

**CALIFORNIA STATE BALCONY INSPECTION LAW
 APARTMENT BUILDINGS**

SB 721 requires inspections of apartment buildings with Exterior Elevated Elements (EEE) to be completed by January 1, 2025. Subsequent inspections are every 6 years. Apartment buildings proposed for conversion to condominiums to be sold to the public after January 1, 2019, must be inspected before the first close of escrow. EEE inspections, as well as any maintenance or repair identified after inspection, are the responsibility of building owners.

FREQUENTLY ASKED QUESTIONS

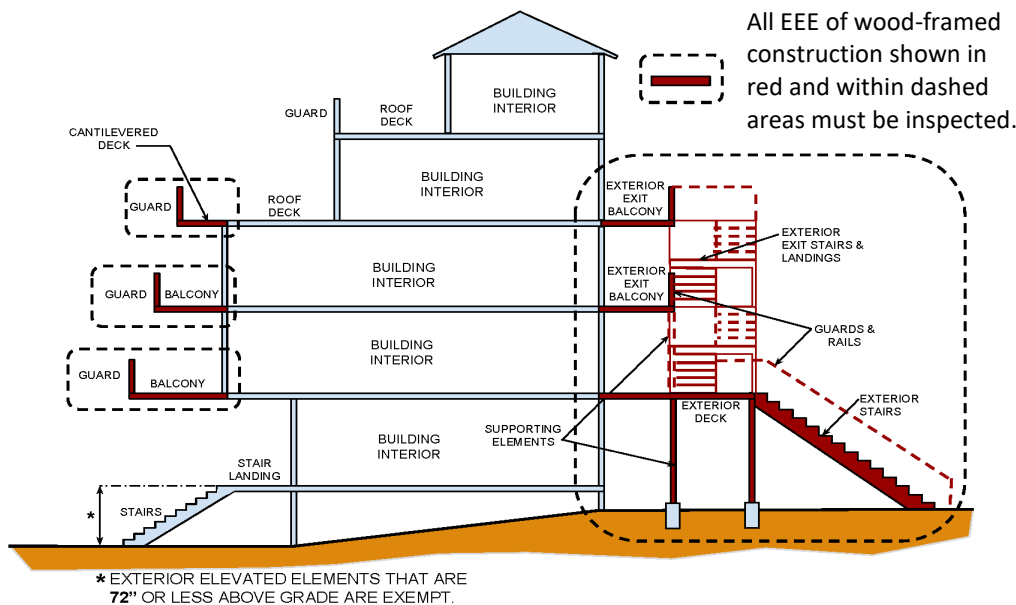
WHAT BUILDINGS MUST BE INSPECTED?

Apartment buildings with 3 or more units that have Exterior Elevated Elements.

WHAT ARE EXTERIOR ELEVATED ELEMENTS (EEE)?

EEE include the following:

- Balconies, decks, porches, stairways, walkways, railings, and entry structures that extend beyond exterior walls of the building; and
- That have a walking surface more than 6 feet above ground level; and
- Rely in whole or in substantial part on wood or wood-based products for structural support or stability.



Source: Image adapted from City of Berkeley

MY BUILDING DOES NOT HAVE RENTAL UNITS. DOES IT NEED TO BE INSPECTED?

Yes, if there are three or more residential units in the building.

MY BUILDING DOES NOT HAVE EXTERIOR ELEVATED ELEMENTS.

Please complete the EEE survey (*see courtesy notice for QR code or link*) to determine exemption.

WHEN MUST INSPECTIONS BE COMPLETED?

Inspections of Exterior Elevated Elements as described above must be completed **by January 1, 2025**, with certain exceptions (see below). *Subsequent inspections are required every 6 years (SB 721 inspection cycle).*

Apartment buildings that are proposed for conversion to condominiums to be sold to the public after January 1, 2019, must be inspected prior to the first close of escrow.

The inspection of buildings for which a building permit application has been submitted on or after January 1, 2019, shall occur no later than 6 years following issuance of a certificate of occupancy for new buildings and/or final inspection of existing buildings subject to SB 721.

If the building was inspected within 3 years prior to January 1, 2019, by an inspector as described in the law and a report of that inspector was issued stating that the Exterior Elevated Elements and associated waterproofing elements are in proper working condition and do not pose a threat to the health and safety of the public, no new inspection shall be required until January 1, 2025.

