

OAKLAND MUNICIPAL CODE

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Chapter 15.28 UNREINFORCED MASONRY BUILDINGS

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15.28.010 Title.

This chapter shall be known as the unreinforced masonry (URM) ordinance. (Prior code § 18-6.01)

15.28.020 Purpose.

It is generally acknowledged that the city will experience earthquakes in the future due to its proximity to both the San Andreas and Hayward faults, and may reasonably be expected to experience moderate to severe ground shaking in the event of a significant earthquake. Such ground shaking may result in serious injury or death due to damage or collapse of buildings in Oakland. Buildings constructed of unreinforced masonry have been widely recognized for experiencing life safety hazardous damage including partial or total collapse during moderate to strong earthquakes.

The purpose of this chapter is to promote public safety by mitigating the potential hazards of those buildings in Oakland that were built of unreinforced masonry walls and were subject to the building code prior to November 26, 1948 (the effective date of the building code requiring earthquake resistant design of buildings). The purpose of this chapter is also to promote public safety and welfare by reducing the risk of death or injury that may result from the effects of earthquakes on existing unreinforced masonry buildings.

The provisions of the retrofit standards for unreinforced masonry buildings in this chapter are intended as minimum standards to reduce the risk of life loss or injury. Compliance with these provisions will not meet the requirements of the current code and will not necessarily prevent loss of life or injury, or prevent earthquake damage to rehabilitated buildings.

Furthermore, the intent of this chapter is to mandate a portion of the state recommended standard (Uniform Code for Building Conservation). In doing so, it is the intent of this chapter to continue to construe the building as a potential hazardous

building upon completion of the mandatory portion of this chapter and until such time that the building is upgraded to the Uniform Code for Building Conservation. (Prior code § 18-6.02)

15.28.030 Scope.

The provisions of this chapter shall apply to all existing unreinforced masonry buildings constructed to building standards prior to the November 26, 1948 Oakland Building Code. This chapter shall not apply to any of the following:

- A. A detached Group R Division 3 Occupancy or a detached Group R Division 1 Occupancy having only five living units or less; or
- B. Accessory buildings serving Group R Division 3 Occupancies or accessory buildings serving Group R Division 1 Occupancies having only five living units or less; or
- C. A building which has been structurally upgraded after November 26, 1948 to comply with the earthquake regulation of the Oakland Building Codes in effect at the time the building permit was obtained from the city of Oakland. (Prior code § 18-6.03)

15.28.040 Authority.

The Building Official or designee is authorized and directed to enforce all provisions of this chapter.

Unless otherwise noted, the provisions of the current code shall apply; however, this chapter shall not preclude the enforcement of any federal, state or other local codes, laws or ordinances.

The Building Official shall have the power to render interpretations of this chapter and to adopt and enforce rules and regulations supplemental to this chapter as he or she may deem necessary in order to clarify the application of the provisions of this chapter. Such interpretations, rules and regulations shall be in conformity with the intent and purpose of this chapter. (Prior code § 18-6.04)

15.28.050 Right of entry.

Whenever necessary to make an inspection to enforce any of the provisions of this chapter, or whenever the Building Official has reasonable cause to believe that there exists in any building or upon any premises any condition which constitutes a violation of the provisions of this chapter, the Building Official may enter such building or premises at all reasonable times to inspect the same or perform any duty imposed upon the Building Official by this chapter; provided that:

- A. If such building or premises be occupied, he or she shall first present proper credentials and request entry; and
- B. If such building or premises be unoccupied, he or she shall first make a reasonable effort to locate the owner or other persons having charge or control of the building or premises and request entry.

Any such request for entry shall state that the property owner or occupant has the right to refuse entry and that in the event such entry is refused, inspection may be made only upon issuance of an inspection warrant by a duly authorized magistrate. In the event the owner and/or occupant refuses entry after such request has been made, the Building Official is empowered to seek assistance from any court of competent jurisdiction in obtaining such entry. (Prior code § 18-6.05)

15.28.060 Definitions.

For the purposes of this chapter, certain words, phrases, terms and their derivatives shall be construed as specified in this section. Words, phrases, and terms that are used in this article, but not specifically defined, shall have the meaning set forth in the applicable local, state or federal code, if appropriate. Other such words, phrases and terms shall be accorded their ordinary meanings.

“Building,” for the purpose of determining occupant load, means any contiguous or interconnected structure; for purposes of engineering evaluation, means the entire structure or portion thereof which will respond to seismic forces as a unit.

“Complexity of work,” for the purpose of prioritizing buildings, shall be based on cost and difficulty of upgrading work.

“Current code (current UBC)” means the current edition of the California State Building Code, as amended from time to time and as amended by the city of Oakland.

“Current Uniform Code of Building Conservation (current UCBC)” means the seismic provision for unreinforced masonry bearing wall buildings in the current edition of the Uniform Code of Building Conservation as adopted by the California State Building Code.

“Day” means calendar day.

