- (10) Lack of required electrical lighting.
- (11) Dampness of habitable rooms.
- (12) Infestation of insects, vermin, or rodents as determined by a health officer or, if an agreement does not exist with an agency that has a health officer, the infestation can be determined by a code enforcement officer, as defined in Section 829.5 of the Penal Code, upon successful completion of a course of study in the appropriate subject matter as determined by the local jurisdiction.
- (13) Visible mold growth, as determined by a health officer or a code enforcement officer, as defined in Section 829.5 of the Penal Code, excluding the presence of mold that is minor and found on surfaces that can accumulate moisture as part of their properly functioning and intended use.
- (14) General dilapidation or improper maintenance.
- (15) Lack of connection to required sewage disposal system.
- (16) Lack of adequate garbage and rubbish storage and removal facilities, as determined by a health officer or, if an agreement does not exist with an agency that has a health officer, the lack of adequate garbage and rubbish removal facilities can be determined by a code enforcement officer as defined in Section 829.5 of the Penal Code.

(b) Structural hazards shall include, but not be limited to, the following:

(1) Deteriorated or inadequate foundations.

(2) Defective or deteriorated flooring or floor supports.

(3) Flooring or floor supports of insufficient size to carry imposed loads with safety.

(4) Members of walls, partitions, or other vertical supports that split, lean, list, or buckle due to defective material or deterioration.

(5) Members of walls, partitions, or other vertical supports that are of insufficient size to carry imposed loads with safety.

(6) Members of ceilings, roofs, ceiling and roof supports, or other horizontal members which sag, split, or buckle due to defective material or deterioration.

(7) Members of ceilings, roofs, ceiling and roof supports, or other horizontal members that are of insufficient size to carry imposed loads with safety.

(8) Fireplaces or chimneys which list, bulge, or settle due to defective material or deterioration.

(9) Fireplaces or chimneys which are of insufficient size or strength to carry imposed loads with safety.

(c) Any nuisance.

(d) All wiring, except that which conformed with all applicable laws in effect at the time of installation if it is currently in good and safe condition and working properly.

(e) All plumbing, except plumbing that conformed with all applicable laws in effect at the time of installation and has been maintained in good condition, or that may not have conformed with all applicable laws in effect at the time of installation but is currently in good and safe condition and working properly, and that is free of cross connections and siphonage between fixtures.

(f) All mechanical equipment, including vents, except equipment that conformed with all applicable laws in effect at the time of installation and that has been maintained in good and safe condition, or that may not have conformed with all applicable laws in effect at the time of installation but is currently in good and safe condition and working properly.

(g) Faulty weather protection, which shall include, but not be limited to, the following:

(1) Deteriorated, crumbling, or loose plaster.

(2) Deteriorated or ineffective waterproofing of exterior walls, roofs, 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.

(h) Any building or portion thereof, device, apparatus, equipment, combustible waste, or vegetation that, in the opinion of the chief of the fire department or his deputy, 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.

(i) All materials of construction, except those that are specifically allowed or approved by this code, and that have been adequately maintained in good and safe condition.

(j) Those premises on which an accumulation of weeds, vegetation, junk, dead organic matter, debris, garbage, offal, rodent harborages, stagnant water, combustible materials, and similar materials or conditions constitute fire, health, or safety hazards.

(k) Any building or portion thereof that is determined to be an unsafe building due to inadequate maintenance, in accordance with the latest edition of the Uniform Building Code.

(l) All buildings or portions thereof not provided with adequate exit facilities as required by this code, except those buildings or portions thereof whose exit facilities conformed with all applicable laws at the time of their construction and that have been adequately maintained and increased in relation to any increase in occupant load, alteration or addition, or any change in occupancy.

When an unsafe condition exists through lack of, or improper location of, exits, additional exits may be required to be installed.

(m) All buildings or portions thereof that are not provided with the fire-resistive construction or fire-extinguishing systems or equipment required by this code, except those buildings or portions thereof that 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) All buildings or portions thereof occupied for living, sleeping, cooking, or dining purposes that were not designed or intended to be used for those occupancies.

(o) Inadequate structural resistance to horizontal forces.

"Substandard building" includes a building not in compliance with Section 13143.2.

However, a condition that would require displacement of sound walls or ceilings to meet height, length, or width requirements for ceilings, rooms, and dwelling units shall not by itself be considered sufficient existence of dangerous conditions making a building a substandard building, unless the building was constructed, altered, or converted in violation of those requirements in effect at the time of construction, alteration, or conversion.

(Amended by Stats. 2015, Ch. 720, Sec. 3. (SB 655) Effective January 1, 2016.)

Chapter 6.65 UNINCORPORATED ALAMEDA COUNTY REAL PROPERTY NUISANCES

6.65.050 Notification of nuisance.

Whenever the enforcement officer determines that any property within the county is being maintained contrary to one or more of the provisions of Section 6.65.030, the enforcement officer shall give written notice to the owner of said property. Such notice shall be served upon the owner in accordance with provisions of Section 6.65.060 covering service in person or by mail.

(Ord. No. 2009-32 , 7-21-09)

6.65.060 Notice to abate.

Notice to abate shall be provided in person or by prepaid certified mail, return receipt requested and shall include a copy of this chapter and a statement describing the section(s) found to be violated. It shall further set forth a reasonable time for correcting the violation(s), but in no event less than three (3) calendar days nor more than sixty (60) calendar days, and may also set forth suggested methods of correcting the same. The enforcement officer shall inspect subject property within the time limit for correcting the violation(s), to determine whether the violation(s) has been corrected. If the property is found to be in compliance with this chapter, the matter shall be dropped and no further enforcement action taken. If the property is not found to be in compliance with this chapter, further enforcement action shall occur as set forth herein including fines and/or fees according to Section 6.65.220, Violation—Schedule of Fines and Fees.

