

RE-AMENDED (11-17-95)

**ORDINANCE NO. 95-054**

ADOPTED BY THE SACRAMENTO CITY COUNCIL

**OCT 24 1995**

ON DATE OF \_\_\_\_\_

**AN ORDINANCE AMENDING TITLE 49 OF THE  
SACRAMENTO CITY CODE, RELATING TO HOUSING**

**BE IT ENACTED BY THE COUNCIL OF THE CITY OF SACRAMENTO:**

**SECTION 1.**

Title 49 of the Sacramento City Code is hereby amended to read as follows:

**Chapter 49.01. Title and Scope**

49.01.001 to 49.01.100 Reserved.

49.01.101 Title.

This title shall be known as the "Housing Code," may be cited as such, and will be referred to herein as "this title."

49.01.102 Purpose of title.

The purpose of this title is to provide minimum requirements for the protection of life, limb, health, property, safety, and welfare of the general public and the owners and occupants of residential buildings. It is the further purpose of the provisions of the title to foster the preservation of buildings and structures of historical value by discouraging their demolition, and to protect against the unintentional damaging or destruction of structures of historical value through the demolition of dangerous buildings structurally connected to such historical structures.

49.01.103 Applicability of title.

The provisions of this title shall apply to all buildings or portions thereof used, or designed

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or intended to be used, for human habitation. The provisions of this title shall also apply to an accessory building of a substandard building when such accessory building would constitute a dangerous building under the provisions of Title 50 of the Sacramento City Code. Occupancy of an existing building may be continued as provided in Chapter 34 of the Uniform Building Code, except such structures as are found to be substandard as defined in this title or dangerous as defined in Title 50.

Where any building or portion thereof is used or intended to be used as a combination apartment house-hotel, the provisions of this title shall apply to the separate portions as if they were separate buildings.

Every rooming house or lodging house shall comply with all the requirements of this title for dwellings.

49.01.104 Additions to, alterations or repairs of existing buildings and structures; additions to, alternations or repairs of listed structures on the California or National Register, and applicability of State Historic Buildings Code.

Existing buildings and structures which are altered, modified, repaired, enlarged or in any way changed shall be made to conform to this title insofar as the new work is concerned and in accordance with the Uniform Building Code as adopted pursuant to Title 9 of this Code; provided that if the building or structure to be altered or enlarged is a listed structure as defined in Title 32 of this Code or is a historic building or structure listed on the California or National Register or is otherwise a qualified historical building or structure within the meaning of Health and Safety Code Section 18955, then alteration or enlargement may be made pursuant to the alternative building standards and building regulations of the State Historic Building Code.

49.01.105 Relocation of existing buildings and structures.

Existing buildings and structures which are moved or relocated shall be considered as new buildings and shall comply with all the requirements of the title; provided that if the building or structure to be moved or relocated is a listed structure as defined in Title 32 of this Code or is a historic building or structure listed on the California Register or the National Register or is otherwise a qualified historical building or structure within the meaning of Health and Safety Code Section 18955, then such building or structure may comply with the alternative building standards and building regulations of the State Historic Building Code.

49.01.106 Remedies.

Unless otherwise expressly provided the remedies, procedures and penalties provided by

this Title, are cumulative to each other and to any others available under state law or other city ordinances.

**Chapter 49.02      Enforcement**

**49.02.201      Authority.**

The building official is authorized and directed to administer and enforce all provisions of this title. As used herein, the term "Building Official" shall include his or her authorized representatives, except as specifically provided otherwise.

**49.02.202      Code Enforcement Manager.**

The Code Enforcement Manager of the Neighborhood Services Department, referred to hereinafter as the "Code Enforcement Manager," shall be the principal assistant of the Building Official in matters relating to the enforcement of this title. As used herein, the term "Code Enforcement Manager" shall include his or her designated representatives, except as specifically provided otherwise.

**49.02.203      Right of Entry.**

The Building Official may enter on premises to make inspections to the extent authorized by law.

**49.02.204      Responsibilities of owners and occupants defined.**

Every owner remains liable for violations of duties imposed upon him/her by this title even though an obligation is also imposed on the occupants of his building, and even though the owner has, by agreement, imposed on the occupant the duty of furnishing required equipment or of complying with this title:

Every owner, or his/her agent, in addition to being responsible for maintaining his/her building in a sound structural condition, shall be responsible for keeping that part of the building or premises which he/she occupies or controls in a clean, sanitary, and safe condition including the shared or public areas in a building containing two (2) or more dwelling units.

Every owner shall, where required by this title, other provisions of the Sacramento City Code, or the laws of the State of California, furnish and maintain approved devices, equipment, or facilities for the prevention of insect and rodent infestation, and where infestation has taken place, shall be responsible for the extermination of any insects, rodents, or other pests when such

extermination is not specifically made the responsibility of the occupant by law or ruling.

Every occupant of a dwelling unit, in addition to being responsible for keeping in a clean, sanitary, and safe condition that part of the dwelling or dwelling unit or premises which he/she occupies and controls, shall dispose of all his rubbish, garbage, and other organic waste in a manner required by the applicable provisions of the Sacramento City Code or state law.

Every occupant shall, where required by this title, furnish and maintain approved devices, equipment or facilities necessary to keep his/her premises safe and sanitary.

49.02.205 Substandard buildings declared nuisances.

All buildings or portions thereof which are determined to be substandard as defined in this title are hereby declared to be public nuisances and shall be abated by repair, rehabilitation, demolition, board-up, fencing or removal in accordance with the procedure specified in Chapters 49.11 and 49.12 of this title.

49.02.206 Housing code advisory and appeals board--Established; composition; appointment.

In order to provide for final interpretation of the provisions of this title and to hear appeals provided for hereunder, there is hereby established a housing code advisory and appeals board (hereinafter referred to in this title as "the board") consisting of five (5) members who are not employees of the city. The building official shall be an ex officio member of such board. The building official or his/her designated representative shall act as secretary to such board. The board shall be appointed by the mayor with the approval of the city council.

49.02.207 Same--Terms of office of members.

Members shall be appointed for a five (5) year term, except that the individual members of the first housing board shall be appointed for one (1), two (2), three (3), four (4) and five (5) year terms respectively as designated by the mayor and approved by the council. Thereafter, appointments shall be for five (5) year terms as set forth in this chapter.

49.02.208 Housing code advisory and appeals board compensation.

Each member of the housing code advisory and appeals board shall receive as compensation the sum of fifty (50) dollars for each board meeting attended, provided, that the total compensation of each member shall not exceed two hundred and fifty (250) dollars in any one month. In addition, each such member shall receive necessary traveling and subsistence expenses incurred in the discharge of his duties.

49.02.209 Same--Rules and regulations.

The board may adopt reasonable rules and regulations for conducting its business and shall render all decisions and findings in writing to the applicant with a copy to the building official. Copies of all rules or regulations adopted by the board shall be delivered to the building official who shall make them freely accessible to the public.

49.02.210 Same--Recommendations to city council.

The board may recommend to the council such new ordinances or amendments to this code as may be deemed desirable.

49.02.211 Violations and penalties.

No person, firm, or corporation, whether as owner, lessee, sublessee or occupant, shall erect, construct, enlarge, alter, repair, move, improve, remove, demolish, equip, use, occupy or maintain any building or premises, or cause or permit the same to be done, contrary to or in violation of any of the provisions of this title or any order issued by the building official hereunder. Any person, firm or corporation violating the provisions of this section or any other provision of Title 49 shall be guilty of a misdemeanor for each day such violation continues. Any person, firm or corporation violating the provisions of this section or any other provision of Title 49 shall also be liable for civil penalties of not less than two hundred fifty dollars (\$250) or more than five thousand dollars (\$5,000) for each day the violation continues. The city attorney may bring a civil action to enforce any provision of this title.

49.02.212 Additional enforcement authority.

The building official is hereby authorized to enforce, implement and foster compliance with the following specified provisions of state law, as well as other provisions of federal, state and local law which further the protection of life, limb, health, property, safety and welfare of the general public and the owners and occupants of residential buildings: California Revenue and Taxation Code Sections 17274 and 24435.5; California Civil Code Sections 1929, 1941 and 1942; California Health and Safety Code Sections 17961 and 17980 through 17995.

49.02.213 to 49.02.300 Reserved.

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**Chapter 49.03. Permits and Inspections**

**49.03.301 Permits--Required.**

No person, firm, or corporation shall erect, construct, enlarge, alter, repair, move, improve, remove, convert, or demolish any building or structure, or cause or permit the same to be done, without first obtaining a separate building permit for each such building or structure from the building official in the manner and according to the applicable conditions prescribed in Title 9 of the Sacramento City Code.

**49.03.302 Same--Fees**

Whenever a permit is required by Title 9 of the Sacramento City Code, the appropriate fees shall be paid to the building official as specified in or provided for under authority of Title 9 of the Sacramento City Code.

**49.03.303 Inspection of buildings, etc.**

All buildings or structures within the scope of this title and all construction or work for which a permit is required shall be subject to inspection by the building official in accordance with and in the manner provided by this title and Title 9, of the Sacramento City Code.

**49.03.304 to 49.03.400 Reserved.**

**Chapter 49.04. Definitions**

**49.04.401 Generally.**

For the purpose of this title, certain abbreviations, terms, phrases, words, and their derivatives shall be construed as specified in Chapter 2 of the Uniform Building Code.

**49.04.402 Specific definitions.**

As used in this title, the following words or terms have the following meaning:

**Efficiency living units:** Efficiency living unit is any room having cooking facilities used for combined living, dining, and sleeping purposes and meeting the requirements of Sections 49.05.508 and 49.05.509.

**Hot water:** Hot water shall be water at a temperature of not less than one hundred

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and twenty degrees Fahrenheit.

**Nuisances:** The following shall be defined as nuisances:

- (a) Any public nuisance known at common law or in equity jurisprudence.
- (b) Any attractive nuisance which may prove detrimental to children whether in a building, on the premises of a building, or upon an unoccupied lot. This includes, but is not limited to, abandoned wells, shafts, basements, or excavations; abandoned refrigerators and motor vehicles; structurally unsound fences or structures; lumber, trash, fences, debris, or vegetation which may prove a hazard for inquisitive minors.
- (c) Conditions which are dangerous to the life, limb, health or safety of the public or building occupants.
- (d) Overcrowding a room with occupants.
- (e) Insufficient ventilation or illumination.
- (f) Inadequate or unsanitary sewage or plumbing facilities.
- (g) Uncleanliness.
- (h) Whatever renders air, food, or drink unwholesome or detrimental to the health, safety or welfare of human beings.
- (i) Any building or portion thereof which is determined to be substandard under Section 49.10.1001 of this title as set forth in Section 49.02.205 of this title.
- (j) Any building or structure or condition existing on a property which is defined as a public nuisance under the Sacramento City Code.

**Occupied space:** The total area of all buildings or structures on any lot or parcel of ground projected on a horizontal plane excluding permitted projections as allowed by this title.

**Apartment house and hotel:** As defined in the Uniform Building Code.

**Rooming /lodging house:** As defined in Section 213 of the Uniform Building Code.

**Uniform Building Code** shall mean the Uniform Building Code 1994 Edition or the most recent edition, published by the International Conference of Building Officials, as adopted with amendments thereto in Title 9 of the Sacramento City Code.

**State Historic Building Code:** State Historic Building Code shall mean the alternative building standards and building regulations (see 24 Cal.Code of Regs., Part 8) adopted by the State Historical Building Safety Board pursuant to Health and Safety Code Section 18959.5, as amended from time to time.

49.04.403 to 49.04.500      Reserved.

**Chapter 49.05.      Space and Occupancy Standard**

49.05.501      Access to public property.

All buildings shall be located with respect to property lines and to other buildings on the same property as required by section 503 and Table No. 5A of the Uniform Building Code. Each dwelling unit and each guest room in a dwelling or a lodging house shall have access to a passageway, not less than three feet in width, leading to a public street or alley. Each apartment house or hotel shall have access to a public street by means of a passageway not less than five (5) feet in width.