“Historic structure” means a structure that meets one of the following requirements:

1. Is listed on the National Register of Historic Places;
2. Is a California Registered Historical Landmark or is a California Point of Historical Interest;
3. Is a landmark pursuant to Section 17.102.030 of the Oakland zoning regulations;
4. Is contributory to an S-7 preservation combining zone pursuant to Section 17.84.010 of the Oakland zoning regulations; or
5. Has received an “A” or “B” rating in the Oakland cultural heritage survey. Prior to the issuance of a building permit for work pursuant to this chapter, the URM building shall be surveyed and rated by the Oakland cultural heritage survey to determine if the building is a historic structure, as defined herein.

“Masonry” means that form of construction composed of stone, brick, concrete, gypsum, hollow clay tile, concrete, block or tile or other similar building units or materials or combination of these materials.

“Nonstructural falling hazards” means any ornamentation and appendage on the exterior of the building that is constructed of dense materials such as masonry or concrete attached directly or indirectly to unreinforced masonry, which may fall onto pedestrians or adjacent buildings or occupants of buildings, such as cornices, chimneys, balconies, stacks, towers, decorative statuary, and roof top tanks or equipment on buildings. For the purpose of this chapter, lintels, veneers and sills shall not be considered falling hazards.

“Nonstructural URM wall elements” means any URM wall element which does not participate in resisting lateral or vertical forces on the building by design or actual condition.

“Owner” means any individual or group of individuals or firm or any other entity holding legal or equitable title to the real property.

“Potentially hazardous URM building” means any URM building, other than those exempted from this chapter per Section 15.28.030 that does not meet the applicable retrofit standards specified in Sections 15.28.080 and 15.28.090.

“Reinforced masonry” means any masonry construction that meets the minimum reinforcing requirements which are as follows: the minimum area of reinforcing bars shall be not less than 0.001 times the gross cross-sectional area of the wall, not more than two-thirds of which may be used in either direction and no required vertical reinforcement shall be less than three-eighths inch in diameter.

“Structural deficiencies” means structural elements which do not meet the applicable standards identified in Sections 15.28.080 and 15.28.090.

“Structural URM wall elements” means any non-bearing URM wall element, whether intentionally designed or not, that participates in resisting lateral forces caused by earthquake motion.

“Unreinforced masonry (URM)” means any masonry construction that does not meet the minimum reinforcement requirements of reinforced masonry, as defined in this section.

“URM building” means any building containing walls constructed, wholly or partially, with unreinforced masonry. Types of unreinforced masonry buildings include but are not limited to:

1. “URM bearing wall building or structure” means any structure which has unreinforced masonry wall which provides support for a floor or roof for which the total superimposed load exceeds one hundred (100) pounds per linear foot of wall.
2. “Frame building or structure with URM walls” means any structure with a structural frame of concrete, steel, or wood, with either infill walls or nonbearing walls constructed of unreinforced masonry or structural URM wall elements.
3. “Building with URM veneer” means any structure other than 1 and 2 of this definition with nonstructural unreinforced masonry exterior facing for the purpose of ornamentation, protection or insulation. (Prior code § 18-6.06)

15.28.070 URM buildings hazard mitigation process.

The following process shall be followed for abatement of the hazards posed by potentially hazardous URM buildings.

A. Establish List and Priority and Notify Owner. The Building Official shall establish and maintain a list of potentially hazardous URM buildings and shall notify the owners in writing that their buildings have been identified as potentially hazardous and of their obligation to mitigate the potential hazard in compliance with this chapter. The notice shall include the priority level for each building, as determined by the Building Official, and shall refer the owner to the appropriate time period for compliance, as specified in subsection C of this section. The time period shall commence on the date of the notice.

The priority levels for each potentially hazardous URM building will be determined by the Building Official and shall be based on the type of soil on which the building is located, number of stories, pedestrian and vehicle traffic adjacent to the building, use of building, number of occupants and complexity of retrofit work.

The owner may appeal the priority level of his or her building in accordance with Section 15.28.160B.

B. Filing Engineer’s Report and Building Permit Application. The owner shall file with the Building Official an engineering analysis report (EAR) with an acceptable building permit application to comply with the applicable mandatory retrofit standard

within the time specified in subsection C of this section. The requirements of the EAR shall be in accordance with Section 15.28.100.

C. Schedule to Complete Work. The owner shall file a building permit application and complete the retrofit work in accordance with the applicable mandatory retrofit standard in Sections 15.28.080B and 15.28.090 within the time specified in the following tables. Failure to comply with the program within the specified time frame shall be in violation of this chapter and subject to the penalties and remedies described in Sections 15.28.150 and 15.28.160.

Table 1—Buildings with URM Bearing Walls

| Priority Level | Submission of Building Permit Application for Mandatory Standard (years) | Construction Complete (years) |
|-----------------------|---|--------------------------------------|
| 1 | 1.0 | 2.0 |
| 2 | 2.0 | 3.0 |
| 3 | 3.0 | 4.0 |

Table 2—Frame Building with URM Infill Walls and Buildings with URM Veneer

| Priority Level | Submission of Building Permit Application for Mandatory Standard (years) | Construction Completion (years) |
|-----------------------|---|--|
| 1 | 3.0 | 5.0 |
| 2 | 4.0 | 6.0 |
| 3 | 5.0 | 7.0 |

Note: Time interval is measured from the date of the notice.