WHAT IF MY BUILDING IS NEW, HAS BEEN RECENTLY RENOVATED, OR IS UNDERGOING RENOVATION?

The inspection of buildings for which a building permit application has been submitted on or after January 1, 2019, shall occur no later than 6 years following issuance of a certificate of occupancy for new buildings and/or final inspection of existing buildings subject to SB 721.

WHO MAY PERFORM THE INSPECTIONS?

Owners of apartment buildings must hire a qualified inspector to conduct the inspection:

- Licensed architect (<https://www.cab.ca.gov>, <https://aiaeb.org/aiaeb-member-directory>, <https://aiasf.org/architecture/find-an-architect>)
or
- Licensed civil or structural engineer (<https://www.bpelsg.ca.gov>, <https://www.seaonc.org>)

or

- Licensed building contractor possessing an A, B, or C5 classification issued by the California State Licensing Board (<https://www.cslb.ca.gov>) with a minimum 5 years of experience constructing multi-story wood frame buildings as a holder of the aforementioned licenses

or

- An individual certified as a building inspector or building official from a recognized state, national, or international association (<https://www.iccsafe.org/search-for-certified-professionals>)
- The inspector **cannot** be a current employee of the City of Oakland.
- Also, the City can only refer to information/resources (above) and cannot recommend inspectors.

DOES CITY OF OAKLAND HAVE AN INSPECTION CHECKLIST OR INSPECTION CERTIFICATION FORM FOR EEE?

The City does not currently have an inspection checklist or inspection certification form for this State law. Please see the next questions for State inspection and report requirements.

WHAT MUST THE INSPECTION COVER?

The inspection required by this law must, at a minimum, include:

- Identification of each Exterior Elevated Element and associated waterproofing elements that, if found to be defective, decayed, or deteriorated to the extent that it does not meet its load requirements, would, in the opinion of the inspector, constitute a threat to the health or safety of the occupants.
- “Associated waterproofing elements” are defined to mean flashings, membranes, coatings, and sealants that protect the load-bearing components of Exterior Elevated Elements from exposure to water and the elements.
- Assessments of elevated elements using methods allowing for evaluation of their performance by direct visual examination or comparable means of evaluating their performance. For purposes of this section, a sample of **at least 15 percent of each type** of Exterior Elevated Element shall be inspected.
- The evaluation and assessment shall address each of the following as of the date of the evaluation:
 - The current condition of the Exterior Elevated Elements.
 - Expectations of future performance and projected service life.
 - Recommendations of any further inspection needed.
 - Recommendations of any necessary repair or replacement.

WHAT MUST THE INSPECTION REPORT INCLUDE?

The Exterior Elevated Element inspector conducting the inspection shall produce an initial report and a final report indicating that any required repairs have been completed.

A written report of the evaluation stamped or signed by the inspector must be presented to the owner of the building or the owner's designated agent within **45 days** of completing the inspection.

An EEE inspection report that recommends immediate repairs and/or other safety measures due to immediate threat to the safety of occupants shall be provided to the building owner and City of Oakland Code Enforcement Services within **15 days** of the inspector completing the report.

The report shall include photographs, any test results, and narrative sufficient to establish a baseline of the condition of the components inspected that can be compared to the results of subsequent inspections. In addition to the evaluation required by this section, the report shall advise which, if any, Exterior Elevated Element poses an immediate threat to the safety of the occupants, and whether preventing occupant access or conducting emergency repairs, including shoring, are necessary.

WHAT IF HAZARDS ARE FOUND?

An Exterior Elevated Element inspection report that recommends immediate repairs, advises that any building assembly poses an immediate threat to the safety of the occupants, or that preventing occupant access or emergency repairs, including shoring, are necessary, shall be provided to the building owner and City of Oakland Code Enforcement Services within **15 days** of the inspector completing the report.

The EEE inspector shall email the report to BalconyCompliance@oaklandca.gov. City of Oakland Code Enforcement Services will begin the EEE Monitoring process.

WHAT IF **NO** HAZARDS ARE FOUND?

If no immediate hazards are found, then inspectors do not need to submit the report to City of Oakland. Please keep the report for your records. Also, the owner is recommended to complete an EEE survey (*see courtesy notice for QR code or link*) to confirm inspection and provide related details. Be prepared for another inspection in 6 years (SB 721 inspection cycle).

WHO MAY PERFORM THE REPAIRS?