In the event that the violation(s) constitutes a second or subsequent violation of Section 6.65.030 on said property, the notice to abate shall include a statement detailing the costs incurred by the enforcement officer in documenting the nuisance and the preparation of notice to abate. Should a second or subsequent violation occur, a fine of five hundred dollars (\$500.00) shall be imposed and further enforcement action may be taken. Such costs incurred and additional fines and/or fees, if any, shall be due and payable to the enforcement agency within thirty (30) calendar days from the date of invoice, with unpaid amounts subject to collection as specified in Section 6.65.110.

(Ord. No. 2009-32 , 7-21-09)

6.65.070 Administrative hearing to abate nuisance.

In the event said owner shall fail, neglect, or refuse to comply with the notice to abate a nuisance an administrative hearing shall be conducted within forty-five (45) calendar days after the date established pursuant to Section 6.65.060 of this chapter to ascertain whether said violation constitutes a public nuisance.

(Ord. No. 2009-32 , 7-21-09)

6.65.080 Notice of hearing.

Notice of said hearing shall be served upon the owner not less than seven calendar days before the time fixed for hearing. Notice of hearing shall be provided in person or by prepaid certified mail, return receipt requested to the owner's last known address. Service shall be deemed to be complete at the time notice is personally served or deposited in the mail. Failure of any person to receive notice shall not affect the validity of any proceedings hereunder. Notice shall be substantially in the format set forth below:

**COUNTY OF ALAMEDA
NOTICE OF ADMINISTRATIVE HEARING ON ABATEMENT OF NUISANCE**

This is a notice of hearing before the Board of Zoning Adjustments to ascertain whether certain property situated in the County of Alameda, State of California, known and designated as [street address], in said County, and more particularly described as [assessor's parcel number] constitutes a public nuisance subject to abatement by the rehabilitation of such property or by the repair, removal, or demolition and removal of property situated hereon. If said property, in whole or part, is found to constitute a public nuisance as defined in this Ordinance and the same is not promptly abated by the owner, such nuisance may be abated by the County of Alameda, in which case the cost of such rehabilitation, repair, removal, or demolition and removal will be assessed upon such property and such costs together with interest thereon, will constitute a lien upon such property until paid; in addition, you may be cited for violation of the provisions of county ordinances and subject to a fine and/or fees.

Said alleged conditions consist of the following:

_____ in violation of Alameda County General Ordinance Code Section(s): _____

The recommended method(s) of abatement are:

All persons having an interest in said matters may attend the hearing and their testimony and evidence will be heard and given due consideration.

Dated this ____ day of _____, 20____.

Board of Zoning Adjustments

Time and Date of Hearing: _____

Location of Hearing: _____

(Ord. No. 2009-32 , 7-21-09)

6.65.090 Administrative hearing by board of zoning adjustments.

At the time stated in the notice, the board of zoning adjustments shall hear and consider all relevant evidence, objections, or protests, and shall receive testimony relative to such alleged public nuisance and to proposed rehabilitation, repair, removal, or demolition of such property. Said hearing may be continued from time to time.

If the board of zoning adjustments finds that such public nuisance does exist and that there is sufficient cause to rehabilitate, repair, remove, or demolish and remove the nuisance, the enforcement officer shall prepare findings and an order which shall specify the nature of the nuisance, the method(s) of abatement, and the time within which the work shall be commenced and completed, which shall not exceed sixty (60) calendar days. The order shall include reference to the right to appeal set forth in Section 6.65.120.

(Ord. No. 2009-32 , 7-21-09)

6.65.100 Service of board of zoning adjustments order to abate.

A copy of the findings and order shall be served on all owners of the subject property in the same manner as provided for notice of hearing in Section 6.65.080. In addition, a copy of the findings and order shall be conspicuously posted on or near the property. Any fines imposed under Section 6.65.060 may be reduced or waived upon determination of hardship or special circumstances by the board of zoning adjustments.

(Ord. No. 2009-32 , 7-21-09)

6.65.110 Procedure—No appeal.

In the absence of any appeal, the nuisance shall be abated in the manner and means specifically set forth in said findings and order. In the event the owner fails to abate the nuisance as ordered, the enforcement officer shall cause the nuisance to be abated by county employees or private contract. The costs shall be billed to the owner, as specified in Section 6.65.170. The enforcement officer, county employees and/or private contractors are expressly authorized to enter upon said property for such purposes.

(Ord. No. 2009-32 , 7-21-09)

6.65.120 Procedure—Appeal to Board of Supervisors.

Any interested party may appeal the board of zoning adjustments findings and order to the Alameda County Board of by filing an appeal with the planning department within ten calendar days from the mailing date of written notification of the action. The appeal shall contain:

- A. A specific identification of the subject property;
- B. The names and addresses of all appellants;
- C. A statement of appellants' legal interest in the subject property;
- D. A statement in ordinary and concise language of the specific order or action protested and the grounds for appeal, together with all material facts in support thereof;
- E. The date and signatures of all appellants; and
- F. The verification of at least one appellant as to the truth of the matters stated in the appeal.