D. Removal of Building from City’s URM List. URM bearing wall building, upgraded to the mandatory retrofit standard in Section 15.28.080B, shall be issued a “Certificate of Compliance of the Mandatory Requirements,” but remain on the city’s list of potentially hazardous URM buildings. After the building has been upgraded or demonstrated to be in compliance with the applicable voluntary standards for URM bearing wall building in Section 15.28.080C or the mandatory standard for URM infill wall and URM veneer building in Section 15.28.090, to the satisfaction of the Building Official and the final inspection of the building permit work is approved, the Building Official shall remove that building from the inventory list of potentially hazardous URM buildings. URM bearing wall building upgraded to the voluntary standard in Section 15.28.080C shall be exempted from any further seismic mitigation legislation per Section 15.28.110.

E. Historic Buildings. Prior to the issuance of a building permit for work pursuant to this chapter, the URM building shall be surveyed and rated by the Oakland cultural heritage survey to determine if the building is a historic structure as defined herein. All historic structures may use the applicable provisions in the State Historical Building Code established under Part 8 in Title 24 of the California Code of Regulations.

F. Environmental Impact Mitigation. The owner shall provide advance written notice to tenants of the intent to perform the seismic retrofit activities, apprise tenants of the work schedule, provide dust barriers as needed, avoid unsafe or hazardous conditions for both tenants and construction workers during construction, remove debris, take vermin and pest control measures if necessary, provide alternative services if normal utilities are interrupted, and take corrective measures to minimize safety concerns regarding hazardous materials created by the retrofit activity consistent with the mitigation plan attached to the Negative Declaration ER90-47. (Prior code § 18-6.07)

15.28.080 Voluntary and mandatory retrofit standards for bearing wall buildings.

A. General. The owner of a building with URM bearing walls shall upgrade his or her building to the mandatory retrofit standards specified in subsection B of this section, within the time specified in Section 15.28.070C. Upgrading the building to the voluntary standards specified in subsection C of this section will cause the removal of the building from the city's inventory list of URM buildings as indicated in Section 15.28.070D.

Exception: Buildings with only some URM walls (that includes URM bearing walls) will not be subject to the upgrade standard in this section and will be removed from the city's URM list provided:

1. All the URM wall elements provide less than one percent of the total lateral load resisting system in all directions as defined in this chapter, and less than five percent of the vertical load carrying system.
2. When required by the Building Official, the engineer/architect provides acceptable analysis and documentation, to substantiate compliance with this exception.

B. Mandatory Retrofit Standards for Bearing Wall Buildings.

1. Building Elements To Be Upgraded. As a minimum, the following elements shall be upgraded to mitigate potential falling hazards:
 - a. Secure the roof and floors to the building's exterior walls if such attachment is lacking or determined as inadequate. The connections between roof/floors and walls shall be designed for the out of plane forces on the walls (tension bolts);
 - b. Brace or reinforce parapets;
 - c. Remove, upgrade or repair nonstructural falling hazards;
 - d. Stairways, corridors, exit balconies, exit courts and exit passageways in all buildings covered by this chapter shall be protected from falling hazards.
2. Design Standard and Excluded Building Elements. In designing the upgrades for the above items, the minimum lateral forces specified in the current UCBC shall apply to elements in subsection (B)(1)(a) of this section and current code shall apply to elements in subsections (B)(1)(b) and (c) of this section.

Walls, parapets, and other building elements which due to their locations or the height of the adjacent structure pose negligible hazards to life and adjacent property in the event of failure or instability, (such as parapets on the sides of buildings which are adjacent to another building of equal or more in height) may be excluded from the required work within the specified time in Section 15.28.070C provided the owner agrees to execute an agreement with the city to defend, hold the city harmless and indemnify the city for any damage, injury or loss of life that may arise as a result of

changed conditions to the adjacent structure (such as removal of the adjacent building). The owner must record the agreement with the County Recorder, and supply a copy of the recorded agreement to the city.

C. Voluntary Retrofit Standards for Bearing Wall Buildings. If the owner elects to voluntarily upgrade his or her building to the retrofit standard in this subsection his or her building will be removed from the city's potentially hazardous URM list.

1. The entire building shall be retrofitted in accordance with the current UCBC. All destructive materials testing in accordance with the current UCBC is required only when those elements are used as part of the structural design. The decision of whether or not to test existing materials is fully the responsibility of the engineer/architect, and the city assumes no liability for damage, injury or harm caused by such testing. However, in the absence of acceptable test data, the engineer/architect shall use allowable stresses from existing materials in accordance with the current UCBC or as approved by the Building Official.
2. Proposed alterations, additions, restoration and rehabilitation of buildings with URM bearing walls shall include an evaluation of the effects of such work to the building in its entirety. This shall include, but not be limited to, an investigation of the effects of any induced eccentricity and changes in the foundation and in story stiffness as a result of the proposed improvements.
3. Stairways, corridors, exit balconies, exit courts and exit passageways in all buildings covered by this chapter shall be protected from falling debris. Vertical supports for stairways shall be shown to retain their integrity after an earthquake.