49.05.502      Occupied space.

Interior lots occupied by buildings within the scope of this title shall have not more than fifty percent of the lot in occupied space. Corner lots used for such buildings shall have not more than seventy-five percent of the lot occupied space. Where housing units are on a floor above the first floor, roof area at or below the floor level of the housing units need not be considered as occupied space.

49.05.503      Scope of Sections 49.05.504 to 49.05.506.

Sections 49.05.504 to 49.05.506, inclusive, shall apply to yards and courts having required windows opening therein.

49.05.504 Yards.

Every yard shall be not less than three (3) feet in width for one-story and two-story buildings. For buildings more than two (2) stories in height the minimum width of the yard shall be increased at the rate of one (1) foot for each additional story. Where yards completely surround the building, the required width may be reduced by one (1) foot. For buildings exceeding fourteen stories in height, the required width of yard shall be computed on the basis of fourteen (14) stories.

49.05.505 Courts.

Every court shall be not less than three (3) feet in width. Courts having windows opening on opposite sides shall be not less than six (6) feet in width. Courts bounded on three or more sides by the walls of the building shall be not less than ten (10) feet in length unless bounded on one end by a street or yard. For buildings more than two stories in height the court shall be increased one (1) foot in width and two (2) feet in length for each additional story. For buildings exceeding fourteen (14) stories in height, the required dimensions shall be computed on the basis of fourteen (14) stories.

Adequate access shall be provided to the bottom of all courts for cleaning purposes. Every court more than two (2) stories in height shall be provided with a horizontal air intake at the bottom not less than ten (10) square feet in area and leading to the exterior of the building unless abutting a yard or public space. The construction of the air intake shall be as required for the court walls of the building, but in no case shall be less than one-hour fire-resistive.

49.05.506 Projection into yards.

Eaves and cornices may project into any required yard not more than two (2) inches for each foot of yard width. Unroofed landings, porches and stairs may project into any required yard provided no portion extends above the floor level of a habitable room; and provided further that no such projection shall obstruct a required exitway.

49.05.507 Ceiling heights.

Habitable rooms, storage rooms and laundry rooms shall have a ceiling height of not less than seven (7) feet six (6) inches. Hallways, corridors, bathrooms and toilet rooms shall have a ceiling height of not less than seven (7) feet measured to the lowest projection from the ceiling.

If any room in a building has a sloping ceiling, the prescribed ceiling height for the room is required in only one-half the area thereof. No portion of the room measuring less than five (5)

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feet from the finished floor to the finished ceiling shall be included in any computation of the minimum area thereof.

If any room has furred ceiling, the prescribed ceiling height is required in two-thirds the area thereof, but in no case shall the height of the furred ceiling be less than seven (7) feet.

49.05.508 Superficial floor area.

Every dwelling unit shall have at least one (1) room which shall have not less than one hundred and twenty square feet of superficial floor area. Every room which is used for both cooking and living or both living and sleeping purposes shall have not less than one hundred and fifty square feet of superficial floor area. Every room used for sleeping purposes shall have not less than ninety (90) square feet of superficial floor area. Where more than two (2) persons occupy a room used for sleeping purposes the required superficial floor shall be increased at the rate of fifty (50) square feet for each occupant in excess of two (2).

49.05.509 Exception to Section 49.05.508.

Nothing in Section 49.05.508 shall prohibit the use of any efficiency living unit meeting the following requirements:

- (a) The unit shall have a living room of not less than two hundred and twenty square feet of superficial floor area. An additional one hundred square feet of superficial floor area shall be provided for each occupant of such unit in excess of two (2).
- (b) The unit shall be provided with a separate closet.
- (c) The unit shall be provided with a kitchen sink, cooking appliance and refrigeration facilities each having a clear working space of not less than thirty (30) inches in front. Light and ventilation conforming to this code shall be provided.
- (d) The unit shall be provided with a separate bathroom containing a water closet, lavatory, and bathroom or shower.

49.05.510 Widths.

No habitable room shall be less than seven (7) feet in any dimension and no water closet space less than thirty (30) inches in width and shall provide a clear space in front of the water

closet not less than twenty-four (24) inches.

49.05.511 Natural light and ventilation.

All guest rooms, dormitories, and habitable rooms within a dwelling unit shall be provided with natural light by means of windows or skylights with an area of not less than one-tenth of the floor area of such rooms within minimum of ten (10) square feet.

Not less than one-half of the required window or skylight area shall be openable to provide natural ventilation.

49.05.512 Origin of light and ventilation.

Required windows shall open directly onto a street or public alley or a yard or court located on the same lot as the building.

Exception: Required windows may open into a roofed porch where the porch:

1. Abuts a street, yard, or court;
2. Has a ceiling height of not less than seven (7) feet; and
3. Has the longer side at least sixty-five (65) percent open and unobstructed.

A required window in a service room may open into a vent shaft which is open and unobstructed to the sky and not less than four (4) feet in least dimension. No vent shaft shall extend through more than two (2) stories.

For the purpose of determining light and ventilation requirements, any room may be considered as a portion of an adjoining room when one-half of the area of the common wall is open and unobstructed and provides an opening of not less than one-tenth of the floor area of the interior room or twenty-five (25) square feet, whichever is greater.

49.05.513 Mechanical ventilation.

In lieu of openable windows for natural ventilation, a mechanical ventilation system may be provided. Such system shall be capable of providing two air changes per hour in all guest rooms, dormitories, habitable rooms, and in public corridors. One-fifth of the air supply shall be taken from the outside. In bathrooms, water closet compartments, laundry rooms, and similar

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rooms a mechanical ventilation system connected directly to the outside, capable of providing five (5) air changes per hour shall be provided.

49.05.514 Hallways.

All public hallways, stairs, and other exitways shall be adequately lighted at all times in accordance with Section 1011 of the Uniform Building Code.

49.05.515 Sanitation in dwelling units.

Every dwelling unit shall be provided with a water closet, a lavatory, and a bathtub or shower.

49.05.516 Sanitation in hotels.

Where private water closets, lavatories, and baths are not provided, there shall be provided on each floor for each sex at least one water closet and lavatory and one bath accessible from a public hallway. Additional water closets, lavatories, and baths shall be provided on each floor for each sex at the rate of one for every additional ten guests, or fractional number thereof, in excess of ten. Such facilities shall be clearly marked for "Men" or "Women."

49.05.517 Kitchen facilities.

Each dwelling unit shall be provided with a kitchen. Every kitchen shall be provided with a kitchen sink. No wooden sink or sink of similarly absorbent material shall be permitted.

49.05.518 Fixtures.

All plumbing fixtures shall be connected to a sanitary sewer or to an approved private sewage disposal system. All plumbing fixtures shall be connected to an approved system of water supply and provided with hot and cold running water, except water closets shall be provided with cold water only.

49.05.519 Water closet compartments.

Walls and floors of water closet compartments except in dwellings shall be finished in accordance with Section 807 of the Uniform Building Code. Water closet compartment in dwellings shall be finished with approved nonabsorbent materials.

49.05.520 Room separations.

Every water closet, bathtub, or shower required by this title shall be installed in a room which will afford privacy to the occupant. A room in which a water closet is located shall be separated from food preparation or storage rooms by a right-fitting door.

49.05.521 Installation and maintenance of sanitary facilities.

All sanitary facilities shall be installed and maintained in safe and sanitary condition and in accordance with all applicable laws.

49.05.522 Conflicts with zoning regulations.

In the event that the standards prescribed by Sections 49.05.501 to 49.05.506 of this chapter shall conflict in a given case with minimum standards contained in the zoning regulations of the city, the latter shall prevail.

49.05.523 to 49.05.600 Reserved.

**Chapter 49.06. Structural Requirements**

49.06.601 Generally.

Buildings or structures may be of any type of construction permitted by the Uniform Building Code. Roofs, floors, walls, foundations, and all other structural components of buildings shall be capable of resisting any and all forces and loads to which they may be subjected. All structural elements shall be proportioned and joined in accordance with the stress limitations and design criteria as specified in the appropriate sections of the Uniform Building Code. Buildings of every permitted type of construction shall comply with the applicable requirements of the Uniform Building Code.

49.06.602 Shelter.

Every building shall be weather protected so as to provide shelter for the occupants against the elements and to exclude dampness.

49.06.603 Protection of materials.

All wood shall be protected against termite damage and decay as provided in the Uniform Building Code.

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49.06.604 to 49.06.700 Reserved.

**Chapter 49.07. Mechanical Requirements**

49.07.701 Heating.

Every dwelling unit and guest room shall be provided with heating facilities capable of maintaining a room temperature of seventy degrees Fahrenheit at a point three (3) feet above the floor in all habitable rooms. Such facilities shall be installed and maintained in a safe condition and in accordance with Section 310.11 of Uniform Building Code and Title 9 of the Sacramento City Code, and all other applicable laws. No unvented fuel-burning heater shall be permitted. All heating devices or appliances shall be of an approved type.

49.07.702 Electrical equipment.

All electrical equipment, wiring and appliances shall be installed and maintained in a safe manner in accordance with all applicable laws and requirements set forth in Title 9 of the Sacramento City Code. All electrical equipment shall be of an approved type.

Where there is electrical power available within three hundred feet of the premises of any building, such building shall be connected to such electrical power. Every habitable room shall contain at least two (2) supplied electric convenience outlets or one (1) such convenience outlet and on (1) supplied electric light fixture. Every water closet compartment, bathroom, laundry room, furnace room, and public hallway shall contain at least one supplied electric light fixture. Every kitchen shall contain at least two (2) appliance outlets.

49.07.703 Ventilation.

Ventilation for rooms and areas and for fuel-burning appliances shall be provided as required in Title 9 of the Sacramento City Code and in this title. Where mechanical ventilation is provided in lieu of the natural ventilation required by Section 49.05.513 of this title, such mechanical ventilating system shall be maintained in operation during the occupancy of any building or portion thereof.

49.07.704 to 49.07.800 Reserved.

**Chapter 49.08. Exits**

**49.08.801 Generally.**

Every dwelling unit or guest room shall have access directly to the outside or to a public corridor. All buildings or portions thereof shall be provided with exits, exitways, and appurtenances as required by Chapter 33 of the Uniform Building Code.

Every sleeping room below the fourth floor shall have at least one openable window or exterior door approved for emergency exit or rescue. Where openable windows are provided they shall have a sill height not more than forty-eight inches above the floor.

**49.08.802 Minimum window size.**

Windows with an area of not less than five square feet with no net opening dimension less than twenty-two inches shall be deemed to meet the requirements of this section provided sill heights are not over forty-eight inches above the floor.

49.08.803 to 49.08.900 Reserved.

**Chapter 49.09. Fire Protection**

**49.09.901 General requirements.**

All buildings or portions thereof shall be provided with the degree of fire resistive construction as required by the Uniform Building Code, for the appropriate occupancy, type of construction and location on property or in fire zone; and shall be provided with the appropriate fire-extinguishing systems or equipment required by Article 38 of the Uniform Building Code.

49.09.902 to 49.09.1000 Reserved.

**Chapter 49.10. Substandard Buildings**

**49.10.1001 General definition.**

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 hereinafter set forth in this chapter 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.

49.10.1002 Inadequate sanitation.

Inadequate sanitation shall include but not be limited to the following:

1. Lack of, or improper water closet, lavatory, bath tub or shower in a dwelling unit.
2. Lack of, or improper water closets, lavatories, and bath tubs 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 facilities.
7. Lack of, or improper operation of required ventilating equipment.
8. Lack of minimum amounts of natural light and ventilation required by this title.
9. Room and space dimension less than required by this title.
10. Lack of required electrical lighting.
11. Dampness of habitable rooms.
12. Infestation of insects, vermin rodents as determined by the health officer.
13. General dilapidation or improper maintenance.
14. Lack of connection to required sewage disposal system.
15. Lack of adequate garbage and rubbish storage and removal facilities as determined by the health officer.