As soon as practicable after receiving the appeal, the planning department shall set a date for the Board of Supervisors to hear the appeal, which date shall be not less than ten calendar days nor more than sixty (60) calendar days from the date the appeal was filed. The planning department shall give each appellant written notice of the time and the place of the hearing at least ten calendar days prior to the date of the hearing, either by causing a copy of notice to be provided to the appellant in person or by prepaid certified mail, return receipt requested addressed to the appellant at the address(es) shown on the appeal. Continuances of the hearing from time to time may be granted by the Board of Supervisors on request of the owner for good cause shown, or on the Board of Supervisors' own motion.

(Ord. No. 2009-32 , 7-21-09)

6.65.130 Decision by Board of Supervisors.

Upon the conclusion of the hearing the Board of Supervisors shall determine whether the property or any part thereof, as maintained, constitutes a public nuisance. If the Board of Supervisors so finds, the Board of Supervisors shall adopt a resolution declaring such property to be a public nuisance, setting forth its findings and ordering the abatement of the same by having such property rehabilitated, repaired, removed, or demolished and removed in the manner and means specifically set forth in said resolution. The resolution shall set forth the time within which such work shall be completed by the owner, in no event less than thirty (30) calendar days. The decision and order of the Board of Supervisors shall be final.

(Ord. No. 2009-32 , 7-21-09)

6.65.160 Procedure—Hearing before board of zoning adjustments and Board of Supervisors.

- A. All hearings shall be electronically tape recorded.

- B. Hearings need not be conducted according to the California Code of Evidence.
- C. Hearsay evidence may be used for the purpose of supplementing or explaining any direct evidence, but shall not be sufficient in itself to support a finding unless it would be admissible over objection in civil actions in courts of competent jurisdiction in this state.

Any relevant evidence shall be admitted if it is the type of evidence on which reasonable persons are accustomed to rely in the conduct of serious affairs, regardless of the existence of any common law or statutory rule which might make improper the admission of such evidence over objection in civil actions in courts of competent jurisdiction in this state.

- D. Irrelevant and unduly repetitious evidence shall be excluded.

(Ord. No. 2009-32 , 7-21-09)

6.65.170 Abatement by county.

If such nuisance is not abated as ordered within said abatement period, the enforcement officer shall cause the same to be abated by county employees or private contract. The enforcement officer, county employees, and/or private contractors are expressly authorized to enter upon said property for such purposes. The cost, including incidental expenses, of abating the nuisance shall be billed to the owner and shall become due and payable to the enforcement agency thirty (30) calendar days thereafter. The term "incidental expenses" shall include, but not be limited to, personnel costs, both direct and indirect, including attorney's fees; costs incurred in documenting the nuisance; the actual expenses and costs of the county in the preparation of notices, specifications, and contracts, and in inspecting the work; and the costs of printing and mailing notices required herein.

No person(s) shall obstruct, impede, or interfere with the enforcement officer or any person who owns or holds any interest or estate in any property on or to which the abatement is to occur in the performing of any necessary act preliminary or incidental to carrying out an abatement order issued pursuant to Sections 6.65.040, 6.65.080 and 6.65.110 of this chapter.

(Ord. No. 2009-32 , 7-21-09)

6.65.190 Notice of intent to demolish.

A copy of any order requiring abatement by demolition under Sections 6.65.090 and 6.65.130 shall be recorded with the Alameda County recorder.

(Ord. No. 2009-32 , 7-21-09)

6.65.200 Record of cost of abatement.

The enforcement officer shall keep an account of the cost, including incidental expenses, of abating such nuisance on each separate lot or parcel of land where the work is done by or under contract with the county and shall render an itemized report in writing to the Board of Supervisors showing the cost of abatement, including the rehabilitation, repair, removal, or demolition and removal of all nuisances; provided that before said report is submitted to the Board of Supervisors, a copy of the same shall be posted for at least five (5) days upon or in front of such property, together with a notice of the time when said report shall be heard by the Board of Supervisors for confirmation. A copy of said report and notice shall be served upon the owner of said property in accordance with the provisions of Section 6.65.080 at least five (5) calendar days prior to submitting the same to the Board of Supervisors. Proof of said posting and service shall be made by affidavit filed with the clerk of the board.

(Ord. No. 2009-32 , 7-21-09)

6.65.210 Assessment lien.

The total cost for abating such a nuisance as confirmed by the Board of Supervisors, shall constitute a special assessment against the respective lot or parcel of land to which it relates, and, upon recordation in the office of the county recorder of a notice of lien as made and confirmed, shall constitute a lien on said property for the amount of such assessment.

After such confirmation and recordation, a certified copy of the Board of Supervisor's decision shall be filed with the Alameda County auditor-controller on or before August 1 of each year, whereupon it shall be the duty of said auditor-controller to add the amounts of the respective assessments to the next regular tax bills levied against said respective lots and parcels of land for municipal purposes and thereafter said amounts shall be collected at the same time and in the same manner as ordinary property taxes are collected, and shall be subject to the same penalties and the same procedure and sale in case of delinquency as provided for ordinary property taxes. All laws applicable to the levy, collection and enforcement of property taxes shall be applicable to such special assessment.

In the alternative, after such recordation, such lien may be foreclosed by judicial or other sale in the manner and means provided by law.