Exception: When the lower story or stories of a building are of URM construction (or, contain at least one URM bearing wall) but the structural system of the upper stories consists of the only wood frame or steel stud construction, then only the URM stories need be upgraded to the standards set forth in subsection C of this section, and the other stories need not be upgraded.

NOTE: This alternative does not satisfy the upgrade standard referenced in Sections 15.28.110 and 15.28.120. (Prior code § 18-6.08)

15.28.090 Mandatory retrofit standards for frame buildings with URM walls and buildings with URM veneer.

The owner of a framed building with URM infill walls and buildings with URM veneer shall upgrade his or her building to the retrofit standards specified in this section, within the time specified in Section 15.28.070C.

As a minimum, the following elements shall be upgraded to mitigate the potential falling hazards:

- A. Brace or reinforce parapets and remove, upgrade or repair nonstructural falling hazards. In designing the upgrade for these items the current code shall apply;
- B. Stairways, corridors, exit balconies, exit courts and exit passageways in all buildings covered by this chapter shall be protected from falling hazards;
- C. Walls, parapets, and other building elements which due to their locations or the height of the adjacent structure pose negligible hazards to life and adjacent property in the event of failure or instability such as parapets on the sides of buildings which are adjacent to another building of equal or more in height, may be excluded from the required work within the specified time in Section 15.28.070C provided the owner agrees to execute an agreement with the city to

defend, hold the city harmless and indemnify the city for any damage, injury or loss of life that may occur due to the absence of the upgrade work and agrees to perform the upgrade work at some future time to abate any hazards that may arise as a result of changed conditions to the adjacent structure. The owner must record the agreement with the County Recorder, and supply a copy of the recorded agreement to the city.

Exception: Buildings with only some interior URM walls composed of structural URM elements that provide less than one percent of the total existing lateral resisting system in all directions and/or nonstructural URM interior wall elements as defined in this chapter, will not be subject to the structural upgrade standard in this section. When required by the Building Official, the engineer/architect shall provide an acceptable analysis and documentation to substantiate that the building qualifies for this exception. (Prior code § 18-6.09)

15.28.100 Engineering analysis reports (EARs).

A. General. The EARs shall be filed with the applicable building permit and prepared to demonstrate the proposed permit work will comply with the applicable standards specified in Section 15.28.080 for the bearing wall buildings or Section 15.28.090 for frame buildings with URM infill walls and for buildings with URM veneer.

B. Preparer of Report. Building owners shall employ a civil or structural engineer or architect, registered by the state of California, herein called “engineer/architect,” to prepare the engineering plan and calculations acceptable to the Building Official for the proposed retrofit work applicable to the building permit application and to prepare the EARs in accordance with this section.

C. Scope of Analysis. The scope of analysis need only address the proposed permit work with the following information:

1. Building Permits for Mandatory Upgrade Work. The following analysis for the mandatory upgrade of URM bearing wall buildings and the upgrade for frame buildings with nonbearing URM walls and for buildings with URM veneer shall be performed:
 - a. Parapet stability;
 - b. Nonstructural falling hazards anchorage and stability;
 - c. Wall to diaphragm anchorage for tension anchors (for bearing wall buildings only);
 - d. Evaluation of falling hazards for exits.
2. Building Permit for Voluntary URM Bearing Wall Upgrade Work. The following analysis for the voluntary upgrade of URM bearing wall buildings shall be performed:
 - a. General compliance with the current UCBC:
 - i. Required retrofitting,
 - ii. Materials testing;
 - b. Structural analysis:
 - i. Out-of-plane loads on walls; tension anchors and bracings,
 - ii. Wall to diaphragm anchors for shear,
 - iii. In-plane strengthening of walls; repairs and repointing,
 - iv. Diaphragm capacity,

- v. Other analysis as required by current UCBC,
 - vi. Integrity of stairway and falling hazards for exits.
- D. Format of Report. The engineering reports for all building permits shall conform with the format in this subsection. This format is not meant to be a constraint on the engineer/architect preparing the report, but rather it shall be considered as the minimum acceptable information to be submitted.