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49.10.1003 Structural hazards.

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.

49.10.1004 Nuisance.

Any nuisance as defined in this title, as provided by state statutory or case law.

49.10.1005 Hazardous Wiring.

Hazardous wiring shall include wiring except that which conformed with all applicable laws in effect at the time of installation and which has been maintained in good condition and is being used in a safe manner.

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49.10.1006 Hazardous plumbing.

Hazardous plumbing shall include all plumbing except that which conformed with all applicable laws in effect at the time of installation and which has been maintained in good condition and which is free of cross connections and siphonage between fixtures.

49.10.1007 Hazardous mechanical equipment.

Hazardous mechanical equipment shall include all mechanical equipment, including vents, except that which conformed with all applicable laws in effect at the time of installation and which has been maintained in good and safe condition.

49.10.1008 Faulty weather protection.

Faulty weather protection shall include but not be limited to the following:

1. Deteriorated, crumbling or loose plaster.
2. Deteriorated or ineffective waterproofing of exterior walls, roof, 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.

49.10.1009 Fire Hazard.

Any building or portion thereof, device, apparatus, equipment, combustible waste, or vegetation which, in the opinion of the city fire marshal 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, shall be deemed to be a fire hazard.

49.10.1010 Faulty materials of construction.

Faulty materials of construction shall include all materials of construction except those which are specifically allowed or approved by this title and the Uniform Building Code, and which have been adequately maintained in good and safe condition.

49.10.1011 Hazardous or unsanitary premises.

Hazardous or unsanitary premises shall include those premises on which an accumulation of weeds, vegetation, junk, dead organic matter, debris, garbage, offal, rat harborages, stagnant water, combustible materials and similar materials are safety hazards.

49.10.1012 Inadequate maintenance.

Any building or portion thereof which is determined to be an unsafe building in accordance with Section 203 of the Uniform Building Code shall be deemed to be inadequately maintained.

49.10.1013 Inadequate exits.

Inadequate exits shall include all buildings or portions thereof not provided with adequate exit facilities as required by this title except those buildings or portions thereof whose exit facilities conformed with all applicable laws at the time of their construction and which 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.

49.10.1014 Inadequate fire-protection or fire-fighting equipment.

Inadequate fire-protection or fire-fighting equipment shall include all buildings or portions thereof which are not provided with the fire-resistive construction or fire-extinguishing systems or equipment required by this title, except those buildings or portions thereof which 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.

49.10.1015 Improper occupancy.

Improper occupancy shall include all buildings or portions thereof occupied for living, sleeping, cooking, or dining purposes which were not designed or intended to be used for such occupancies.

49.10.1016 to 49.1100 Reserved.

**Chapter 49.11.**

**Notices and Orders of Director**

**49.11.1101 Commencement of proceedings.**

Whenever the building official has inspected or caused to be inspected any building and has found and determined that such building is a substandard building, the building official shall commence proceedings to cause the repair, rehabilitation, vacation, or demolition of the building in the manner specified by this chapter.

**49.11.1102 Immediately dangerous buildings.**

- (1) If the building official determines, in connection with the inspection of any building, that the same is unoccupied, and concludes that the occupation of the building by any person would be immediately dangerous to the life, limb, safety or health of such person, he/she may cause the building to be posted as provided in Section 49.12.1203, and may cause such utilities to be disconnected as may be necessary to eliminate the hazard and to prevent occupancy.
- (2) After posting the building as provided in this section, the building official shall immediately commence proceedings as provided in this title.
- (3) The notice posted on any building pursuant to this section may be removed by action of the building official, by order of the board, or pursuant to Section 49.12.1203.

**49.11.1103 Notice and order - issuance; contents, fee.**

Except as otherwise provided in this chapter, the building official shall issue a notice and order directed to the record owner of the building. The notice and order shall contain:

- (1) The street address and a legal description sufficient for identification of the premises upon which the building is located.
- (2) A statement that the building official has found the building to be substandard with a brief and concise description of the conditions found to render the building substandard under the provisions of this title.
- (3) A statement of the action required to be taken.
- (4) A statement advising that any person have any record title or legal interest in the

building may appeal from the notice and order provided that the appeal is made in writing as provided in this title.

- (5) A statement that failure to appeal the notice and order will constitute a waiver of all right to an administrative hearing and will be a final determination of the matter subject only to review pursuant to California Code of Civil Procedure 1094.5.
- (6) A statement that the appeal request must in writing and filed with the building official within thirty (30) days of service of the notice and order.

A fee shall be imposed on the owner of any property for which a notice and order is issued pursuant to this section. The fee shall be calculated to recover the total City cost of inspections and enforcement and shall be set by resolution of the City Council. An additional fee which shall be set by resolution of the city council shall be imposed on the owner of the property at the conclusion of any matter in which a notice and order has been issued. This closing fee shall be calculated to recover the cost of closing the file, removing or placing liens, a title report, and other associated costs. Any fee not paid shall be collected pursuant to the procedure set forth in Chapter 50.09.

49.11.1104 Notice and order - service generally.

The notice and order, and any amended or supplemental notice and order, shall be served upon the record owner and posted on the property; and one copy thereof shall be served on each of the following if known to the building official or disclosed from official public records: the holder of any mortgage or deed of trust or other lien or encumbrance of record; the owner or holder of any lease of record; and the holder of any other estate or legal interest of record in or to the building or the land on which it is located. The failure of the building official to serve any person required herein to be served shall not invalidate any proceedings hereunder as to any other person duly served or relieve any such person from any duty or obligation imposed by the provisions of this section.

49.11.1105 Same - method of service.

Service of the notice and order may be made upon all persons entitled thereto either by personal delivery or by certified mail, return receipt requested. Service may be made upon the record owner at his/her/their address as it appears on the latest equalized assessment roll of Sacramento County, or as known to the director. A copy of the notice and order and any amended or supplemental notice and order shall also be posted on the premises.

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(1) In lieu of personally serving the owner or service by certified mail, service of the notice and order and any amended or supplemental notice and order may be made as follows:

- (a) In the event that the owner refuses to accept certified return receipt mail or cannot be personally served, service may be made by substituted service. Substituted service may be accomplished as follows: (1) by leaving a copy during usual business hours in the recipient's business with the person who is apparently in charge, and by thereafter mailing by first-class mail a copy to the recipient where the copy was left; (2) by leaving a copy at the recipient's dwelling or usual place of abode, in the presence of a competent member of the household and thereafter mailing by first-class mail a copy to the the recipient at the address where the copy was left.
- (b) In the event the owner refuses to accept certified return receipt mail or cannot be personally served and has a property manager or rental agency overseeing the premises, substituted service may be made as set forth in (a) above upon the property manager or rental agency.
- (c) If the owner lives out of state and will not accept certified return receipt mail, then service may be made by first-class mail.
- (d) If the owner of the property cannot be located, or service can not be effected as set forth in this section, service may be made by publication in a Sacramento newspaper of general circulation which is most likely to give actual notice and order to the owner. Service shall be deemed sufficient when it is accomplished pursuant to Government Code Section 6063.

The failure of any such person to receive such notice and order shall not affect the validity of any proceedings taken under this section. Service by certified mail in the manner herein provided shall be effective on the date of mailing.

49.11.1106 Same - proof of service.

Proof of service of the notice and order shall be certified to at the time of service by a written declaration under penalty of perjury executed by the person effecting service, declaring

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the time, date and manner in which service was made. The declaration, together with any receipt returned in acknowledgement of receipt by certified mail shall be affixed to the copy of the notice and order retained by the building official.

49.11.1107 Appeal.

(a) **Form of appeal:** Any person having any record title or legal interest in the building may appeal from any notice and order or any action of the building official under this title by filing at the office of the building official within thirty days from the date of service such notice and notice, a written appeal containing:

- 1) A brief statement setting forth the legal interest of each of the appellants in the building or the land involved in the notice and order.
- 2) A brief statement in ordinary and concise language of the specific order or action protested, together with any material facts claimed to support the contentions of the appellant.
- 3) A brief statement in ordinary and concise language of the relief sought, and the reasons why it is claimed the protested order or action should be reversed, modified, or otherwise set aside.
- 4) The signatures of all parties named as appellants and their official mailing addresses.
- 5) The verification (by declaration under penalty of perjury) of at least one appellant as to the truth of the matters stated in the appeal.

(b) **Processing of appeal:** Upon receipt of any appeal filed and the appeal fee pursuant to this section, the building official shall transmit said appeal to the secretary of the housing code advisory and appeals board who shall calendar it for hearing as follow:

- (i) If the appeal is received by the building official not later than fifteen days prior to the next regular meeting of the board, it shall be calendared for hearing at said meeting.
- (ii) If the appeal is received by the building official on a date less than fifteen days prior to the next regular meeting of the board, it shall be

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calendared for hearing at the next subsequent meeting of the board.

- (c) **Noticing appeal for hearing:** Written notice of the time and place of the hearing shall be given at least ten days prior to the date of the hearing to each appellant by the secretary of the board either by causing a copy of such notice to be delivered to the appellant personally or by mailing a copy thereof, postage prepaid, addressed to the appellant at his address shown on the appeal.
- (d) **Appeal fee:** The building official may collect and require an appeal fee to be paid at the time the written appeal notice is filed pursuant to Section 49.11.1107. The appeal fee shall be set by resolution of the city council. The fee shall be calculated to recover the total city costs incurred in the appeal including, but not limited to, staff time to process and handle the appeal, Housing Board compensation, preparation and service of notices and staff appearance at the appeal hearing. No appeal shall proceed without payment of the fee at the time the appeal is filed. The building official may waive the appeal fee upon written request for good cause shown. Good cause may include severe economic hardship, significant attempts to comply with the notice and order, and other factors indicating good faith attempts to comply with the order(s).

49.11.1108 Effect of failure to appeal.

Failure of any person to file a timely appeal in accordance with the provisions of Section 49.11.1107 shall constitute an irrevocable waiver of the right to an administrative hearing and a final adjudication of the notice and order, or any portion thereof, subject only to review pursuant to California Code of Civil Procedure § 1094.5.

49.11.1109 Scope of hearing on appeal.

Only those matters or issues specifically raised by the appellant in the appeal notice shall be considered in the hearing of the appeal.

49.11.1110 Staying of order under appeal.

Except for orders to vacate and utility disconnection orders made pursuant to Section 49.11.1102, enforcement of any notice and order of the building official issued under this title shall be stayed during the pendency of an appeal therefrom which is properly and timely filed.

49.11.1111 Hearing - generally.

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- (a) **Hearing by housing code advisory and appeals board:** At the time fixed in the notice required by Section 49.11.1107(c), the board shall proceed to hear the testimony of the building official or the building official's authorized representatives and the testimony of the appellant, other competent persons, including members of the public, respecting those matters or issues specifically listed by the appellant in the notice of appeal.
- (b) **Record:** A record of the entire proceedings shall be made by tape recording or by any other means of permanent recording determined to be appropriate by the board.
- (c) **Reporting:** The proceedings at the hearing may also be reported by a certified shorthand reporter if such report is provided by the appellant at appellant's own expense.
- (d) **Continuances:** The board may, upon request of the appellant or the building official, grant continuances from time to time for good cause shown, or upon its own motion.
- (e) **Oaths; certification:** In any proceedings under this title, the board has the power to administer oaths and affirmations and to certify to official acts.
- (f) **Reasonable dispatch:** The board and its representatives shall proceed with reasonable dispatch to conclude any matter before it. Due regard shall be shown for the convenience and necessity of any parties or their representatives.