Such notice of lien for recordation shall be in form substantially as follows:

NOTICE OF LIEN (Claim of County of Alameda)

Pursuant to the authority vested by the provisions of Section _____ of Alameda County Ordinance No. _____, the Board of Zoning Adjustments of the County of Alameda did on or about the ____ day of _____, 20____, cause the property hereinafter described, to be rehabilitated or the building or structure on the property hereinafter described, to be repaired, removed, or demolished and removed in order to abate a public nuisance on said real property; and the Board of Supervisors of the County of Alameda did on the ____ day of _____, 20____, assess the cost of such rehabilitation, repair, removal, or demolition and removal upon the real property hereinafter described; and the same has not been paid nor any part thereof; and that said County of Alameda does hereby claim a lien on such rehabilitation, repair, removal, or demolition and removal in the amount of said assessment, to wit: the sum of \$_____, assess the cost of such rehabilitation, repair, removal, or demolition and removal upon the real property hereinafter described; and the same has not been paid nor any part thereof; and that said County of Alameda does hereby claim a lien on such rehabilitation, repair, removal, or demolition and removal in the amount of said assessment, to wit: the sum of \$_____ and the same shall be a lien upon said real property until the same has been paid in full and discharged of record.

The real property herein above mentioned, and upon which a lien is claimed, is that certain parcel of land lying and being in the County of Alameda, State of California, and particularly described as follows:

(description)

Dated this ____ day of _____, 20____.

Board of Supervisors, County of Alameda.

(Ord. No. 2009-32 , 7-21-09)

6.65.220 Violation—Schedule of fines and fees.

- A. Each person, firm, or corporation shall be guilty of a separate offense for each and every day during any portion of which any violation of any provision of this chapter is committed, continued, or permitted by such person and shall be punishable accordingly.
- B. The enforcement officer shall have the power to designate particular officers or employees to enforce particular provisions of this chapter. Officers or employees so designated shall have the authority to impose fines and/or fees.
- C. If the enforcement officer determines that a nuisance does not require immediate summary abatement under the procedures set forth in Section 6.65.070 et seq., the nuisance shall be deemed a violation, and a fine will be imposed on the owner of the property and/or anyone known to enforcement officer to be in possession of the property.
- D. The following is a schedule of fines and fees associated with Section 6.65.030(A), (B), and (C):

Schedule of Fines and Fees—Schedule A	
Initial inspection fee (to verify violation)	No Charge
Re-inspection fee (violation corrected)	No Charge
Re-inspection fee (violation not corrected)	1 hour staff time
Each additional inspection fee	1 hour staff time
Administrative hearing/public nuisance fee	\$50.00
Hearing fee (board of zoning adjustments)	\$50.00
Board of Supervisors appeal fee	\$25.00
Subsequent violation fine	\$500.00
Dangerous conditions fine	\$500.00

The owner(s) may appeal to the board of zoning adjustments any fines or fees imposed by enforcement officer by filing an appeal with the planning department within ten calendar days from the date of service of invoice.

Staff time shall be billed at the rate noted on the most current Alameda County Community Development Agency Planning Department Billable Rate schedule.

"Enforcement officer" means the planning director of Alameda County and any person whom the planning director may authorize, designate, or deputize to act for her or him.

(Ord. No. 2009-32 , 7-21-09)

Chapter 15.28 ABATEMENT PROCEDURE

Sections:

Sections:

Sections:

Article I General

15.28.010 Purpose.

It is the purpose of the provisions of this chapter to develop an equitable and practicable alternative method, to be cumulative with and in addition to, any other remedy available at law, whereby substandard property which endangers the health, property, safety, or welfare of the public or its occupants, may be required to be abated.

(Prior gen. code § 7-100)

15.28.020 Definitions.

"Abatement" includes but is not limited to demolition, removal, repair, vacation, maintenance, construction, replacement, reconditioning of structures, buildings, appliances or equipment; and to the correction or elimination of any substandard condition upon substandard property.

"Clerk," unless otherwise specified, refers to the clerk of the board of supervisors.

"Demolish" or "demolition" as used in this chapter includes the removal of the resulting debris from such demolition and the protection by filling of excavations exposed by such demolition and abandonment of sewer or other waste disposal facilities as may be required by this code or other ordinance or laws.

"Enforcement official" or his designee means that person authorized to administer the provisions of this chapter as follows:

1. The county health officer or director of the environmental health division for enforcing statutes, quarantine and other regulations, rules, orders, and ordinances pertaining to the public health;
2. The building official for matters regulated by Title 15;
3. The chief of the Alameda County fire patrol for matters regulated by Chapter 6.04, Title 6 and by Chapter 6.44 of Title 6 with respect to the unincorporated territory situated outside any fire protection district;
4. The chief of a fire protection district for matters regulated by Chapter 6.04 and by Chapter 6.44 within a county fire protection district;
5. The planning director or designee for matters regulated by Title 17, including but not limited to wind energy conversion systems.

Hearing Officer. The hearing officer authorized to conduct hearings under this chapter or his or her designee shall be as follows:

-
1. The county health officer in proceedings initiated by the director of the environmental health division;
 2. The director of public works in proceedings initiated by the building official;
 3. The county fire warden in proceedings initiated by the chief of the county fire patrol;
 4. The chief of a fire protection district for matters regulated by Chapter 2, Title 3 and by Article 12, Chapter 6 of Title 3 within a county fire protection district;
 5. The planning director or designee for matters regulated by Title 17, including but not limited to wind energy conversion systems.

"Party-concerned" as used in this chapter means the person, if any in real or apparent charge and control of the substandard property, the record owner, the holder of any mortgage, trust deed or other lien or encumbrance of record, the owner or holder of any lease of record, the record holder of any other estate or interest in or to such property. As used in this paragraph all reference to "record" means matters of record in the office of the county recorder of this county which definitely and specifically describes the premises involved.

However, in the case of the abatement of nuisances specified in Section 6.44.010 et seq. (hazardous weeds and litter), the "party concerned" may be limited to the record owner and the person in actual or apparent control of the substandard property.