An Exterior Elevated Element found by the inspector to need repair or replacement shall be corrected by the owner of the building. No recommended repair shall be performed by a licensed contractor serving as the inspector.

ARE BUILDING PERMITS REQUIRED?

A Building Permit is required to repair most parts of a typical wood deck, guard rail, or exterior stairway.

Please visit the Planning and Building Department's Permit Center:

<https://www.oaklandca.gov/departments/planning-and-building>

Please email BalconyCompliance@oaklandca.gov for more EEE specific information.

WHAT HAPPENS IF OWNERS FAIL TO COMPLY?

Code enforcement proceedings under the Oakland Municipal Code will be initiated against building owners who do not complete corrective work or if work is not completed on time.

Immediate Threat: An Exterior Elevated Element that the inspector advises poses an immediate threat to the safety of the occupants, or finds preventing occupant access or emergency repairs, including shoring, or both, are necessary, shall be considered an emergency condition and the owner of the building shall perform required preventive measures immediately.

Immediately preventing occupant access to the Exterior Elevated Element until emergency repairs can be completed constitutes compliance with this paragraph. Repairs of emergency conditions shall comply with the requirements of the law, be inspected by the inspector, and reported to City of Oakland Code Enforcement Services.

No Immediate Threat: The owner of the building that requires corrective work to an Exterior Elevated Element that, in the opinion of the inspector, does not pose an immediate threat to the safety of the occupants, shall apply for a permit within **120 days of receipt** of the inspection report. Once the permit is approved, the owner of the building shall have **120 days** to make the repairs unless an extension of time is granted by City of Oakland Code Enforcement Services.

If the owner of the building does not comply with the repair requirements within **180 days**, the inspector shall notify City of Oakland Code Enforcement Services and the owner of the building. If within **30 days** of the date of the notice the repairs are not completed, the owner of the building shall be assessed a civil penalty based on a fee of not less than \$100 or more than \$500 per day until the repairs are completed, unless an extension of time is granted by City of Oakland Code Enforcement Services. If a civil penalty is assessed, a building safety lien may be recorded against the property.

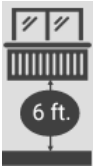
WHO KEEPS THE INSPECTION REPORT?

Copies of all inspection reports shall be maintained in the building owner's permanent records for not less than two EEE inspection cycles. The reports shall be disclosed and delivered to the buyer at the time of any subsequent sale of the building.

ARE DUPLEXES OR SINGLE-FAMILY HOMES REQUIRED TO BE INSPECTED?

If a parcel has duplexes or single-family homes, then they are not required to be inspected, since each building has fewer than 3 units each. Only residential buildings with 3 or more units that have Exterior Elevated Elements are required to be inspected.

ARE INSET DECKS SUBJECT TO EEE INSPECTIONS?



Yes, inset decks must be inspected if they are located beyond an exterior wall, are wood-framed, and have a walking surface more than 6 feet above the ground.

Source: Image adapted from City of Fremont

RAILINGS IN OLDER BUILDINGS OFTEN DO NOT MEET CURRENT CODE REQUIREMENTS. ARE THEY REQUIRED TO BE REPAIRED OR REPLACED IF NO ROT OR DETERIORATION IS FOUND?

Railings already in use, which were up to code at the time of installation, are permitted to remain in use. Conditions that do not meet current code requirements do not, of themselves, constitute an unsafe condition.

MY EXTERIOR ELEVATED ELEMENT IS DECORATIVE ONLY. DOES IT NEED TO BE INSPECTED?

If the Exterior Elevated Element can be used as a walking surface and is more than 6 feet above ground level, then EEE inspection is required.

MY EXTERIOR ELEVATED ELEMENT IS COVERED AND ONLY HAS ONE SIDE OPEN TO THE OUTSIDE. DOES IT NEED TO BE INSPECTED?

If the Exterior Elevated Element is wood-framed and is exposed to the weather from any side, then EEE inspection is required. If rain or other moisture can accumulate on the surface or at the joints/intersections, then EEE inspection is required.

DO FIRE ESCAPES NEED TO BE INSPECTED?

Under this law, fire escapes do not need to be inspected by a private inspector. However, Oakland Fire Department will continue to inspect fire escapes.

REFERENCES

- [SB 721](#) (Hill), Ch. 445, Stats. 2018
- Health and Safety Code Section [17973](#), et seq.