49.11.1112 Conduct of hearing.

- (a) **Rules:** Hearings need not be conducted according to the technical rules relating to evidence and witnesses. Government Code Section 11513, subsections (a), (b) and (c) as presently written or hereinafter amended shall apply to hearings under this title.
- (b) **Oral evidence:** Oral evidence shall be taken only upon oath or affirmation.
- (c) **Exclusion of evidence:** Irrelevant and unduly repetitious evidence shall be excluded.
- (d) **Rights of parties:** Each party shall have these rights, among others:

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- 1) To call and examine witnesses on any matter relevant to the issues of the hearing;
  - 2) To introduce documentary and physical evidence;
  - 3) To cross-examine opposing witnesses on any matter relevant to the issues of the hearing;
  - 4) To impeach any witness regardless of which party first called the witness to testify;
  - 5) To rebut the evidence presented against the party;
  - 6) To present himself or herself or to be represented by anyone of his or her choice who is lawfully permitted to do so.
- (g) **Official notice:** In reaching a decision, official notice may be taken, either before or after submission of the case for decision, of any fact which may be judicially noticed by the courts of this state or of official records of the board or departments and ordinances of the city or rules and regulations of the board.

49.11.1113 Inspection of the premises.

- (a) The housing code advisory and appeals board may, with the owner(s)' consent, inspect the building and premises involved in the hearing prior to, during, or after the hearing, provided that:
  - (1) Notice of such inspection shall be given to the parties before the inspection is made;
  - (2) The parties are given an opportunity to be present during the inspection; and
  - (3) The housing code advisory and appeals board shall state for the record during the hearing, or file a written statement after the hearing for inclusion in the hearing record, upon completion of the inspection, the material facts observed and the conclusion drawn therefrom.
- (b) Each party than shall have a right to rebut or explain the matters so stated by the housing code advisory and appeals board either for the record during the hearing or by filing a written statement after the hearing for inclusion in the

hearing record.

- (c) Neither an inspection warrant nor the owner(s)' consent to inspect the building and surrounding properties is required if such inspection can be made from areas in which the general public has access or with permission of other persons authorized to provide access to the property on which the building is located.

49.11.1114 Form and contents of decision; finality of decision.

- (a) If it is shown, by a preponderance of the evidence, that the owner has violated provisions of this title, then the board shall order the owner to correct the substandard conditions or demolish the building within a reasonable time. The board shall also order that if the owner fails, refuses or neglects to correct the substandard conditions or demolish the building within the time set forth in its order that the city may repair or demolish the building or institute an action to compel compliance with its order. The decision shall be a final decision and shall be in the form of an order and shall contain findings of fact, a determination of the issues presented, the requirements to be complied with. A copy of the order shall be delivered to the appellant personally or sent to him/her by certified mail, postage prepaid, return receipt requested.
- (b) The order shall also inform the appellant that the decision of the board is a final decision and that the time for and manner of judicial review is governed by California Code of Civil Procedure Section 1094.5.

Sections 49.11.1115 to 49.11.1118 of the Sacramento City Code are hereby deleted.

49.11.1119 to 49.11.1200 Reserved.

**Chapter 49.12. Enforcement of Notice and Order**

49.12.1201 Generally.

After any notice and order issued pursuant to this title shall have become final by failure to file a timely appeal or after decision on appeal is rendered, no person to whom any such order is directed shall fail, neglect, or refuse to obey any such order. Any such person who fails to comply with any such order or decision is guilty of a misdemeanor.

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49.12.1202 Failure to obey order.

If, after any order or decision made pursuant to this title has become final and a person(s) to whom such order has been directed fails, neglects or refuses to obey such order, the building official may (i) cause such person to be prosecuted; (ii) institute any appropriate action to abate such building as a public nuisance; or (iii) repair or demolish the building in accordance with the provisions of this title. In any action brought by the city to enforce the provisions of this title, the prevailing party shall be entitled to recover its reasonable attorney's fees and costs whether or not the matter proceeds to judgment.

49.12.1203 Failure to commence work.

Whenever the required repair or demolition is not commenced, or whenever the required securing is not completed within the time specified in any final order or decision of the housing advisory and appeals board issued under this title the following shall apply:

- (1) The building official may cause the building prescribed in such notice and order to be vacated by posting at each entrance and on the front door of each unit in violation a notice reading:

"SUBSTANDARD BUILDING  
DO NOT OCCUPY

It is a misdemeanor pursuant to S.C.C. Section 49.02.211 to occupy this building or to remove or deface this notice.

Building Official  
City of Sacramento

By \_\_\_\_\_"

- (2) No person shall occupy any building which has been posted as specified in this subsection. No person shall remove or deface any such notice so posted until the work ordered by the building official or by the board has been completed and a certificate of occupancy issued pursuant to the provisions of the Uniform Building Code.
- (3) The building official may, in addition to any other remedy herein provided, cause

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the building to be repaired to the extent necessary to correct the conditions which render the building substandard as set forth in the notice and order; or may cause the building to be secured as set forth in the order; or, to be demolished, and the materials, rubble and debris therefrom removed and the lot cleaned and leveled. Any such work shall be accomplished and the cost thereof paid and recovered in the manner provided in Chapter 50.08 and 50.09 of the Sacramento City Code. Any surplus realized from the sale of any such building, or from the demolition thereof, over and above the cost of demolition and of cleaning the lot shall be paid over to the person or persons lawfully entitled thereto.

- (4) No action shall be taken by the building official to repair, secure, vacate or demolish a building pursuant to this title without prior approval of the city attorney's office.

49.12.1204 Extension of date for completion of work.

Upon receipt of a building permit application, to perform work required by the notice and order, the building official in his/her discretion may grant an extension of time, not to exceed an additional one hundred twenty days, within which to complete such repair, rehabilitation, or demolition, if the building official determines that such an extension of time will not create or perpetuate a situation imminently dangerous to life or property. The building official's authority to extend time is limited to the physical repair, rehabilitation, or demolition of the building will not in any way affect or extend the time to challenge a final notice and order of the housing board.

49.12.1205 Interference with work prohibited.

No person shall obstruct, impede or interfere with any officer, employee, contractor or authorized representative of the city, or with any person who owns or holds any estate or interest in any building which has been ordered repaired, secured, vacated or demolished under the provisions of this title, whenever such officer, employee, contractor or authorized representative of the city, person having an interest or estate in such building or structure, or purchaser is engaged in the work of repairing, securing, vacating or demolishing any such building pursuant to the provision of this title, or in performing any necessary act preliminary to or incidental to such work or authorized or directed pursuant to this title.

49.12.1206 Partial completion of work; unsatisfactory progress of work—case referred to board.

If an owner has commenced the repair work required by an order or resolution or has commenced demolition of the building, and such owner fails to complete any portion of such work within the time period specified in the order or resolution, or if no time period for completion is

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specified and the owner has failed, in the opinion of the building official, to make a reasonable progress on such work or demolition, the building official may refer the case to the board for hearing. If the building official refers a case to the board for hearing, the building official shall give written notice to all persons who are entitled to notice under the provisions of Section 49.11.1104, by mail sent not later than ten days prior to the board hearing.

49.12.1207 Same--Referral hearing.

If the board determines that the owner has failed to complete any portion of the work required by the order within the time period specified by such order or has failed to make reasonable satisfactory progress on such work if no time period is specified in the resolution, it may:

- (a) Grant further extensions of time to the owner to complete such work or demolition, or
- (b) Order the building official to complete the repair work forthwith, or
- (c) Order the building official to demolish or complete demolition of such building forthwith or,
- (d) Take such other action as it deems appropriate in the case.

49.12.1208 Demolition of accessory buildings.

An accessory building is a building or portion thereof the use of which is appropriate, subordinate, and customarily incidental to that of the main building, or to the main use of the land. If a main building is demolished by the owner or building official pursuant to a board order, the accessory building shall likewise be demolished at the same time unless the board shall otherwise direct.

49.12.1209 to 49.12.1300 Reserved.

### **Chapter 49.13. Relocation Benefits for Displaced Tenants**

49.13.1301 Findings.

The council of the City of Sacramento finds and determines that:

- (a) Some rental units in Sacramento are found to have severe code violations

which threaten the life and safety of occupants and require the units or rooms to be vacated to allow for extensive repairs.

- (b) Such code violations are often caused by deferred maintenance, may breach the landlord's implied warranty of habitability and sometimes constitute constructive eviction of the tenant household from its residence.
- (c) Tenants of substandard residential units or structures suffer financial and other hardship when required to vacate their housing because the owner fails to correct the substandard conditions.
- (d) It is appropriate to require the owner to mitigate partially the tenants's hardship, since the hardship arises from the owner's failure to comply with the law and fulfill a landlord's obligations to the landlord's tenants.
- (e) Financial hardship arises because the tenant generally needs a large sum of money to relocate, often including first and last month's rent, deposits, moving expenses and utility deposits for a new residence. Low-income tenants are generally unable to obtain such sums and, as a result, are at great risk of becoming homeless.
- (f) The level of payments provided in this ordinance is reflective of actual relocation costs likely to be incurred by displaced household.
- (g) Delayed payment of relocation benefits may impose extreme hardship upon tenants who then must themselves obtain the large sums necessary to relocate. Delayed payment may also require the city to expend city general funds to provide tenants with financial assistance for relocation. Any requirement to pay relocation benefits should contain disincentives for delayed payment in the form of appropriate penalties.

49.13.1302 Definitions.

For the purposes of this chapter, the following definitions apply:

- (a) **"Displaced"** - a tenant is displaced, within the meaning of this chapter, if the tenant is ordered to move out of a residential unit or structure by an order to vacate.
- (b) **"Order to vacate"** - the first written notice sent by an authorized city

official to the owner and posted on the affected property declaring that, due to failure to repair or maintain, the unit or structure shall be vacated.

- (c) **"Owner"** - the owner of the property at the time the order to vacate is issued, as shown on the last equalized assessment roll, and any successor in interest.
- (d) **"Residential unit or structure"** - any dwelling, apartment, room or place which is the place of permanent or customary and usual abode of any person or household.
- (e) **"Tenant"** - any resident of the affected property who is a tenant as that term is used in Chapter 2 of Title 5 of part 4 of the California Civil Code (section 1940, et seq.).
- (f) **"Vacation date"** - the date by which a tenant is required to vacate a unit or structure, pursuant to an order by an authorized city official.

49.13.1303 Relocation benefits payable to displaced tenants by owner.

Any tenant who is displaced from any unit or structure which is leased, rented or occupied for habitable dwelling purposes as a result of an order issued by an authorized city official under Title 49 or 50 of the City Code, or any other applicable provision that the structure is to be vacated due to unsafe or hazardous living conditions shall be entitled to receive relocation benefits from the owner as specified in this chapter.

49.13.1304 Relocation benefits - when payable.

- (a) The relocation benefits required hereunder shall be payable within 10 days after the date the order to vacate is first mailed to the owner or posted on the premises, or at least 20 days prior to the vacation date set forth in the order to vacate, whichever occurs later.
- (b) If there are fewer than ten days between the first posting or mailing of the order to vacate and the vacation date, the relocation benefits shall be payable within twenty-four hours after the notice is posted or mailed. The building official shall attempt to provide telephonic or written notice to the owner to notify the owner that benefits are payable immediately. Failure to provide the notice as specified herein shall not relieve the owner of any obligations imposed by this chapter.

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- (c) Relocation benefits may be payable immediately in cases in which the conditions on the premises require the building official to order the premises vacated immediately. In such cases the building official shall attempt to provide telephonic or written notice to the owner to notify the owner that benefits are payable immediately. Failure to provide the notice as specified herein shall not relieve the owner of any obligations imposed by this chapter.

49.13.1305 Relocation benefits - amount payable.

The relocation benefits shall be a sum equal to twice the established monthly rental rate for the unit being vacated by the displaced tenant. The relocation benefits shall be paid in addition to the return, as required by law, of any deposit held by the owner.