Right of Entry. Whenever necessary to make an inspection to enforce any of the provisions of this code or whenever the enforcement official or hearing officer has reasonable cause to believe that a violation of this code exists in any building or any premises, or there exists in any building or upon any premises any condition which makes the building or premises dangerous, substandard, unsanitary, or a menace to life, health or property, he may enter such building or premises at all reasonable times to inspect the same or to perform any duty imposed upon him by law, ordinance, rule, or regulation; provided that if such building or premises is occupied, he shall first present proper credentials and demand entry. If such entry is refused, the enforcement official shall have recourse to every remedy provided by law to secure entry, specifically as provided in code of Civil Procedures Sections 1822.50 et seq.

Substandard conditions shall include but are not limited to the following:

1. An existing building, structure, electrical, plumbing or mechanical installation or portion thereof which is dangerous as defined in Section 15.04.060, which is substandard as defined in Section 15.04.070, or which is illegal as defined in Section 15.04.080;
2. The existence of a fly nuisance or waste which has been allowed to become a harborage, attractment or food source for rodents or has caused unreasonable production of odors resulting in the depreciation of adjacent property or comfortable enjoyment of life thereon, as defined in Chapter 6.32 of Title 6; or the existence of other unsanitary conditions as defined in Chapter 6.40 of Title 6;
3. The existence of a fire hazard as defined in Chapter 6.04 of Title 6, or of hazardous weeds as defined in Chapter 6.44 of Title 6;
4. The existence of any other condition to an extent that endangers the life, limb, health, property, safety, or welfare of any person.

The term "substandard property" shall include any building, structure or land upon which substandard conditions exist.

(Ord. 2000-14 § 1, 1999; prior gen. code §§ 7-100.1—7-100.9)

Article II Requirements

15.28.030 Determination by enforcement official.

Whenever the enforcement official determines by inspection that any existing building or portion thereof, or any lot or other premises, is substandard property, as defined in this chapter, such building or premises, or both, are hereby declared a public nuisance, and the enforcement official may order the abatement of the nuisance by demolition, repair or rehabilitation of the substandard building or portion thereof or at the option of the party concerned by demolition thereof. The order also may require that the building be vacated. If the premises are substandard the enforcement official also may order that the substandard conditions be removed.

(Prior gen. code § 7-100.10)

15.28.040 Informal notice.

When the enforcement official has so found, in addition to any notices hereafter required by this chapter, he may give to the occupants of the substandard property, and to any other person whom he deems should be so notified, information concerning the provisions of this chapter, any violation thereof, how the person notified may comply and any other information as he deems expedient. He may post such information on the substandard property.

(Prior gen. code § 7-100.11)

15.28.050 Order of enforcement official.

- A. If, in the opinion of the enforcement official, the property is found to be substandard, the enforcement official may give to the party concerned written notice thereof.
- B. The notice shall set forth the street address and a legal description or the county assessor's designation of the premises, contain a concise but complete description of the facts constituting the public nuisance with reference to applicable code sections; and the proposed method of abatement.
- C. The notice may require the owner or person in charge of the substandard property to complete the required abatement of the substandard conditions within thirty (30) days, or such other time limit as the enforcement official may stipulate; and shall direct them to appear before the hearing officer at a stated time and place and show cause why such substandard property should not be condemned as a nuisance and said nuisance be abated as herein provided.
- D. The notice shall advise the owner or person in charge or control of the building, structure or premises, and all interested persons, that failure to appear at the hearing may be deemed an admission by him of the acts or omissions charged in the notice, and that the hearing officer may order abatement solely based upon the notice and the admission of the content thereof; or
- E. Exception. Whenever substandard property or portion thereof constitutes an immediate hazard to health or property, and in the opinion of the enforcement official the conditions are such that repairs or demolition or other work necessary to abate the hazard must be undertaken sooner than provided by the procedures set forth in this chapter, he may make such alterations or repairs, or cause such other work to be done to the extent necessary to abate the substandard condition and protect health or property, after giving such notice to the parties concerned as the circumstances will permit or without any notice whatever, when, in his opinion, immediate action is necessary.

(Prior gen. code § 7-100.12)

15.28.060 Service of notice.

- A. A copy of the notice shall be posted in a conspicuous place upon the building or structure or otherwise on the substandard property which is the subject of the proceeding.
- B. Service of the notice upon the party concerned shall be by personal service, by registered or certified mail. However, in the case of the abatement of a nuisance specified in Sections 6.44.010 et seq., (hazardous weeds and litter), notice may be served by regular mail. Service by mail shall be effective on the date of mailing, postage prepaid, to each person at his or her address as it appears on the last equalized assessment roll, or as known to the enforcement official. If no such address so appears, or is not known, then the notice shall be mailed to such person at the address of the building, structure, or premises involved in the proceedings. The failure of any owner or other person to receive mailed notice shall not affect in any manner the validity of any proceedings taken hereunder. An affidavit of service shall be filed, together with a copy of said notice, in the proceedings, certifying the time and manner in which such notice was served.

- C. The notice of hearing shall be posted and served at least five days prior to the date set for hearing.

(Prior gen. code § 7-100.13)

15.28.070 Declaration of substandard property.

The enforcement official may file with the county recorder a declaration that substandard property has been inspected and found to be such, as defined in this chapter, and that all parties concerned have been or will be so notified. After the enforcement official finds that the public nuisance has been abated and either that such abatement has been accomplished at no cost to the county, or that such costs have been placed upon the tax rolls as a special assessment pursuant to Section 25845 of the Government Code, or when the enforcement official's jurisdiction has been preempted by government acquisition of the property, he shall record in the office of the county recorder a document terminating the above declaration.