1. General Information.
 - a. Date report is completed;
 - b. The building address with the County Assessor's parcel number;
 - c. Name of building (if any);
 - d. Name, address, and telephone number of owner;
 - e. Names, addresses, and telephone numbers of property beneficiaries;
 - f. The type of occupancy uses within the building and the occupant loads;
 - g. The number of residential, commercial and other units in the building;
 - h. The dates of original design, construction, additions or substantial structural alternations (if known) of the building;
 - i. The name of the original designer and contractor (if known), and the name and address of the designer and contractor (if known), for any subsequent additions or substantial structural alternations;
 - j. Affirmative of whether or not the original building plans are available and name and address of person who has plans;
 - k. Scaled plan to show footprint of building in relation to property line (if known), sidewalk, and street area, and adjacent buildings;
 - l. Photos or sketches of elevation to show adjacent buildings.
2. Summary of Existing Conditions. The engineer/architect shall investigate the building for compliance with the applicable standard in Section 15.28.080 or 15.28.090 related to the proposed building permit application, describe the vertical load carrying systems and identify any URM bearing walls. The engineer/architect shall also include a description of all parapets and nonstructural falling hazards, their construction, supports, materials and any testing and test data.
3. Deficiencies and Corrective Measures. The engineer/architect shall submit structural analysis in accordance with the applicable provisions in subsection C of this section to identify deficiencies and design corrective measures to meet the minimum requirements of the applicable retrofit standards.
4. Proposed Upgrade/Corrective Work. The engineer/architect shall describe the upgrades or corrective work required for the building under the proposed building permit and provide an estimated cost for the work.
5. Engineer/Architect Certification. Name, work address, work phone number, California state professional license number and signature of engineer/ architect who authored the report. (Prior code § 18-6.10)

15.28.110 Future retrofitting legislation.

- A. No URM building which has been upgraded to the standard set forth in this section shall, within a period fifteen (15) years after completion of the work required for such upgrade, or such other period as the state of California may from time to time adopt, be identified as a "seismic hazard to life" pursuant to any other seismic mitigation building standard adopted by the city, unless:

1. Such building no longer meets the structural upgrade standards under which it was retrofitted; or
 2. The occupancy classification for such building is changed.
- B. A building qualifies for this exemption from future retrofitting legislation if it meets the following standard:
1. For URM bearing wall buildings, complete building upgrade to the standards of Section 15.28.080C;
 2. For any frame building with URM infill walls, or building with URM veneer, complete building upgrade to the city's Interim Standard Ordinance No. 11274 C.M.S. (Prior code § 18-6.11)

15.28.120 Change of occupancy.

URM bearing wall buildings may change their current occupancy classification to the uses listed below without meeting the seismic provisions for a new building in the current code (UBC) if the entire building complies with the seismic retrofit standard of the UCBC in effect at the time of the change in use and the standards in Section 15.28.080C:

Current occupancy may be changed to:

| Group | Description of Occupancy |
|--------------|---|
| A | 3-Drinking and dining establishment if the A-3 component is less than 2 stories and is occupied by no more than 100 occupants |
| | 4-Stadiums, reviewing stands and amusement parks |
| B | All B uses as defined in the UBC (i.e., repair garages, offices, retail, small drinking and dining establishment) |
| H | 4 |
| M | All uses defined in the UBC (i.e., private garbage) |
| R | All residential uses as defined in the UBC |

(Prior code § 18-6.12)

15.28.130 Addition, alteration or repair.

Whenever addition, alteration or repair work to a potentially hazardous URM building involves any one of the following conditions, the building shall be upgraded to comply with the applicable standards specified in Sections 15.28.080C and 15.28.090 prior to the approval of the addition, alteration, or repair work shall mean the cumulative addition, alteration or repair work performed on the building within any four-year period.

- A. The total cost for all addition, alteration and repair work exceeds fifty (50) percent of the total replacement cost of the existing building. The valuation of the work and the replacement cost of the existing building shall be determined by the Building Official.
- B. Vertical loading is increased by five percent on the affected supporting elements of the roof or floor of a building.
- C. More than fifty (50) percent of the total floor and roof areas of the building are involved in substantial structural alteration.
- D. The cumulative area of additions excluding basement additions, exceeds thirty (30) percent of the total floor and roof areas of the building excluding basement.

When the owner believes the Building Official made an error in his or her determination of this section, the owner may appeal the determination to the Board of Examiners and Appeals in accordance with Section 15.28.160C. (Prior code § 18-6.13)

15.28.140 Design review.

A. Nonhistoric Structures. For nonhistoric structures, the owner or owner's agent prior to the start of any alterations, restoration, retrofit or making of any significant changes to a nonhistoric, unreinforced masonry structure that is subject to design review under city codes and regulations shall submit a design review application to the city and have it approved by the Planning Director. The design review application shall be submitted prior to or in conjunction with the filing of the building permit application and the engineering analysis report. A building permit application for complete demolition of nonhistoric structure is not subject to design review.

Design review applications shall be reviewed and approved or disapproved by the Planning Director. To aid in his or her review of an application, the Planning Director may obtain advice from the Building Official or outside professionals. The Planning Director's decision will be made within forty-five (45) days of the date of the city's receipt of a completed design review application. However, upon receipt of each design review application, the Planning Director may, at his or her discretion, refer the application to the City Planning Commission rather than acting on it himself or herself. If the application is referred to the Planning Commission, the Planning Commission's decision on the application will be made within sixty (60) days of the date the application was received by the city. Applications for altering, abating, repairing, restoring or rehabilitating any nonhistoric structure that is subject to design review shall be required to meet the applicable criteria of this chapter. Any decision of the Building Official relating to the structural upgrading design requirements or of the Planning Director related to the design review application for a nonhistoric structure can be made in accordance with Section 15.28.160D.