49.13.1306 Damages for untimely payment.

- (a) Any owner who does not make timely payment as specified in Section 49.13.1304 shall be liable to the tenant for an amount equal to one and one-half times the relocation benefits payable pursuant to Section 49.13.1305.
- (b) Subsection (a) shall not apply when relocation benefits are payable pursuant to Sections 49.13.1304(b) or (c) if the owner makes the payments within ten (10) days after it is first mailed or posted, or if the City has paid relocation benefits and the owner reimburses the City for all its expenditures within 30 days of receipt of a bill or notice of benefits paid.

49.13.1307 When relocation benefits not payable.

- (a) No relocation benefits shall be payable by the owner to any tenant who has caused or substantially contributed to the condition giving rise to the order to vacate as determined by the building official.
- (b) No relocation benefits shall be payable by the owner if the unit or structure became unsafe or hazardous during the tenancy (and no more than six months prior to the order to vacate) as a result of earthquake, flood, fire, act of the public enemy or other disaster not proximately caused by building, plumbing, electrical, mechanical or fire code violations.

49.13.1308 Payment of relocation costs by city.

- (a) In the event the owner fails, neglects or refuses to pay a displaced tenant relocation benefits due pursuant to Sections 49.13.1303 through 49.13.1305, the city may, within budgetary limitations, make payment of such relocation benefits as the building official determines is necessary to assist the displaced tenant to relocate, up to the amount payable by the owner under Section 49.13.1305, including, without limitation, the following costs:
- (i) Transportation of the tenant's personal property to the new location.
  - (ii) Packing, crating, unpacking and uncrating the tenant's personal property.
  - (iii) Insurance of the tenant's property while in transit.
  - (iv) The reasonable replacement value of property lost, stolen, or damaged (not through the fault or negligence of the displaced person, his or her agent or employee) in the process of moving, where insurance covering such loss, theft or damage is not reasonable available.
  - (v) The cost of disconnecting, dismantling, removing, reassembling, reconnecting and reinstalling machinery, equipment or other personal property of the tenant, including connection charges imposed by utility companies for starting utility service.
  - (vi) Any other sums needed by the tenant to obtain substitute housing, such as deposits are prepaid rent.
  - (vii) Temporary housing and living costs incurred while tenant locates a replacement dwelling -- Such costs may include food and hotel/motel expenses. The amount of benefits payable under this section are to be determined by the building official depending on the facts of the situation presented.
- (b) Any displaced tenant who needs relocation benefits because an owner fails to pay benefits due hereunder shall apply to the building official for benefits no later than 15 days after the vacation date. building official shall grant benefits only if he/ she determines that the tenant is eligible for benefits from the owner and shall take into consideration the amount needed by the tenant to secure alternative housing and the amount of the tenant's income. Any applicant who objects to the decision of the

building official, to grant or not grant benefits, or as to the amount granted, may appeal the decision to the relocation benefits committee, which committee shall consist of three members of the housing code advisory and appeals board appointed by the board chair . The appeal shall consist of a written notice containing a brief statement of the grounds for appeal to the building official within ten (10) days from the date of the building official's decision. The committee shall hold an informal hearing on the appeal within fifteen (15) days after the notice of appeal is received by the building official, and shall issue written findings within five (5) days after the hearing. Such findings shall be final.

- (c) Any displaced tenant who has vacated his/her premises based on the building official's order to immediately vacate the premises due to conditions rendering it immediately dangerous to the life, limb, property or safety of the public or the tenants may request temporary housing and living expenses as provided in Section 49.13.1308(a)(vii). Temporary benefits may be paid to the tenant in the sole discretion of the building official and only in cases in which he/she believes a tenant is substantially likely to be entitled to receive other relocation benefits. The building official shall have sole discretion to determine the amount, type and duration of the temporary benefits. The building official's decision is final. Notwithstanding the finality of the building official's decision, any displaced tenant or his/her representative who has been denied temporary relocation benefits shall be entitled to meet with the building official to present facts demonstrating that temporary relocation benefits should be paid. There is no right to appeal the building official's decision.
- (d) The city may recover from the owner any amount paid to a tenant pursuant to this chapter. This city shall also be entitled to recover from the owner an additional amount equal to one-half the amount so paid as a penalty for failure to make timely payment to the displaced tenant and city's actual costs (including direct and indirect costs) of administering the provision of benefits to the displaced tenant.
- (e) Any amounts paid by the city and any applicable penalties and administrative costs may also be made a personal obligation of the owner and placed as a lien against the property.
- (f) The city may recover relocation costs, administrative penalties and costs in the manner set forth in Chapter 50.09 of the Sacramento City Code.
- (g) Nothing contained in this chapter shall require the city to pay any relocation benefits to any tenant.
- (h) The damages which a displaced tenant may receive under Section 49.13.1306 shall

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be reduced by the amount of any benefits received from the city.

49.13.1309 Penalties and administration costs - exception.

Notwithstanding Sections 49.13.1304 (b) and 49.13.1308 (d), if there are fewer than ten days between the first posting or mailing of the order to vacate and the vacation date, and if the city advances relocation benefits to any tenants, no penalty shall be payable by the owner if reimbursement is made to the city within thirty (30) days after an itemized accounting from the city is mailed as set forth in Section 49.13.1308 (e) or, if an appeal from the accounting is taken pursuant to Section 49.13.1308 (e) within thirty (30) days after the decision of the housing advisory and appeals board is mailed to the owner.

49.13.1310 Remedies cumulative.

The remedies hereunder are cumulative and in addition to any other remedies available under law.

49.13.1311 Attorney fees.

In any action brought by a tenant or the city to recover benefits payable hereunder, the court shall also award reasonable attorney fees to the prevailing party whether or not the matter proceeds to judgment.

49.13.1312 Summary of provisions.

Any order to vacate issued to an owner or tenant shall be accompanied by a summary of the provisions of this chapter. Failure to provide a summary shall not relieve any person of the obligations imposed by this chapter.

49.13.1313 Establishment of relocation benefits account.

The city shall establish a relocation benefits expenditure account and provide appropriations through city council action. A relocation revenue account will be established to account for revenue generated by this program. The building official shall make periodic reports to the city council on the activity and status of these accounts.

49.13.1314 Exceptions.

The provisions of this chapter shall not apply to property owned by the City of Sacramento, the Sacramento Redevelopment Agency, the Sacramento Housing Authority, the County of

Sacramento, the State of California or any other governmental agency.

49.13.1315 to 49.13.1399 Reserved.

**Chapter 49.14. Rent Escrow Account Program**

49.14.1400 Title.

This Chapter shall be known as the rent escrow account program of the City of Sacramento.

49.14.1401 General.

- A. Purpose. It is the purpose of the provisions of this Chapter to provide a just, equitable and practical method, to be cumulative to and in addition to any other remedy available at law, to encourage compliance by landlords with respect to the maintenance and repair of residential buildings, structures, premises and portions thereof.
- B. Scope. The provisions of this Chapter shall apply to all residential units in all existing buildings, structures, and premises which consist of or contain one or more rental units.
- C. Role of housing code advisory and appeals board. The housing code advisory and appeals board shall be responsible for carrying out the provisions of this Chapter.

It shall have the authority to issue orders and promulgate policies, rules and regulations to effectuate the purposes of this chapter.

It may make such studies and investigations, conduct such hearings, and obtain such information as it deems necessary to promulgate, administer and enforce any regulation, rule or order adopted pursuant to this chapter.

- D. Other provisions of the City Code unaffected hereby. The provisions of this chapter shall not be deemed to repeal by implication any other provision of the Sacramento City Code and the adoption hereof shall not be deemed to affect or diminish the power or authority of an officer or employee of the City to condemn, demolish, or repair any building or structure erected or maintained in violation of any provision of said code. The application of the provisions of this chapter shall not be construed as constituting ownership, operation, or management by the City of any building.

- E. Cumulative nature of remedies and penalties. Unless otherwise expressly provided, the remedies and penalties provided by this chapter are cumulative to each other and to any other remedies or penalties available under law.

49.14.1402 Definitions.

The following words and phrases, whenever used in this chapter, shall be construed as defined in this section:

**BOARD:** Housing code advisory and appeals board.

**INTERESTED PARTY:** Any person, firm, corporation, partnership, or other entity listed in the title report as having an interest in the real property or known to the building inspections division as claiming an interest in the real property.

**LANDLORD:** An owner, lessor, or sublessor (including any person, firm, corporation, partnership, or other entity) who receives or is entitled to receive rent for the use of any residential unit, or the agent, representative, or successor of any of the foregoing.

**PROOF OF COMPLIANCE:** Documentation, on such form as the citing department may provide, that the deficiencies noted in the order or citation have been corrected. The board, by regulation, may specify the acceptable evidence for proof of compliance. The burden is on the landlord or the interested party to obtain and provide to the board or the building inspections division any proof of compliance.

**REAP:** The rent escrow account program provided by this chapter.

**RESIDENTIAL UNIT:** A unit rented or used for residential purposes in an existing residential building, structure, or premise which consists of or contains one or more rental units.

**SECRETARY:** The secretary of the housing code advisory and appeals board.

**TENANT:** A tenant, subtenant, lessee, sublessee, or any other person entitled to use or occupancy of a residential unit.

**UNTENANTABLE RESIDENTIAL UNIT:** A residential unit shall be deemed untenable for the purposes of this Chapter, if it or the common area of the building, structure, or premises in which it is located is the subject of a housing code citation or order pursuant to Title 49 of this code and substantially lacks any of the affirmative standard characteristics set

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forth in civil code section 1941.1:

1. Effective waterproofing and weather protection of room and exterior walls, including unbroken windows and doors.
2. Plumbing or gas facilities which conformed to applicable law in effect at the time of installation, maintained in good working order.
3. A water supply approved under applicable law, which is under the control of the tenant, capable of producing hot and cold running water, or a system which is under the control of the landlord, which produces hot and cold running water, furnished to appropriate fixtures, and connected to a sewage disposal system approved under applicable law.
4. Heating facilities which conformed with applicable law at the time of installation, maintained in good working order.
5. Electrical lighting, with wiring and electrical equipment which conformed with applicable law at the time of installation, maintained in good working order.
6. Building, grounds and appurtenances at the time of the commencement of the lease or rental agreement in every part clean, sanitary, and free from all accumulations of debris, filth, rubbish, garbage, rodents and vermin, and all areas under control of the landlord kept in every part clean, sanitary, and free from all accumulations of debris, filth, rubbish, garbage, rodents, and vermin.
7. An adequate number of appropriate receptacles for garbage and rubbish, in clean condition and good repair at the time of the commencement of the lease or rental agreement, with the landlord providing appropriate serviceable receptacles thereafter, and being responsible for the clean condition and good repair of such receptacles under his control.
8. Floors, stairways, and railings maintained in good repair.

49.14.1403 Pre-review procedures.

- A. Referral to board. The building inspections division, fire department or department of environmental management shall refer to the board any building containing any untenable residential unit within ten (10) days after the expiration of the period allowed for compliance with an order or citation issued by the citing division or

department where there has not been such compliance, or ninety (90) days after the date such order or citation was issued, whichever first occurs.

The referral to the board shall contain the street address of the property, a description of the uncorrected deficiencies, the names and addresses of the landlord, any interested parties, any tenants as shown on the records of the citing department, the apartment number or address of each untenable residential unit, and any other information as required by such regulations as the board may promulgate. The citing division or department shall specify that the noncompliance with the citation or order appears to render the building or a portion thereof untenable. In any appeal, a referral shall not be invalidated solely because required information is not included, or is inaccurate or incomplete.

- B. Notice of eligibility. Within ten (10) working days after receiving the referral, the board shall give to the landlord, tenants, any interested parties and any other person who has requested such notification in writing, a notice of eligibility to place the building into REAP.