(Prior gen. code § 7-100.14)

15.28.080 Hearing.

The hearing officer shall conduct the abatement hearing subject to the following:

- A. The enforcement official shall present competent evidence that the subject property falls within the definition of public nuisance; as to the method reasonably to correct the nuisance; and as to such other matters deemed pertinent by the hearing officer.
- B. The parties to the abatement hearing shall be entitled to be represented by counsel.
- C. The hearing shall be conducted in an impartial and informal manner in order to encourage free and open discussion by participants.
- D. All testimony shall be submitted under oath or affirmation and shall be subject to cross-examination.
- E. The hearing officer shall not be bound by the rules of evidence applicable in judicial proceedings.
- F. The proceedings at the hearing shall be reported by a phonographic reporter or otherwise perpetuated by electronic means; or in lieu thereof stenographic notes may be taken and the substance thereof subsequently transcribed.
- G. The decision of the hearing officer shall be in writing and shall be final. However, the aggrieved party may appeal such decisions, excepting those relating to hazardous weeds and litter, by filing a written

notice of appeal with the hearing officer within five days after service of the order of abatement pursuant to Section 15.28.100E. The appeal shall be heard by the board of supervisors which may affirm, amend or reverse the decision or take other action deemed appropriate.

- H. Any judicial action to modify or set aside the final decision shall be commenced no later than thirty (30) days after the completion and exhaustion of the foregoing administrative procedures.

(Prior gen. code § 7-100.15)

15.28.090 Standards for abatement.

The following standards shall be followed in substance by the hearing officer in determining what, if any, form of abatement shall be ordered.

- A. Any order to demolish may initiate an alternative permission to repair and an order to repair may be satisfied by demolition.
- B. If the condition can be reasonably repaired so that it will no longer exist in violation of this code, it shall be ordered repaired.
- C. If the condition renders the building or structure dangerous to the health, safety, or general welfare of its occupants, it shall be ordered vacated.
- D. In any case where a dangerous building or structure is more than fifty (50) percent damaged, or decayed or deteriorated, it may be demolished.
- E. In all cases where a substandard condition cannot reasonably be repaired so that it will no longer exist in violation of this code, it may be demolished or removed.

(Prior gen. code § 7-100.16)

15.28.100 Order of hearing officer.

- A. Within thirty (30) days after the conclusion of the hearing the hearing officer shall render his or her decision, either terminating the proceedings, or if he or she finds that the substandard property is a public nuisance ordering that it be abated.
- B. The order of abatement shall set forth the street address of the substandard property and a legal description or the county assessor's designation of the premises sufficient for identification. It shall contain a statement of the particulars of the condition or conditions which render the building, structure or premises a public nuisance, and a statement of the work required to abate the nuisance. Reference may be made to the notice of hearing for such statement of particulars with any appropriate modification thereof.
- C. The order shall specify the dates to commence and complete the work of abatement.
- D. The time to commence or complete the work may be extended for good cause upon written application.
- E. A copy of the order of abatement shall be posted in a conspicuous place upon the building or structure or otherwise upon the substandard property and shall be served in the manner prescribed for the service of notice of hearing.
- F. In the case of the abatement of a nuisance specified in Sections 6.44.010 et seq. (hazardous weeds and litter), the hearing officer may elect to serve the order of abatement upon the party concerned either by (1) oral pronouncement to those present at the close of the hearing, (2) writing delivered personally or by mail, (3) posting the property, or (4) any combination of the foregoing. The hearing officer is not required to give

notice of the abatement order to a party concerned who was given notice of hearing but did not attend the hearing.

(Prior gen. code § 7-100.17)

15.28.110 Work by private party or agency.

- A. Any person having the legal right to do so may repair or demolish a substandard building or do any other work required to remove the substandard conditions at any time prior to the time when the enforcement official does so, but if such person does such work after the time specified in the last order of the hearing officer, all costs incurred by the county or district in preparation for the doing of such work are chargeable to the property and shall be collected as hereinafter provided.
- B. If the order of the hearing officer is not complied with within the period designated, the enforcement official may then demolish the substandard building or portions thereof, or may cause such other work to be done to the extent necessary to eliminate the hazard upon the substandard property and other substandard conditions, determined to exist by the hearing officer.
- C. Where the proceedings pertain to hazardous weeds and litter (Sections 3-150.0 et seq.) and the notice to abate within a specified time or to appear for a show cause hearing on a certain date is given by the enforcement official, the hearing officer may determine to proceed with abatement on the day following the date fixed for the hearing or, if the matter has been continued by the hearing officer, the day following the conclusion thereof, and the enforcement official shall acquire jurisdiction to abate said condition at said person's expense as herein provided. Any property owner or responsible person shall have the right to abate said condition himself, or have the same abated at his own expense, provided such condition has been abated prior to the arrival of the enforcement official or his authorized representatives.
- D. When in the opinion of the enforcement official substandard property or portion thereof is an immediate hazard to health or property, and the abatement of such hazard requires prompt action, the enforcement official may then abate the substandard condition or may cause such other work to be done to the extent necessary to eliminate the hazard as provided in Section 15.28.050E and without amendment to the order of abatement.
- E. The enforcement official may cause the material of any building or structure ordered to be demolished to be sold. The sale shall include stipulations that the building or structure be forthwith demolished, the wreckage, and debris removed and the lot cleaned. The enforcement official may sell any such building single or otherwise, as he may deem appropriate in order to insure that the consideration obtained from one or more buildings shall be adequate to pay the cost of demolition and cleaning the site. Any surplus from the sale of any such building or structure, or group of buildings or structures, over and above the cost of demolition and cleaning the site shall be distributed to persons lawfully entitled thereto. Any work of abatement performed by the enforcement official shall be accomplished in accordance with appropriate procedures applicable to the county or fire district.