B. Unless otherwise expressly provided in this chapter, the owner or the owner's agent, prior to the start of any alterations, restoration, retrofit, or the making of any significant changes to a URM historic structure, shall submit a design review application to the city prior to or in conjunction with the filing of the building permit application and engineering analysis report, and have it approved by the Planning Director.

Except as otherwise set forth in this chapter, design review applications shall be reviewed and approved or disapproved by the Planning Director. To aid in his or her review of an application, the Planning Director may obtain advice from the Building Official or outside professionals. The Planning Director's decision will be made within forty-five (45) days of the date of the city receipt of a completed design review application. However, upon receipt of a completed design review application, the Planning Director will notify the Landmarks Preservation Advisory Board. If such notice is given by a member of the Board, the Planning Director shall immediately forward the application to the Board and the subject application shall be considered and a recommendation, if any, shall be made to the Planning Director by the Landmarks Board within forty-five (45) days of the date of the application. In all such cases, the Planning Director's decision will be made within sixty (60) working days of the date of the city's receipt of the completed design review application. Applications

for altering, abating, restoring or rehabilitating or demolishing historic structures which are contributory to an S-7 preservation combining zone shall be required to satisfy the criteria of Sections 17.84.010 through 17.84.070 and 17.136.070 of the city's zoning regulations. Applications for altering, repairing, restoring or rehabilitating or demolishing any other Historic Structure shall be required to meet the criteria of Sections 17.102.030 and 17.136.070 of the city's zoning regulations. Any decision of the Building Official relating to the structural upgrading design requirements or the Planning Director relating to the design review application for a historic structure may be appealed in accordance with Section 15.28.160E. (Prior code § 18-6.14)

15.28.150 Penalties for noncompliance.

All monetary penalties shall be credited to the Seismic Safety Division of the Office of Planning and Building to fund the implementation and enforcement of this chapter. It is unlawful for the owner of a potentially hazardous URM building subject to this chapter to fail to comply with the provisions of this chapter. After written notification thereof from the city to the owner, the following penalties shall be imposed upon owners who fail to comply with the requirements of this chapter:

- A. Failure to File Building Permit Application and Engineering Analysis Report on Time. Each owner who fails to file a building permit application and Engineering Analysis Report for any building subject to this chapter within the time period specified in Section 15.28.070C for such building shall, in addition to any other penalty or remedy which may be assessed pursuant to this chapter or other applicable law, be fined the sum of one thousand dollars (\$1,000.00). This penalty shall attach the day following the last day of the period during which the owner is to file said application and report. The maximum fine under this subsection shall be five thousand dollars (\$5,000.00) per building.
- B. Failure to Complete Upgrades. Each owner who fails to complete the building upgrades required by this chapter within the period specified in Section 15.28.070C for such building shall, in addition to any other penalty or remedy which may be assessed pursuant to this chapter or other applicable law, be fined the sum of two thousand dollars (\$2,000.00). This penalty shall attach the day following the last day of the period during which the owner is to complete said upgrades. An additional two thousand dollar (\$2,000.00) penalty shall be imposed each calendar month thereafter that the owner fails to complete said upgrades. The maximum fine under this subsection shall be ten thousand dollars (\$10,000.00) per building.
- C. Noncompliance Actions. In addition to the fines, authorized by subsections A and B of this section, the Building Official may take the following actions in the event of any failure to comply with the requirements of this chapter:
 1. Notify all parties with financial interest in the property (such as mortgage lenders, lien holders, insurance bearers) and the tenants that the building is a potentially hazardous URM building and is in violation with this chapter;
 2. File a statement with the County Recorder Office describing the potential hazards of the building and the violations of this chapter. Upon correction of the violation of this chapter the Building Official will file a release of any order of unreinforced masonry building hazard mitigation that may have been recorded;

3. Post a sign on building to designate it as a potentially hazardous URM building. The signs shall be located at well lighted locations, readily visible by the occupants and public when entering the building and shall be protected from damage. Location, form and content of the sign is subject to the Building Official's approval. The building owner shall be responsible for installing and maintaining the signs and immediately replacing them, at the owner's expense, as necessary. When the owner corrects all violations of this chapter to the satisfaction of the Building Official, the posting of the building required by this section shall be removed. However, if the owner violates any aspect of this chapter after the posting has been removed, the Building Official will report the building immediately.
4. The Building Official may revoke the certificate of occupancy permit upon thirty (30) days' notice and evacuate the building three years after the due date of completion of the work as specified in Section 15.28.070C, if the owner fails to complete the mandatory upgrade work within the specified time in Section 15.28.070C. The certificate of occupancy permit will be reissued after the upgrade work is completed and the final inspection for the building permit is approved. The owner may appeal any action or penalty for noncompliance in accordance with Section 15.28.160F. (Prior code § 18-6.15)

15.28.160 Appeals process.

A. Exemption from URM Program. If the owner believes that his or her building is not a potentially hazardous URM building or is otherwise exempted from the provisions of this chapter, the owner shall submit evidence, such as original drawings or test results, to substantiate the claim. The Building Official will review the evidence submitted by the owner and will remove the building from the city's list of potentially hazardous URM buildings if the Building Official determines that the building is exempted or in compliance with this chapter.

