

University Neighborhood Livability - EXHIBIT B

City of Oakland Municipal Code

Chapter 8.58 NON-OWNER OCCUPIED RESIDENTIAL BUILDING REGISTRATION

8.58.010 Title.

This chapter and the provisions herein shall be known as the "Non-Owner Occupied Residential Building Registration" program and may be cited as such, and will be referred to herein as "this chapter."

(Ord. No. 13141, § 2, 11-13-2012)

8.58.020 Purpose.

The purpose of this chapter is to promote the health, safety, and general welfare of the residents, workers, visitors, owners, and proprietors of the City and the economic stability and viability of neighborhoods in the City by requiring the registration and inspection of newly acquired residential buildings which are not occupied by the new owners and the abatement of health and safety violations. This program will protect and preserve the livability, appearance, and social fabric of the City and will also protect the public from health and safety hazards and the impairment of property values resulting from the neglect and deterioration of real property and improvements. More specifically, this chapter is intended to address problems of residential one to four unit properties that are acquired by persons who do not occupy the property, but leave the property in a substandard, blighted condition. This is accomplished by requiring registration and inspection of such properties. This chapter should also have the indirect effect of promoting the sale of properties to homeowners who are more likely to rehabilitate and maintain the property in a lawful condition.

(Ord. No. 13141, § 2, 11-13-2012)

8.58.030 Authority.

The Building Official and his or her designees are authorized to enforce the provisions of this chapter, and for such purposes, shall have the powers of a law enforcement officer. The Building Official is authorized to establish standards, policies, and procedures for the implementation of the provisions of this chapter to further the purpose set forth herein.

(Ord. No. 13141, § 2, 11-13-2012)

8.58.100 Construed meanings.

For the purposes of this chapter, certain words and phrases are defined and certain provisions shall be construed as set forth herein, unless it shall be apparent from the context that they have different meanings. Words in the singular include the plural and the plural the

singular. Words used in the masculine gender include the feminine and the feminine the masculine.

"Building" means a roofed structure that exceeds 120 square feet in gross floor area (orthogonal planer projection) for which the Building Official is authorized to determine and assign an occupancy category as set forth in the Oakland Building Construction Code.

"Building department" has the same meaning as set forth in the Oakland Building Construction Code.

"Building Official" has the same meaning as set forth in the Oakland Building Construction Code.

"Building—Residential" means a building which only contains a Group R - Division 2, 3, or 7 occupancy category, as set forth in the Oakland Building Construction Code, except for attached storage and automobile parking facilities.

"City" means the City of Oakland.

"Date of acquisition" means the date that fee title to property is transferred to an owner, including, but not limited to, recording of the deed transferring ownership, the closing date of escrow or, in cases where the property is sold pursuant to a Claim and Tax Lien Law, the first day following the right of redemption period authorized under the Claim and Tax Lien Law.

"Fire department" has the same meaning as set forth in the Oakland Fire Code.

"Foreclosure" means the property has been sold at a judicial or non-judicial (trustees) foreclosure sale pursuant to the power of sale under a mortgage or deed of trust, or the mortgagee or beneficiary of the deed of trust has acquired the property through a deed in lieu of foreclosure.

"Foreclosure process" means the property received a notice of default (NOD) from a lender and the default was not cured by the property owner or completed a foreclosure (real estate owned or REO), as well as properties that were sold through trustee sale (strict foreclosure), short sale (preceded by a notice of default), judicial foreclosure, or transferred to the lender or other party through a deed in lieu of foreclosure, or other similar transfers, notwithstanding that the property may have been transferred to another party after the foreclosure process.

"Immediate family" means a child, spouse, sibling, grandchild, grand parent, parent of a title holder to the property, including adoptive and step relationships.

"Oakland Building Construction Code" means [Chapter 15.04](#) of the Oakland Municipal Code, as may be amended from time to time.

"Oakland Building Maintenance Code" means [Chapter 15.08](#) of the Oakland Municipal Code, as may be amended from time to time.

"Oakland Fire Code" means [Chapter 15.12](#) of the Oakland Municipal Code, as may be amended from time to time.