The notice of eligibility shall provide written notification to the landlord of the eligibility of the building for placement into REAP and shall list the street address of the property, a description of the uncorrected deficiencies, the apartment number or address of each untenable residential unit, and any other information required by such regulations as the board may promulgate. The notice of eligibility shall specify a date and time, not less than fourteen (14) and not more than thirty (30) calendar days from the date of the notice, at which the landlord may appear for a formal conference before the secretary of the board or a designee of the secretary. The notice of eligibility shall also state that if the building is placed into REAP, the city shall establish an escrow account for the deposit of monthly rent payments, with a non-refundable administrative fee of \$50.00 per individual rent payment.

- C. Manner of giving notice. The notice described in this section shall be given in writing and may be given either by personal delivery thereof to the landlord or by deposit in the United States mail in a sealed envelope, postage prepaid, addressed to the landlord at the address known to the citing division or department, or as shown on the last equalized assessment roll if not known. Service by mail shall be deemed to have been completed at the time of deposit in the United States mail. The failure of any landlord or other person to receive such notice shall not affect in any manner the validity of any of the proceedings taken thereunder. Proof of giving any such notice may be made by a declaration signed under penalty of perjury by any employee of the city which shows service in conformity with this section.

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- D. **Formal Conference.** At the formal conference, and in accordance with any regulations which the board may promulgate, the landlord may demonstrate that the deficiencies have been corrected, that the landlord has obtained the necessary permits and has substantially commenced the work necessary to abate the deficiencies, or that the building does not come within the scope of this chapter. Prior to the date specified in the notice of eligibility, the landlord, in lieu of or in addition to the personal appearance provided for in this subsection, may submit to the secretary written information upon a form and with the number of copies prescribed by the board. Such submissions shall be accompanied by a declaration stating that the information is true and correct.

The secretary, or the designee of the secretary, shall provide a written report concerning the eligibility of a property for REAP to the board within five (5) working days of the formal conference or the date set for the formal conference where no conference is held.

49.14.1404 REAP procedure.

- A. **Review process.** The board shall receive the report of the secretary with respect to each building for which a notice of eligibility was sent to the landlord, including the results of the formal conference, if any. The board shall review each building with respect to its suitability for inclusion in REAP. The board shall complete its review within ten (10) working days of its receipt of the report of the secretary, unless add-ition-al time is necessary. In such event, the time for review shall be extended only so long as is reasonably necessary and only in accordance with such regulations as the board may promulgate. At the completion of the review process, the board shall vote for one of the following options:

1. **Acceptance.** If the board determines that a building meets each of the findings set forth in subsection C of this section, then the board shall vote to accept the building into REAP.
2. **Rejection.** If the board determines that a building does not meet all of the findings set forth in subsection C of this section, then the board may vote to reject a building for inclusion into REAP. Where a building is rejected, the secretary shall notify the landlord, any interested parties, any tenants known to the secretary, and any other occupants of the building that the building is not included in REAP at that time. The notice shall state the reasons for the rejection and shall state that such rejection does not relieve the landlord of criminal or civil liability under any other provisions of the law, and, where

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appropriate, that the building may be placed into REAP at a future date.

3. Suspension of consideration. If the board determines that a building does not meet all of the findings set forth in subsection C of this section because work has commenced or been completed to correct the deficiencies, and the citing department has not yet issued proof of compliance, then the board may vote to suspend consideration of the building. However, the board shall specify a date, not later than the time reasonably necessary for the landlord or interested party to complete the work and obtain the proof of compliance, at which time the board shall reconsider the eligibility of the building for REAP. The requirements of Section 49.14.1403 shall not be applicable to such reconsideration.

Upon such suspension, the secretary shall notify the landlord, any interested parties, any tenants known to the secretary, any other persons who requested notice in writing, and any other occupants of the building that the building is not included in REAP at that time. The notice shall state the reasons for the suspension and shall state that such suspension does not relieve the landlord or criminal or civil liability under any other provisions of the law. The notice shall also specify the date that the board will reconsider the eligibility of the building for REAP unless the board is provided with proof of compliance prior to such date.

B. Application for release of funds.

1. At any time during a building's participation in REAP, a landlord, any interested party, a tenant, and any creditor, including any utility, contractor, or sub-contractor, whose debt arose from the purchase, repair, maintenance, or operation of the building may apply to the board for a release of funds from the escrow account. The board shall review such applications and, where the landlord concurs, may order the release of funds from the escrow account where it has been demonstrated to the satisfaction of the board that such release is necessary to prevent a significant diminution of an essential service to the building, including utilities, or is necessary for the correction of the deficiencies. Where specifically ordered by a court, the board shall order the release of funds from the escrow account irrespective of concurrence by the landlord.
2. The board shall deny the application where it determines that the application for payment of the debt is intended, in whole or in part, to circumvent the

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provisions of this chapter. A debt incurred subsequent to notice to such creditor that the building is under consideration for or had been selected for participation in REAP, shall be presumed, subject to rebuttal, to be for the purpose of circumventing the provisions of this chapter.

3. At any time during a building's participation in REAP, a tenant may apply to the board for a release of funds from the escrow account. The board shall review such applications and, where the landlord concurs, or fails to object within a reasonable time as determined by the board, may order the release of funds from the escrow account.

C. Findings. In reviewing whether a building should be included in REAP, the board and the City Council shall find that each of the following factors exists:

1. The building contains one or more untenable residential units as the result of the deficiencies noted in the citation or order; and
2. The landlord has refused or has consistently failed to correct the deficiencies.

49.14.1405 Duties of the secretary.

The secretary shall have the following duties upon the instruction of the board:

- A. Determination of interested parties. The secretary shall obtain a title report. The report of interested parties shall list all persons on the records of the county recorder as having an ownership interest or liens or encumbrances or other interests in the real property on which the building is located, in addition to any other interested party known to the secretary.
- B. Contact with tenants. The secretary may contact the tenants of any building during or after review. Such contact may be in person or by mail or by both. The secretary may contract with other persons or organizations to carry out this activity. During such contact, the tenants shall be informed of the principal provisions of REAP, of the mechanism for voluntary payment into the escrow account by tenants of untenable residential units where the building is accepted into REAP, and of their legal rights with respect to eviction under the provisions of this chapter.

The specific responses of tenants and any information in a form which is identifiable to any individual tenant shall not be a public record and shall not be disclosed to the landlord, any interested party, or the general public.

- C. REAP trust fund. The secretary shall establish and maintain the REAP trust fund in accordance with the provisions of this chapter.

49.14.1406 Acceptance into REAP.

- A. Notice of preliminary acceptance. Within ten (10) working days of the acceptance by the board of a building into REAP, the secretary shall mail notification of the preliminary acceptance to the landlord as identified in the title report, any creditors of the landlord known to the secretary, to SMUD, to PG&E, to city revenue division, any interested parties, all tenants in the building who are known to the secretary, and the occupants of each untenable residential unit, and any other person who has requested such notice in writing.

The notice of preliminary acceptance shall state that the property, subject to the final approval of the city council, has been accepted into REAP and shall state the following:

1. The street address of the property;
2. A description of the uncorrected deficiencies;
3. Which residential units in the building are eligible for payment into the escrow account;
4. The proposed date upon or after which an escrow account shall be established into which tenants of untenable residential units may deposit their rent in lieu of payment to the landlord;
5. That a non-refundable administrative fee of fifty dollars (\$50.00) per residential unit per monthly rent payment shall be collected by the city from the escrow account;
6. The date, if no appeal is filed, on which the city council will consider, by resolution, whether to approve the acceptance of the building into REAP; and
7. The right of the landlord or other interested party to appeal the determination of the board to accept the building to the city manager.

- B. City council approval of acceptance.

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1. The city council, by resolution, may accept a building into REAP, adopting the determination of the hearing officer or the board where no appeal is filed, and finding that each of the factors set forth in Section 49.14.1404C exists. The action of the city council accepting a building into REAP shall be final, except as provided in sub-division 2.
  2. The city council may, at any time, upon its own motion or the application of the board, rescind the resolution of acceptance if it finds that the resolution is no longer necessary.
- C. Notice of acceptance. Within ten (10) working days of the acceptance by the city council of a building into REAP, the secretary shall mail notification of the acceptance to the parties entitled to notice under subsection A of this section.

The notice of acceptance shall state that the property has been accepted into REAP and shall state the following:

1. The street address of the property;
  2. A description of the uncorrected deficiencies;
  3. Which residential units in the building are eligible for payment into the escrow account;
  4. The date upon or after which an escrow account shall be established into which tenants of untenable residential units deposit their rent in lieu of payment to the landlord; and
  5. That a non-refundable administrative fee of fifty (\$50) dollars per residential unit per monthly rent payment shall be collected by the city from the escrow account.
- D. Service of notices. The notice of preliminary acceptance and the notice of acceptance shall be sent to each landlord and interested party both by certified mail, postage prepaid, return receipt requested, and by first-class mail, postage prepaid, at the address or addresses of such person as it appears on the last equalized assessment roll of the county or as known to the secretary. Service on other persons entitled to a notice may be sent by first-class mail, postage prepaid. In addition, a copy of the notice of preliminary acceptance or the notice of acceptance shall be posted in a conspicuous place upon the building involved. The failure of any landlord or other

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person to receive such notice shall not affect in any manner the validity of any proceedings taken thereunder.

- E. Declaration of service. The designee of the secretary, upon giving notices as provided in this section, shall make a declaration under penalty of perjury certifying to the date and manner in which such notice was given. Any receipt card which may have been returned to the secretary in acknowledgment of the receipt of such notice by certified mail shall also be filed with the declaration.
- F. Recording. At the time that the secretary gives the notice described in subsection A of this section, the secretary shall file and record with the county recorder of the county of sacramento a certificate legally describing the real property and stating that the subject building has been placed into REAP and that the owner thereof has been so notified. After the building has been removed from REAP, the secretary shall file and record with the county recorder a certificate terminating the above-recorded status of the subject building. The board may, by regulation, provide for the reimbursement to the secretary from the escrow trust account for the fees and costs incurred.

49.14.1407 Appeals.

- A. Appeal. A landlord or interested party may appeal the determination of the board. The request for a hearing must be filed within ten (10) calendar days after the mailing of the notice of acceptance as provided for in Section 49.13.1306A, and such request shall be in writing and filed in the Offices of the Secretary upon a form and with the number of copies required by the secretary. The landlord shall include a current list of all of the tenants in the building with the application. Each request for hearing shall be accompanied by a filing fee in an amount to be set by resolution of the city council.

The request for hearing shall set forth specifically wherein the requesting party believes there was an error or abuse of discretion by the board in the determination. Additionally, a request for hearing may be made based on new, relevant information which was not submitted to the board at the time of the original determination due to mistake, surprise, inadvertence or excusable neglect, and which information would have affected the determination of the board if it had been submitted earlier.

- B. Hearings.
  - 1. The requested hearing shall be held and conducted by a hearing officer

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designated by the city manager. Notice of the time, date and place of the hearing shall be mailed by the secretary at least 10 calendar days prior to the hearing date to the landlord, any interested party, and the tenants and shall be posted on the subject building at least 10 calendar days prior to the hearing date.

2. At the time of the hearing, the landlord, any interested party, or any tenant, or their representatives or council, may offer such documents, testimony, written declaration or evidence as may be pertinent to the proceedings. The burden of proof shall be on the appellants to demonstrate their cases by a preponderance of the evidence.
3. The board, the secretary, and the hearing officer may rely on the records of the citing departments as prima facie evidence of their contents. The board, the secretary, and the hearing officer shall be bound by the determination of the citing department as to the existence of any deficiencies or as to any proof of compliance.