B. Appeal of Priority Level. If the owner of a priority level 1 or 2 URM building can demonstrate by written notice evidence his or her inability to obtain financial assistance to perform the mandatory upgrade or believes the Building Official made an error in determining the priority level for his or her building, the owner may appeal the Building Official's determination of the priority level to the Board of Examiners and Appeals. The appeal shall be filed with the Building Official within ninety (90) days of the date of notification and the Board shall not be authorized to extend the schedule to complete the work beyond the priority 3 work schedule.

Such appeal shall be made on a form prescribed by, and filed with, the Building Official. The appeal shall state specifically wherein it is claimed there was an error or abuse of discretion by the Building Official. The appeal will be heard by the Board of Examiners and Appeals within thirty (30) days of the date of receipt of the appeal by the city. Not less than seven days prior to the hearing date, the Building Official shall give notice to the appellant of the date, time and place of the hearing. The Board shall be authorized to continue the hearing from time to time.

In considering the appeal, the Board shall determine whether, based upon the record, the Building Official erred or abused his or her discretion. Error or abuse of discretion is shown if it is established that the Building Official failed to follow the provisions of this chapter.

The decision of the Board shall be in writing and shall be considered final and nonappealable on the date it is issued. A copy of the Board's decision shall be mailed or otherwise delivered to the appellant by the Building Official within seven days of the date of the Board's decision.

C. Appeal of Addition, Alterations, or Repair. When the owner believes the Building Official made an error in his or her determination regarding additions, alterations or repairs, the owner may appeal the determination to the Board of Examiners and Appeals. Such appeal shall be made within thirty (30) days after the date of the Building Official's written decision.

Such appeal shall be made on a form prescribed by, and filed with, the Building Official. The appeal shall state specifically wherein it is claimed there was an error or abuse of discretion by the Building Official. The appeal will be heard by the Board of Examiners and Appeals within thirty (30) days of the date of receipt of the appeal by the city. Not less than seven days prior to the hearing date, the Building Official shall give notice to the appellant of the date, time and place of the hearing. The Board shall be authorized to continue the hearing from time to time.

In considering the appeal, the Board shall determine whether, based upon the record, the Building Official erred or abused his or her discretion. Error or abuse of discretion is shown if it is established that the Building Official failed to follow the provisions of this chapter.

The decision of the Board shall be in writing and shall be considered final and nonappealable on the date it is issued. A copy of the Board's decision shall be mailed or otherwise delivered to the appellant by the Building Official within seven days of the date of the Board's decision.

D. Appeal of Design Review of Nonhistoric Structures. Any decision of the building Official relating to the structural upgrading design requirements or of the Planning Director relating to the design review application for a nonhistoric structure that is subject to design review, may be appealed by interested persons as follows:

1. If the appeal involves only administrative, structural or life safety issues which will not affect the exterior characteristics of the structure, the appeal shall be made and decided pursuant to the procedures and provisions of subsection C of this section. Such appeal may only be made by the building permit applicant.
2. If the appeal involves administrative, structural or life safety issues that may affect the exterior characteristics of the structure, the appeal shall be made and decided pursuant to the procedures set forth in subsection (E)(2) of this section.
3. If the appeal involves issues or proposals that will affect only the exterior characteristics of the structure, with no implications for the structural or life safety portions of the structure, the appeal shall be made and decided pursuant to the procedures set forth in other applicable city codes and regulations.

E. Appeal of Design Review of Historic Structures. Any decision of the Building Official relating to the structural upgrading design requirements or of the Planning Director relating to the design review application for a historic structure, may be appealed as follows:

1. If the appeal involves only administrative, structural or life safety issues which will not affect structure, the appeal shall be made and decided pursuant to the

procedures and provisions of subsection C of this section. Such appeals may only be made by the building permit applicant.

2. If the appeal involves administrative, structural or life safety issues that may affect the exterior or historic characteristics of the structure, the appeal may be taken by any interested person and shall be made and decided pursuant to the following procedure:
 - a. Appeals to the Board of Earthquake Appeals for Historic Structures shall be made within fifteen (15) days after the date of a decision by the Building Official or Planning Director. The Building Official's and Planning Director's decision shall be considered final, if no appeal is taken within the fifteen (15) day appeal period. Thereafter no appeal shall be allowed.
 - b. Such appeal shall be made on a form prescribed by the Planning Director and shall be filed with the Planning Director. The appeal shall state specifically wherein it is claimed there was an error of discretion by the Planning Director or Building Official. Upon receipt of the appeal, the Planning Director shall place the matter on the agenda of the next available meeting of the Board of Earthquake Appeals for Historic Structures. Not less than seven days prior to the hearing date, the Planning Director shall give notice to the appellant and to the owner if different from the appellant specifying the date, time and place of the hearing.
 - c. In considering the appeal, the Board shall determine whether, based upon the record, the Building Official or Planning Director erred or abused his or her discretion. Error or abuse or discretion is shown if it is established that the Building Official or Planning Director failed to follow the provisions of this chapter.
 - d. The decision of the Board shall be made in writing, shall be nonappealable and shall be considered final on the date it is issued. A copy of the Board's decision shall be mailed or otherwise delivered to the appellant and to the owner if different from the appellant by the Planning Director within seven days of the date of the Board's decision.