"Oakland Planning Code" means [Title 17](#) of the Oakland Municipal Code, as may be amended from time to time.

"Oakland Property Maintenance Code" means [Chapter 8.24](#) of the Oakland Municipal Code, as may be amended from time to time.

"Occupancy category" has the same meaning as set forth in Chapter 2 - Definitions of the Oakland Building Construction Code.

"Occupant" means one or more individuals having legal right to occupy a specific building or portion thereof.

"Occupied" means the lawful physical presence of an occupant on a continuing and non-transient basis.

"Owner" means any individual, group of individuals, co-partnership, association, corporation, limited liability company, trustor fiduciary having legal or equitable title or any interest in the acquired property or portion thereof.

"Owner-occupied" means that a property was acquired with the intent to occupy within six months of the date of acquisition and for at least a year thereafter as the primary residence by any of the following:

- An individual who holds title to the property;
- By a member of the immediate family of an individual who holds title to the property;
- By an individual who is the trustor or beneficiary of a trust established for estate planning purposes that owns the property.

"Primary residence" means that the occupant would be eligible for a homeowner property tax exemption and does not have an equivalent exemption on any other real property.

"Property" means a single parcel with four or fewer lawful dwelling units that are building-residential.

"Purchaser" means the new owner.

"Shall/will" means a definitive directive which includes the ordinary accepted meaning of the word "must."

"Substandard violation" means an unsafe condition as set forth in Article X - Substandard and Public Nuisance Definitions of the Oakland Building Maintenance Code.

(Ord. No. 13141, § 2, 11-13-2012)

8.58.110 Accepted meanings.

Where terms are not defined in this chapter, they shall have their ordinary accepted meanings within the context with which they are used.

(Ord. No. 13141, § 2, 11-13-2012)

8.58.200 Scope.

The provisions of this chapter shall apply solely to real properties that meet all of the following:

- A.
Improved residential properties that have four or fewer dwelling units on the same parcel;
- B.
That have been acquired for valuable, not nominal, consideration, or transfers for estate planning purpose or through probate; and
- C.
That are not owner-occupied.
- D.
That have gone through a foreclosure process during or after the six years prior to the effective date of this chapter, irrespective of whether the property was sold [or] transferred to by the lender or former owner during the six years prior to the effective date.

(Ord. No. 13141, § 2, 11-13-2012)

8.58.210 Exclusions.

The provisions of this chapter shall not apply to properties:

- A.
Which are owned by the United States of America, the State of California, the County of Alameda, the City, or to any of their respective agencies or political

subdivisions; nor shall it apply to the Oakland Housing Authority or to utilities regulated by the California Public Utilities Commission, or

B.

Which are regulated by Oakland Municipal Code [Chapter 8.54](#) - Vacant Buildings, or

C.

Which are regulated by the California Department of Real Estate as a residential common interest subdivision (condominiums, planned developments, stock cooperatives, community apartments), or are occupied by the owners under a tenancy-in-common arrangement, or

D.

Which are owned by an entity regulated by the Internal Revenue Service as a 501(c) nonprofit corporation formed for charitable or religious purposes, whereby the nonprofit serves as the sole owner or as the managing general partner in a partnership with entities that are not 501(c) nonprofit corporations, or

E.

Where the owner has applied for a City building permit in order to rehabilitate the property within 90 days from the date of acquisition of the property. Should the property be occupied by tenants and access to the property delayed due to issues with the tenants, the owner can seek additional time through a request to the Building Official. If the permits expire without the permitted work being completed, this exclusion no longer applies and the owner must register the property with 30 days following the expiration of the permits.

(Ord. No. 13141, § 2, 11-13-2012)

8.58.300 Registration.

A.

Within 90 days following the date of acquisition and annually thereafter on the anniversary date of submittal if all blighted or substandard conditions have not been cured, the owner shall separately register each property with the City which is not occupied by the owner and pay all fees as established in the master fee schedule for registering such properties. Should the property be occupied by tenants and access to the property delayed due to issues with the tenants, the owner can seek additional time through a request to the Building Official.