(Prior gen. code § 7-100.18)

15.28.120 Penalties.

- A. A person shall not obstruct, impede, or interfere with the enforcement official or his representative or with any person who owns or holds any interest or estate in a substandard building or substandard property which has been ordered by the hearing officer to be abated or which is abated under Section 15.28.050E, whenever the enforcement official or such owner is engaged in barricading, repairing, vacating and repairing, or demolishing any such substandard building or removing any substandard conditions from substandard

property pursuant to this chapter, or in the performance of any necessary act preliminary to or incidental to such work, or authorized or directed pursuant hereto. Any violation hereof is a misdemeanor.

- B. If the owner or person in control of the substandard property shall fail, neglect, or refuse to comply with any order of the hearing officer, he shall be guilty of a misdemeanor.
- C. The occupant or lessee in possession or other person in control of a substandard building, who fails to vacate said building in accordance with any order of abatement issued by the enforcement official or hearing officer, shall be guilty of a misdemeanor.
- D. Any person who removes any notice or order posted as required or permitted by chapter shall be guilty of a misdemeanor.

(Prior gen. code § 7-100.19)

15.28.130 Abatement fund.

- A. The board of supervisors may set up a special revolving fund to be designated as the abatement fund. Payments shall be made out of said fund to defray the costs and expenses of abatement.
- B. The board of supervisors may at any time transfer to such special fund, out of any money in the general fund of said county, such sums as it may deem necessary in order to expedite the performance of the work of abatement, and the sum so transferred shall be deemed a loan to said special fund and shall be repaid out of the proceeds of the assessments. All funds so collected under the assessment proceedings shall be paid when collected to the county treasurer who shall place the same in the abatement fund.
- C. Funds collected for the purpose of abating inoperable and/or abandoned wind energy turbines shall be placed in an interest-bearing escrow account with the community development agency, and shall be managed as follows:
 - 1. Deposits required pursuant to Section 15.04.370 shall be paid at the time a building permit is issued. The deposit is a one-time deposit for each wind turbine;
 - 2. The cash performance deposit shall be deposited in an interest bearing escrow account;
 - 3. Each deposit shall be recorded as being paid by a specific permittee for a specific turbine or group of turbines on a specific property;
 - 4. Funds accumulated in the escrow account may be withdrawn by the planning director by written request to the escrow account agent stating that abatement is necessary due to abandonment, for the sole purpose of turbine removal and site restoration, plus reasonable overhead charges. Aggregated funds in the escrow account may be used for the removal of any wind turbine in the Altamont Pass, regardless of the source of the funds, turbine or land ownership, permit status, or other factors;
 - 5. No liability shall be incurred by the county or escrow agent for withdrawal of funds so long as the appropriate abatement/abandonment statement is filed;
 - 6. Upon filing the order of abatement, funds in the amount specified by the planning director shall be immediately delivered to the planning director for turbine removal and site restoration;
 - 7. Any funds recovered from salvage of dismantled turbines shall first be applied to cover the cost of abatement of the specific turbines in question; any remaining amount of salvage value shall be applied to the escrow account for future use; reasonable efforts shall be made by Alameda County to maximize the amount of salvage value;
 - 8. Deposited funds shall be refunded to the permittee upon written request to the planning director, with adequate supporting documentation showing that specific permitted turbine(s) either were never

installed or have been fully removed and the site restored. Upon the granting of such a request, the applicable conditional use permit or portion thereof shall be rescinded and the permittee shall forfeit any rights to install turbines pursuant to it;

9. The escrow agent, trust company, or county offices shall be entitled to reasonable management fees to administer the terms of the escrow agreement.

(Ord. 2000-14 § 3, 1999; prior gen. code § 7-100.20)

15.28.140 Report of costs of abatement—Administrative fee.

The appropriate enforcement official shall keep an itemized account of the costs involved in the abatement of any substandard condition. Upon completion of the abatement, the enforcement official shall prepare and file with the clerk a report specifying the work done, the cost of the work, a description of the real property upon which the substandard condition was or is located, the names and addresses of the parties concerned, and the assessment against each lot or parcel proposed to be levied to pay the cost of abatement thereof. Fees to cover the administrative costs of abatement shall be added to the assessment. Such fees shall be as provided by resolution of the board of supervisors.

(Prior gen. code § 7-100.21)

Article III Procedure for Assessment of Cost of Abatement in Event of Default of Owner

15.28.150 Report transmitted to board of supervisors.

Upon receipt of the report, the clerk shall place the report on the agenda for consideration by the board. The clerk shall cause notice of the cost of abatement to be mailed to the parties concerned listed in the enforcement official's report at least seven days prior to the hearing. Such notice shall specify the day, hour and place the board will hear any objections or protests which may be raised by any interested persons and that the board will pass upon the report of the enforcement official. Notice of hearing shall be published at least seven days prior to the date of hearing in the newspaper of general circulation within the county. In the case of a report concerning a nuisance specified in Sections 6.44.010 et seq. (hazardous weeds and litter), notice of hearing shall be published, but is not required to be mailed to each party concerned.