C. Determination.

1. A final decision shall be made by the hearing officer within 15 calendar days of the hearing.
2. The hearing officer may affirm, modify, or reverse the determination of the board. The hearing officer shall find that each of the factors set forth in Section 49.14.1404C exists in affirming the acceptance of a building into REAP. The hearing officer may modify or reverse the determination of the board only upon making written findings setting forth specifically either (i) wherein the action of the board was in error or constituted an abuse of discretion, or (ii) there is new, relevant information which was not previously submitted either at the time of the board review or the formal conference due to mistake, surprise, inadvertence, lack of notice, or excusable neglect, which information supports such modification or reversal.
3. Within five (5) working days of receipt of the findings and determination from the hearing officer, the secretary shall mail a copy of same to the landlord, any interested party, all tenants, the representatives or counsels of such persons, and any other person who makes a written request. Where the determination is the acceptance of the building into REAP, the secretary shall forward a report, including the findings and determination to the city council within five

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(5) working days of the receipt of the findings and determination.

4. A determination that a building is accepted into REAP is subject to acceptance by the city council. With respect to all other issues on appeal, the decision of the hearing officer is final.

49.14.1408 Escrow account.

- A. Within ten (10) working days after the decision of the board or the hearing officer accepting a building into REAP becomes final, the secretary shall establish as part of the REAP trust fund an account for such building into which tenants of untenable residential units of such building may deposit rent payments. The secretary shall mail notification to all such tenants of the existence of the account, including an explanation of how payments may be deposited into the account. The secretary shall provide a receipt to each tenant making a deposit. The secretary shall provide, at least once a month, a periodic report to the landlord and the tenants concerning the activity in such account. The records of such account shall be reasonably available to the landlord or any interested party, or their representatives, in accordance with such regulations, including the provision for payment of reasonable fees, as the board may promulgate.
- B. The gross amount of payment made into the account by or on behalf of a tenant shall be deemed as a payment in the same amount to the landlord, including, but not limited to, for the purpose of determining whether a tenant has paid rent. In any action by a landlord to recover possession of a residential unit, the tenant may raise the fact of payments into REAP as an affirmative defense in the same manner as if such payments had been made to and accepted by the landlord.
- C. A landlord may bring an action to recover possession of a rental unit that has been accepted into the REAP program only upon one or more of the following grounds:
1. The tenant has failed to pay rent into REAP or to the landlord.
  2. The tenant has violated a lawful obligation or covenant of the tenancy and has failed to cure such violation after having received written notice thereof from the landlord.
  3. The tenant is committing or permitting to exist a nuisance in, or is causing damage to, the rental unit or to the appurtenances thereof, or to the common areas of the complex containing the rental unit or is creating an unreasonable

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interference with the comfort, safety, or enjoyment of any of the other residents of the same or any adjacent building.

4. The tenant is using or permitting a rental unit to be used for any illegal purpose. The term "illegal purpose" as used in this subdivision includes, but is not limited to, the conviction of a tenant or tenants of possession for sale or sale of illegal drugs from the rental unit.
  5. The tenant has refused the landlord reasonable entry pursuant to civil code section 1954.
- D. Prior to or at the same time as the written notice of termination described in civil code section 1946, or the three days' notice described in code of civil procedure, sections 1161 and 1161a, is served on the tenant of a rental unit, the landlord shall serve on the tenant a written notice setting forth the reasons for the termination with specific facts to permit a determination of the date, place, witnesses and circumstances concerning the reason. This notice shall be given in the manner prescribed by code of civil procedure, section 1162.
- E. If the landlord is seeking to recover possession of a residential unit in retaliation against the tenant for exercising his or her rights under this chapter or because of his or her complaint to an appropriate agency as to the tenantability of a residential unit, or because of city action under this chapter, then the landlord may not recover possession of a residential unit in any action or proceeding or cause the tenant to quit involuntarily.
- F. If any action by a landlord to recover possession of a rental unit, the tenant may raise as an affirmative defense any of the provisions set forth in subsections B, C, D, and E of this section or Section 49.14.1410. Violation of subsections B, C, D, and E shall not constitute a misdemeanor.
- G. The secretary shall deduct a non-refundable administrative fee of \$50.00 for each individual rent payment made into the account. Only one such fee shall be deducted for each residential unit for each month.
- H. The funds paid into the escrow account shall only be expended on the following items:
1. The non-refundable administrative fee provided under Subsection D of this section.

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2. Funds returned to the landlord where the landlord has provided the secretary with proof of compliance that the deficiencies has been corrected.
3. Funds paid in accordance with a court order.
4. Funds paid to the landlord, an interested party, tenant, creditor, utility, or other person or entity pursuant to an order of the board.
5. Funds paid in accordance with and pursuant to such regulations as the board may promulgate.

49.14.1409 Removal from regulation.

- A. Request for removal. The landlord or any interested party may apply to the board for an order removing a building from REAP on the ground that the deficiencies noted in the citation or order have been corrected and that continued placement in REAP is not necessary to ensure continued compliance by the landlord with respect to required maintenance of the building. A request to terminate the payment of rents into a rent escrow account may be made at any time. A request to remove a building from regulation pursuant to this chapter may only be made after the expiration of 12 months from the date the deficiencies noted in the citation or order were corrected.
- B. Report and hearing. The secretary shall prepare a report to the board containing a recommendation on the request by the landlord. A hearing on the application shall be scheduled no later than sixty (60) days after the request is received, with notice thereof given to those parties who would be eligible to receive a notice of eligibility under Section 49.14.1403B. At the hearing, the board shall determine whether the deficiencies have been corrected and whether termination of the escrow account or removal from REAP is appropriate. The board shall be bound by the determination of the citing department as to the existence or correction of deficiencies. The decision of the board shall be forwarded to the city council by the secretary within five (5) working days of the date of the decision for their consideration.
- C. Notice of removal. Within ten (10) working days after the decision of the board, notice of the board's decision shall be given to all persons who were sent a notice of acceptance pursuant to Section 49.14.1406.

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49.14.1410 Disallowance of rent increases.

The landlord shall not increase the rent for any rental unit included in REAP during such time as the rental unit or units remain in the REAP program, except that, for a rental unit which is voluntarily vacated by all of the tenants after all of the deficiencies noted in the citation or order have been corrected, the landlord may increase the rent to any amount upon rerelease of the rental unit. The board shall promulgate regulations setting forth what constitutes a voluntary vacation of the rental unit.

49.14.1411 to 49.14.1500 Reserved.

**Chapter 49.15. Vacant Building Monitoring Fee.**

49.15.1501 Findings -- vacant buildings.

The city council finds as follows:

Vacant buildings are a major cause and source of blight in residential and non-residential neighborhoods, especially when the owner of the building fails to maintain and manage the building to ensure that it does not become a liability to the neighborhood. Vacant buildings often attract transients and criminals, including drug users. Use of vacant buildings by transients and criminals, who may employ primitive cooking or heating methods, creates a risk of fire for the vacant building and adjacent properties. Vacant properties are often used as dumping grounds for junk and debris and are often overgrown with weeds and grass. Vacant buildings which are boarded up to prevent entry by transients and other long-term vacancies discourage economic development and retard appreciation of property values.

Because of the potential economic and public health, welfare and safety problems caused by vacant buildings, the City needs to monitor vacant buildings, so that they do not become attractive nuisances, are not used by trespassers, are properly maintained both inside and out, and do not become a blighting influence in the neighborhood. City departments involved in such monitoring include the police department, the fire department, code enforcement, and housing and dangerous buildings. There is a substantial cost to the City for monitoring vacant buildings (whether or not those buildings are boarded up) which should be borne by the owners of the vacant buildings.

49.15.1502 Vacant building monitoring fee.

- a. Fee imposed. There is hereby imposed upon every owner of a vacant building an annual vacant building monitoring fee in an amount to be set by resolution of the city

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council. The fee shall not exceed the estimated reasonable cost of monitoring the vacant building. The fee shall be payable as to any building, residential or non-residential, which:

1. Is boarded up by voluntary action of the owner or as the result of enforcement activities by the City, or
  2. Is vacant for more than 90 days for any reason.
- b. Fee waiver. The vacant building monitoring fee may be waived by the building official upon a showing by the owner that:
1. The owner has obtained a building permit and is progressing diligently to repair the premises for occupancy, or
  2. The building meets all applicable codes and is actively being offered for sale, lease or rent, or
  3. Imposition of the fee would impose a substantial economic hardship on the owner or would hinder the rehabilitation of the building.
- c. Procedure. The vacant building monitoring fee shall be billed to the owner of the property and mailed to the owner's address as set forth on the last equalized assessment roll of the county assessor.

Any owner billed may apply for a waiver on the grounds set forth in subsection (b) of this section by submitting a written statement of the grounds for the waiver, and the owner's daytime telephone number, to the building official within 30 days after the billing is mailed to the owner. The building official shall review the written statement and may contact the owner to discuss the application for waiver. The building official shall prepare a written decision which shall be mailed to the owner.

Any owner who disagrees with the decision of the building official relating to an application for waiver may appeal the building official's decision to the housing code advisory and appeals board by submitting a written notice of appeal to the building official within 30 days of receipt of the building official's decision. The procedure on appeal shall be that set forth in Chapter 50.06 of Title 50 of the City code. Failure to timely appeal the decision of the building official relating to a denial of a waiver constitutes a waiver of all rights to an administrative hearing and determination of the matter subject only to review pursuant to California Code of Civil Procedure §

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1094.5.

If the fee is not paid within 60 days after billing, or within 60 days after the decision of the building official or the housing code advisory and appeals board becomes final, the housing board may thereupon order that the fee be specially assessed against the property involved and made a personal obligation of the owner. If the housing board orders that the fee be specially assessed against the property, it shall confirm the assessment and thereafter said assessment may be collected at the same time and in the same manner as ordinary real 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 real property taxes. All laws applicable to the levy, collection, and enforcement of real property taxes are applicable to the special assessment.

The housing board may also cause a notice of lien to be recorded. The notice shall, at a minimum, identify the record owner or possessor of the property, set forth the last known address of the record owner or possessor, a description of the real property subject to the lien, and the amount of the fee.

49.15.1503 Unless otherwise expressly provided the remedies, procedures and penalties provided by this chapter are cumulative to each other and to any others available under state law or other city ordinances. The imposition of a vacant building monitoring fee shall not preclude the building official from seeking an administrative penalty pursuant to Chapter 49.16 of the Sacramento City Code.

49.15.1504 to 49.15.1599 Reserved.

**Chapter 49.16. Long-term boarded and vacant buildings.**

49.16.1601 Findings -- vacant and boarded buildings.

The city council finds as follows:

Vacant buildings are a major cause and source of blight in both residential and nonresidential neighborhoods, especially when the owner of the building fails to actively maintain and manage the building to ensure that it does not become a liability to the neighborhood. Vacant buildings which are boarded, substandard or unkempt properties, and long-term vacancies discourage economic development and retard appreciation of property values.

It is a responsibility of property ownership to prevent owned property from becoming a burden to the neighborhood and community and a threat to the public health, safety, or welfare.

One vacant property which is not actively and well maintained and managed can be the core

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and cause of spreading blight.

Owners of multiple buildings which are vacant, boarded and a blight to the community are a significant problem in the City of Sacramento. Owners of multiple buildings who fail to correct deficiencies and blighted conditions contribute to the decline of neighborhoods to a greater extent than owners who own only one building. Some owners have acquired multiple vacant, boarded and blighted at depressed prices and have not improved or cared for the properties. It is in the interest of the welfare of neighborhoods that owners of multiple properties who fail to maintain properties and correct vacant and boarded buildings be subject to imposition of higher administrative penalties in order to encourage such owners to correct violations of this chapter in a prompt manner.

49.16.1602 Definition - boarded building.

For the purposes of this chapter, the term "boarded building" shall mean a building whose doors and windows have been covered with plywood or other material for the purpose of preventing entry into the building by persons or animals.