B.

Initial registration and annual re-registration shall be accomplished by completing an electronic form at a website established by the City for the purpose of registering properties under this chapter.

C.

Initial registration shall include providing information attesting to the conditions of the property, including readily apparent violations of the Oakland Building Construction Code, Building Maintenance Code, Property Maintenance Code, Fire Code, and Planning Code, as listed in Attachment A and subject to change from time to time as State and local building codes and standards change. For the annual registration, the owner need only report any new substandard conditions and an inspection by the City is not required unless there are reported or otherwise discovered substandard conditions.

D.

Registration shall also include providing such additional information as may be determined by the Building Official to be necessary to implement this chapter.

E.

Failure to register a property completely within the required time duration shall be a violation of this chapter and subject to administrative citation or civil penalties pursuant to Oakland Municipal Code Chapters [1.08](#) and [1.12](#), as appropriate for the number of violations or repeated violations by the owner.

(Ord. No. 13141, § 2, 11-13-2012)

8.58.310 Inspection by City, abatement, and supplemental reporting.

A.

Within 30 days of the initial registration and any annual re-registration of a property, the owner shall schedule an inspection with the Building Department or the Fire Department or both, as applicable, and pay all fees as established in the master fee schedule to determine the existence or non-existence of substandard violations.

B.

Within 60 days following registration and annual re-registration, the owner shall abate all violations not otherwise identified as substandard violations and file a supplemental property report with the Building Department or Fire Department, as applicable, attesting to abatement of violations.

C.

Within six months following confirmation by the City of substandard violations, the owner shall fully abate all substandard violations to the satisfaction of the Building Official and the Fire Marshal either by repair, replacement, or removal in compliance with the law, unless a lesser or greater time is deemed reasonable and necessary by the appropriate City officer based on the severity of the violations, life safety issues, or other factors.

D.

Failure to abate violations within the required time durations shall be a violation of this chapter and subject to administrative citations or civil penalties pursuant to

Oakland Municipal Code Chapters [1.08](#) and [1.12](#), depending on the Building Official's determination as to whether the unabated violations constitute a major violation of the applicable code. Any failure to abate or disclose a substandard condition is considered a major violation and subject to civil penalties. Should the property be occupied by tenants and access to the property delayed due to issues with the tenants, the owner can seek additional time through a request to the Building Official.

E.

If the property has no blight or substandard violations or owner abated all violations to the satisfaction of the Building Department, the property is no longer be subject to registration and inspection requirements under this chapter. If there are changed conditions that make the property blighted or substandard, the owner must re-register, and the owner schedule an inspection with the Building Department or Fire Department, or both as applicable. If the owner fails to register and report any blighted or substandard conditions within the time requirements, the owner shall be subject to administrative or civil penalties.

F.

If a property subject to registration under this chapter is transferred to an owner-occupant, the former owner shall notify the Building Department within 30 days of such transfer.

(Ord. No. 13141, § 2, 11-13-2012)

8.58.320 Fees.

Fees for implementation and administration of this chapter shall be as established in the master fee schedule. Fees shall be fully paid at the time of registration and annually thereafter on the anniversary date of submittal and when scheduling inspections by the City.

(Ord. No. 13141, § 2, 11-13-2012)

8.58.400 Compliance.

The owner shall comply fully and in all instances with the provisions of this chapter and with all other applicable requirements of ordinances of the City, regulations of the Oakland Municipal Code, statutes of the State of California and the United States Code of Regulations, and decisions, rulings, and orders of courts of competent jurisdiction, including, but not limited to, Oakland Municipal Code Chapters [8.22](#) - Residential Rent Adjustments and Evictions, and [15.60](#) - Code Enforcement Relocation Program.

(Ord. No. 13141, § 2, 11-13-2012)

8.58.410 Violations.

A.