E. Appeal of Noncompliance Penalties and Action. Any decision by the Building Official to impose penalties or take actions in the event of any failure to comply with the requirements of this chapter may be appealed by the owner or the owner's agent to the Board of Examiners and Appeals. Any such appeal shall be made within thirty (30) days of the date of the Building Official's mailing of notification. The appeal shall be made on a form approved by the Building Official and shall show how the Building Official has either committed an error or has abused his or her discretion.

In considering the appeal, the Board shall determine whether, based upon the record, the Building Official erred or abused his or her discretion. The decision of the Board shall be in writing and shall be final. The certificate of occupancy will not be revoked until the decision of the Board is final and in writing. (Prior code § 18-6.16)

15.28.170 Recovery of penalties.

The penalties imposed on the building owner shall be assessed against the real property subject to this chapter and shall, in addition, be an obligation of the owner of the subject property. In the event the owner of a building is a group of individuals, firms, or other entities or any combination thereof, the obligation imposed by this section shall be joint and several. The Building Official shall give the owner of such

premises a written notice showing the amount of the fine and requesting payment thereof. If the amount of such fine is not paid to the Building Official within thirty (30) days after the date of such notice, the Building Official shall forward a report of the penalties to the City Council for confirmation.

The property owner shall be given at least fifteen (15) days' written notice of the confirmation hearing before the City Council. The amount of the penalties shall be confirmed by the City Council, unless the City Council finds, based upon evidence in the record, that the Building Official erred in imposing or in computing the amount of the penalty. If such error is found, the City Council may modify the amount of the penalty, as warranted.

Upon confirmation of the penalty, the City Council shall direct the Building Official to record in the Office of the County Recorder of the county of Alameda, state of California, a certificate substantially in the following form:

Notice of Special Assessment Plan

Pursuant to Chapter 15.28 of the Oakland Municipal Code, the penalty of _____ was assessed by the Building Official, and confirmed by the Oakland City Council, against the described real property and said amount has not been paid, in full, and the City of Oakland does hereby claim a special assessment lien upon the hereinafter described real property in said amount; the same shall be a lien upon said real property until said sum has been paid in full. The real property herein above mentioned and upon which a lien is claimed is that certain parcel of land lying and being in the City of Oakland, County of Alameda, State of California and particularly described as follows to wit:

(Insert Description of Property)

Dated This _____ day of _____, in the year _____

Building Official

Such lien attaches upon recordation of the notice of special assessment lien. The description of the parcel in the notice of lien shall be that used for the same parcel as the County assessor's map book for the current year. The County Assessor shall enter each assessment on the county tax roll opposite the affected parcel of land. The amount of the assessment shall be collected and shall be subject to the same penalties and the same procedures for foreclosure and sale, in case of delinquencies, as provided for ordinary municipal taxes. (Prior code § 18-6.17)

15.28.180 Remedies.

It is unlawful for the owner of any building within the scope of this chapter to violate any provision of this chapter.

In addition to the penalties in Section 15.28.150 the following remedies are available to the city and may be imposed independently or in combination with each other at the sole discretion of the Building Official, unless otherwise noted herein.

- A. Maintenance of a potentially hazardous URM building beyond the time specified in Section 15.28.070C for completion of upgrades to such building shall be and is declared a public nuisance.

- B. The city may seek injunctive relief on behalf of the public to enjoin a building owner's violation of this chapter.
- C. The city may withhold the issuance of any building permit and/or may suspend the existing building permits on the subject building unless otherwise authorized by the building permits on the subject building unless otherwise authorized by the Building Official for emergency repairs.
- D. The Building Official, after written notice to the owner, may revoke or suspend the occupancy permit for any structure for which the owner violates any of the provisions of this chapter. The notice of revocation or suspension shall provide the owner the right to provide the Building Official with evidence that the occupancy permit should not be revoked or suspended either because the structure is not subject to the provisions of this chapter or because the Building Official did not follow the provisions of this chapter.
- E. Any person violating any provision of this chapter shall be guilty of an infraction.
- F. These remedies are not exclusive and the city may utilize any other remedies available at law of equity. (Prior code § 18-6.18)

15.28.190 Fees.

The Office of Planning and Building may impose fees to implement this chapter pursuant to the master fee schedule. (Prior code § 18-6.19)