49.16.1603 Boarded and vacant building penalty.

- a. The owner of any boarded building, whether boarded by voluntary action of the owner or as a result of enforcement activity by the City, shall cause the boarded building to be rehabilitated for occupancy within 90 days after the building is boarded.
- b. No person shall allow a building designed for human use or occupancy to stand vacant for more than 90 days, unless one of the following applies:
  1. The building is the subject of an active building permit for repair or rehabilitation and the owner is progressing diligently to complete the repair or rehabilitation.
  2. The building meets all codes, does not contribute to blight, is ready for occupancy, and is actively being offered for sale, lease, or rent.
  3. The manager of building inspections determines that the building does not contribute to and is not likely to contribute to blight because the owner is actively maintaining and monitoring the building so that it does not contribute to blight. Active maintenance and monitoring shall include:
    - (i) Maintenance of landscaping and plant materials in good condition.

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- (ii) Maintenance of the exterior of the building, including but not limited to paint and finishes, in good condition.
- (iii) Regular removal of all exterior trash, debris and graffiti.
- (iv) Maintenance of the building in continuing compliance with all applicable codes and regulations.
- (v) Prevention of criminal activity on the premises, including but not limited to use and sale of controlled substances, prostitution and criminal street gang activity.

49.16.1604 Administrative penalty.

Any owner of a boarded building which remains boarded in violation of Section 49.16.1603(a) or any owner of a building which remains vacant in violation of Section 49.16.1603(b) shall be liable for an administrative penalty in an amount not to exceed \$1,000 per building for the first violation.

A second or subsequent administrative penalty shall be imposed upon any owner pursuant to this chapter if the building remains in violation of this chapter 90 days following the imposition of the first administrative penalty. Additional penalties may be imposed in each 90-day period following the imposition of an administrative penalty under this chapter. Additional penalties may be imposed so long as the violations continue. A second and any subsequent penalty shall be in an amount not to exceed \$5,000.

If an administrative penalty has been imposed upon an owner who owns more than one property in the City of Sacramento pursuant to this chapter within two (2) years of the date of the administrative hearing, and which relates to a building other than the building before the hearing examiner, any penalty imposed shall be no less than \$2,000.00 and not more than \$10,000.00.

49.16.1605 Administrative penalty - procedure.

An administrative penalty shall be imposed by the designated hearing examiner upon the recommendation of the building official or the manager of code enforcement and after the owner shall have been afforded a hearing. The hearing shall be conducted in accord with the provisions of Sections 49.16.1609 through 49.16.1619.

In setting the penalty, the hearing examiner shall consider factors including, but not limited to: The severity, extent and length of time in which the blighting conditions have existed on the property; the owner's efforts, or lack thereof, to remedy the problem; staff time and costs incurred

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in investigating the conditions; and the extent, if any, to which an administrative penalty would impose a substantial economic hardship on the owner or would hinder the rehabilitation of the building. The decision of the hearing examiner shall be final and is subject to review only in the time and manner provided by California Code of Civil Procedure § 1094.5.

The administrative penalty shall be due and payable within 30 days after the decision of the hearing examiner. If the penalty is not paid within 45 days after the decision of the hearing examiner, the city council may thereupon order that the penalty be a personal obligation of the property owner or that it be specially assessed against the property involved. If the city council orders that the penalty be specially assessed against the property, it shall confirm the assessment and thereafter said assessment may be collected at the same time and in the same manner as ordinary real 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 real property taxes. All laws applicable to the levy, collection, and enforcement of real property taxes are applicable to the special assessment.

The city council may also cause a notice of lien to be recorded. The notice shall, at a minimum, identify the record owner or possessor of the property and set forth the last known address of the record owner or possessor, the date on which the penalty was imposed by the hearing examiner, a description of the real property subject to the lien, and the amount of the penalty.

49.16.1606 Commencement of proceedings.

Whenever the building official or manager of code enforcement or his/her designee has inspected or caused to be inspected any building and has found and determined that such premises are in violation of this code, he/she shall commence proceedings for assessment of an administrative penalty as provided in Chapters 49.16.1604 and 49.16.1605.

49.16.1607 Hearing notice.

- (a) The building official or manager of code enforcement or his/her designee shall issue a notice directed to the record owner of the premises; the holder of any mortgage or deed of trust or other lien or encumbrance of record; the owner or holder of any lease of record; and the holder of any other estate or legal interest of record in the premises. The notice shall contain:
- (1) The street address and such other description as is required to identify the premises.
  - (2) A statement specifying the conditions which constitute a violation of this code.

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- (3) An order to the owner to appear before a hearing examiner at a stated time, but in no event less than twenty (20) calendar days after having mailed such notice, to show cause why an administrative penalty should not be assessed in accordance with this code.
  - (4) A statement advising the owner that he/she has the option of voluntarily correcting the condition(s) which violate the provisions of this code prior to the date set for hearing. If the owner chooses to correct the conditions, the corrections must be completed prior to the hearing date. The owner must advise the building official or the manager of code enforcement in writing that he/she will correct the conditions and the date of completion. The building official or the manager of code enforcement or his/her designee will inspect the premises on the completion date, and if the conditions have been corrected, the hearing will be taken off calendar. The owner may request a continuance of the hearing pursuant to Chapter 49.16.1611 in order to comply, but in no event shall the continuance exceed thirty (30) days.
- (b) The hearing notice, and any amended or supplemental notice, shall be served either by personal delivery or by certified return receipt mailing upon the record owner at his/her address as it appears on the latest equalized assessment roll of Sacramento County, or as known to the building official or the manager of code enforcement. A copy of the notice and any amended or supplemental notice shall also be posted on the building.
- (1) In lieu of personally serving the owner or service by certified mailing, the notice and any amended or supplemental notice may be served as follows:
    - (a) In the event that the owner refuses to accept certified return receipt mail or cannot be personally served, service may be made by substituted service. Substituted service may be accomplished as follows: (1) by leaving a copy during usual business hours at the recipient's business, and thereafter mailing by first-class mail a copy of the notice to the recipient at the address where the copy of the notice was left and the address as it appears on the latest equalized assessment roll of Sacramento County, or (2) by leaving a copy at the owner's dwelling or usual place of abode, with a competent member of the household or a person apparently in charge of his/her office or place of business, at least 18 years of age, and thereafter mailing, by first-class mail a copy of the notice to the owner at the address where the copy was left and the address as it appears on the latest equalized

assessment roll of Sacramento County.

- (b) In the event the owner refuses to accept certified return receipt mail or cannot be personally served and has a property manager or rental agency overseeing the building, substituted service may be made as set forth in (a) above upon the property manager or rental agency.
- (c) If the owner lives out of state and will not accept certified return receipt mail, then service may be made by first-class mail.
- (d) If the owner of the property cannot be located after a diligent search, or service cannot be effected as set forth in this section, service may be made by publication in a Sacramento newspaper of general circulation which is most likely to give actual notice to the owner. Service of the notice shall be deemed sufficient when it is accomplished pursuant to Government Code Section 6063.
- (c) Proof of service of the hearing notice shall be certified by written declaration under penalty of perjury executed by the person effecting service, declaring the time, date and manner in which service was made.

49.16.1608 Hearing Examiner.

In order to hear cases brought by the building official or the manager of code enforcement under the provisions of this code, the city council shall appoint a panel of hearing examiners, from which a hearing examiner on a rotating basis shall hear cases brought by the manager of code enforcement. Hearing examiners shall serve at the pleasure of the city council. A hearing examiner may not be a city employee.

49.16.1609 Hearings--Generally.

At the time set for hearing, the hearing examiner shall proceed to hear the testimony of the manager of code enforcement or his/her designee, the owner, and other competent persons respecting the condition of the building and other relevant facts concerning the matter.

49.16.1610 Record of oral evidence at hearing.

The proceedings at the hearing shall be reported by a tape recording. Either party may provide a certified shorthand reporter to maintain a record of the proceedings at the party's own

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expense.

49.16.1611 Continuances.

The hearing examiner may, upon request of the owner of the premises or upon request of the manager of code enforcement or his/her designee, grant continuances from time to time for good cause shown, or upon his own motion.

49.16.1612 Oaths; certification.

The hearing examiner or certified shorthand reporter shall administer the oath or affirmation.

49.16.1613 Evidence rules.

Government Code Section 11513, Subsections (a), (b) and (c), as presently written or hereinafter amended, shall apply to hearings under this Title.

49.16.1614 Rights of parties.

- (a) Parties may represent themselves, or be represented by any person of their choice.
- (b) If a party does not proficiently speak or understand the English language, he/she may provide an interpreter, at that party's own cost, to translate for the party. An interpreter shall not have had any involvement in the issues of the case prior to the hearing.

49.16.1615 Official notice.

In reaching a decision, official notice may be taken, either before or after submission of the case for decision, of any fact which may be judicially noticed by the courts of this state or which may appear in any of the official records of the city or county, or any of their departments.

49.16.1616 Inspection of premises.

- (a) The hearing examiner may, with the owner(s)' consent, inspect the building and premises involved in the hearing prior to, during, or after the hearing, provided that:
  - (1) Notice of such inspection shall be given to the parties before the inspection is made;

- (2) The parties are given an opportunity to be present during the inspection; and
  - (3) The hearing examiner shall state for the record during the hearing, or file a written statement after the hearing for inclusion in the hearing record, upon completion of the inspection, the material facts observed and the conclusion drawn therefrom.
- (b) Each party then shall have a right to rebut or explain the matters so stated by the hearing examiner either for the record during the hearing or by filing a written statement after the hearing for inclusion in the hearing record.
  - (c) An inspection warrant or the owner(s)' consent to inspect the building and surrounding properties is required unless such inspection can be made from areas in which the general public has access or with permission of other persons authorized to provide access to the property on which the building is located.

49.16.1617 Form and contents of decision; finality of decision.

If it is shown by a preponderance of the evidence that the owner has violated provisions of Chapter 49.16.1603, then the hearing officer shall impose an administrative penalty pursuant to chapters 49.16.1604 and 49.16.1605.

- (a) The decision of the hearing examiner shall be in writing and shall contain findings of fact and a determination of the issues presented. The decision shall require the owner to pay the administrative penalty prescribed in Chapter 49.16.1605. The decision shall inform the owner that if the administrative penalty is not paid within the time specified in Chapter 49.16.1605, then it may be made a personal obligation of the owner, made a special assessment against the property, and/or a lien may be imposed on the property involved for the amount of the penalty assessed.
- (b) The decision shall also inform the appellant that the time for judicial review is governed by California Code of Civil Procedure Section 1094.5. The decision shall be final when signed by the hearing examiner and served as herein provided.

49.16.1618 Service of the hearing examiner's decision.

Upon issuance of the decision, the manager of code enforcement or his/her designee shall serve a copy on the record owner in the same manner as set forth in Chapter 49.16.1607, and one copy shall be served on each of the following, if known to the manager of code enforcement or disclosed from official public records: the holder of any mortgage or deed of trust or other lien or

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encumbrance of record; the owner or holder of any lease of record; and the holder of any other estate or legal interest of record in the premises.

49.16.1619 Collection of the administrative penalty.

- (a) Any administrative penalty imposed on the owner(s) may, in addition to making it a special assessment and a lien on the property, be collected in the same manner as any contractual obligation. In the event a civil action is commenced in order to collect the administrative penalty, then the City of Sacramento shall be entitled to recover reasonable attorney's fees and all costs associated with collection of the penalty. costs include, but are not limited to, staff time incurred in the collection of the penalty and those costs set forth in Code of Civil Procedure Section 1033.5.
- (b) An administrative penalty shall accrue interest at the same annual rate as any civil judgment. Interest shall accrue commencing on the 46th day following service of the hearing officer's decision.

DATE PASSED FOR PUBLICATION: October 17, 1995  
DATE ENACTED: October 24, 1995  
DATE EFFECTIVE: November 23, 1995

  
MAYOR

ATTEST:

  
CITY CLERK

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