General. The failure of an owner to comply fully with the provisions of this chapter shall be a separate violation for each property and shall be immediately subject to abatement actions and fees, assessment of penalties and fines, and collection actions provided herein. Each and every day a violation of any provision of this chapter exists shall constitute a separate and distinct offense. The owner shall remain liable for any violation of this chapter even though the owner, by agreement, has imposed such duties on another individual, group, firm, or other entity and shall remain responsible for any violation that occurred during the period of ownership, notwithstanding that owner transfers the property.

B.

Remedies. Remedies provided in this chapter for violations are in addition to and do not supersede or limit any other remedies, whether civil or criminal, including demolition or receivership of any property by the City. The remedies provided for herein shall be cumulative and not exclusive.

C.

Notification. The owner shall be notified of a violation in accordance with the provisions for notification for abatement of violations, as set forth in Article II of [Chapter 15.08](#) of this Code.

D.

Recordation. Notice of violations of the provisions of this chapter may be filed with the Alameda County Clerk-Recorder for recordation on the property's title.

E.

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

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

F.

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

(Ord. No. 13141, § 2, 11-13-2012)

8.58.420 Fees and assessments.

A.

Fees. The fees and costs incurred and the interest accrued in repairing, cleaning, remediating, removing, or demolishing a building, structure, or real property, including costs incurred in securing a building, structure, or real property from unauthorized access, and in ascertaining violations or affecting abatement thereof and in collecting such fees, costs, penalties, citations, and accruing interest shall be charged against the property and owner.

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

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

B.

Penalties. The assessment of civil penalties as set forth in [Chapter 1.08](#) and administrative citations as set forth in [Chapter 1.12](#) of this Code shall apply to the enforcement of violations of the provisions of this chapter.

C.

Interest. Unpaid amounts shall be subject to the assessment of accruing interest as established in the master fee schedule.

D.

Collection.

1.

The City may serve a demand (invoice) to the owner for payment of fees, costs, penalties, citations, and accruing interest by mailing with regular postage to the address identified on the statement of registration, or when such statement has not been filed, to the address as it appears on the last

equalized assessment roll of the Alameda County Assessor, or such address as otherwise may be known to the City. Whenever such amounts are not fully paid within 14 calendar days of service, the City may recover unpaid amounts by all available legal means including, but not limited to, civil and small claims court action, and may undertake collection by one or more of the following means:

a.

Priority Lien. The City may file a priority lien with the Alameda County Clerk-Recorder for recordation on the property title which shall be remain as a financial encumbrance until such unpaid amounts with accrued interest have been fully paid. The amount of such lien shall draw interest thereon at a rate as established in the master fee schedule or such higher rate as may be established by the Alameda County Assessor for collection of municipal and county taxes from and after the date of service of such demand. The statute of limitations shall not run against the right of the City to enforce payment.

b.

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

c.

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

2.

The City may recover from the owner the costs incurred for processing such demands and liens and non-sufficient funds checks, recording such liens,

transferring such special assessments, providing notice for court, collection or foreclosure actions, for other recovery actions, and for reasonable attorneys' fees.

(Ord. No. 13141, § 2, 11-13-2012)

8.58.430 Actual and constructive notice.

Pursuant to State law, actual notice of the assessment of fees, costs, penalties, and citations shall be established on the date the City notifies the owner of such assessment. Constructive notice of the pendency of a collection action for an assessment to all other interested parties shall be established on the date a lien is recorded by the Alameda County Clerk-Recorder. A subsequent owner of a building without actual or constructive notice of the assessment under this chapter shall not be liable for such assessment.

(Ord. No. 13141, § 2, 11-13-2012)

8.58.500 Appeal.

The owner may appeal a notice of a violation or the assessment of fees for the abatement of a violation in accordance with the provisions for appeals of deteriorated conditions, as set forth in Article II of [Chapter 15.08](#) of this Code. Appeals of the assessment of penalties and citations shall be in accordance with the provisions set forth in Chapters [1.08](#) and [1.12](#) of this Code.

(Ord. No. 13141, § 2, 11-13-2012)

8.58.510 Review of appeal.

The limitation period provided pursuant to California Code of Civil Procedure Section 1094.6 shall apply to all petitioners seeking judicial review of administrative determinations.

(Ord. No. 13141, § 2, 11-13-2012)