(Prior gen. code § 7-100.22)

15.28.160 Protest and objection—How made.

Any person to whom notice of hearing was sent and any person interested and affected by the proposed assessment may file written protests or objections with the clerk at any time prior to the date set for the hearing on the report of the board. Each such protest or objection must contain the address of the protestor or objector and a description of the property in which the signor thereof is interested and the grounds of such protest and objections. The clerk shall endorse upon every such protest or objection the date it was received by him and shall present it to the board at the time set for hearing.

(Prior gen. code § 7-100.23)

15.28.170 Hearing on report.

Upon the day and hour set for the hearing the board shall hear and pass the report of the enforcement official together with any protests or objections. The board may make such revision, correction or modification of the report as it may deem just and when it is satisfied with the correctness of the assessment, the report as submitted, or as revised, corrected, or modified, together with the assessment shall be confirmed.

(Prior gen. code § 7-100.24)

15.28.180 Contest.

The validity of any assessment levied under the provisions of this section shall not be contested in any action or proceeding unless the same is commenced within thirty (30) days after the assessment is confirmed. Any appeal from a final judgment in such action or proceeding must be commenced within thirty (30) days after the entry of judgment.

(Prior gen. code § 7-100.25)

15.28.190 Special assessment and lien.

The amounts of the assessment upon the various parcels of land and properties mentioned in the report, as confirmed, shall constitute special assessments against the respective parcels of land, and are a lien on the property for the amount of the respective assessment.

(Prior gen. code § 7-100.26)

15.28.200 Collection of assessment.

The assessment shall be collected in the following manner:

- A. A copy of the report and assessment, as confirmed, shall be turned over to the auditor of the county on or before the tenth day of August following such confirmation, and the auditor shall enter the amounts of the respective assessments against the respective parcels of land as they appear on the current assessment roll.
- B. The tax collector shall include the amount of the assessment on bills for taxes levied against the respective lots and parcels of land.
- C. Thereafter the amounts of assessments shall be collected at the same time and in the same manner as county taxes are collected, and are subject to the same procedure and sale in case of delinquency as provided for ordinary county taxes.
- D. All laws applicable to the levy, collection and enforcement of county taxes are applicable to such special assessment taxes.

(Prior gen. code § 7-100.27)

15.28.210 Alternative collection procedure.

Notwithstanding the provisions of Section 15.28.200 and in lieu thereof, in the event of nonpayment of assessment, the board may, at any time within sixty (60) days after its decision on the report and assessment,

cause to be filed in the office of the county recorder a notice of lien against said properties of the confirmed assessment upon the following conditions:

- A. From and after the recording of said notice of lien, all persons shall be deemed to have had notice of the contents thereof. The statutes of limitations shall not run against the right of the enforcement agency to enforce the payment of said lien.
- B. All such assessments remaining unpaid after thirty (30) days from the date of recording of said lien shall become delinquent and bear interest at the rate of one-half of one percent per month computed upon the date of delinquency and on the first day of each month subsequent to said date of delinquency. The lien shall continue until the amount thereof is paid or until it is discharged of record.
- C. If the sum assessed is not paid within thirty (30) days after the date of recording of said notice of lien, the board may direct the county counsel to bring an action, in the name of the county, to foreclose the lien of assessment.

(Prior gen. code § 7-100.28)

15.28.220 Violation of provisions a misdemeanor.

Any person who violates any of the provisions of the title is guilty of a misdemeanor, which may be prosecuted as an alternative to other remedies contained herein, and which is punishable by a fine not exceeding five hundred dollars (\$500.00) or by imprisonment not exceeding six months, or by both such fine and imprisonment.

(Prior gen. code § 7-100.29)

15.28.230 Severability of provisions.

The board of supervisors hereby declares that it would have adopted each separate provision of this title, regardless of the adoption of any other provision, and if any remedy provided for in the title held unavailable, invalid or limited in effect, such limitation shall not affect the application of other provisions of the code.

(Prior gen. code § 7-100.30)

15.28.240 Alternate procedure.

No provision in this chapter shall be construed as disallowing the use of any abatement procedure now or hereafter available in the Alameda County General Ordinance Code or by state law.

(Prior gen. code § 7-100.31)

ESTIMATED COST ANALYSIS
2-YEAR REACTIVE TENANT COMPLAINT BASED PILOT PROGRAM

Pre-implementation phase - program development:

- Develop process and procedures
- Develop notice templates and forms
- Develop outreach and education materials
- Develop tenant/landlord trainings/workshops
- Train existing staff to inspect for minimum housing and substandard conditions

Estimated Costs:

- | | |
|---|---------------|
| ○ Development – Staff time Zoning Investigator (approx. 200 hrs.) | \$ 40k |
| ○ Staff training – in-house and independent trainers | \$ 25k |
| ○ Other cost (materials, printing.. etc.) | \$ 5k |

Implementation phase:

- Complaint intake
- Response - Site Visits
- Document results
- Send notices
- Apply fines and fees
- Conduct appeal hearings
- Collect data and track program

Estimated Costs:

- | | |
|---|----------------|
| ○ Add one part-time investigator (up to 50 % FTE per year) for 2 years | \$ 375K |
| ○ Add one part-time clerical support (up to 20% percent FTE per year) for 2 years | \$ 80K |
| ○ County Counsel support (up to 25%FTE) | \$ 110K |
| ○ Hearing Officer (as needed for appeal hearings) | \$ 30K |

FUNDING SOURCE:

UTILIZE ALLOCATED ARPA FUNFDS UNTIL DECEMBER 2024

Total Estimate \$665K