

Elevator Maintenance Ordinance

PROPOSED LEGISLATION: FALL 2023

OAKLAND CITY ATTORNEY'S OFFICE

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Main Components:

1. Duty to maintain elevators in good working order
2. Duty to complete repairs as quick as possible
3. Duty to provide notice to residents
4. Duty to provide temporary accommodation

Scope: What Buildings Are Covered?

- Ordinance would apply to all buildings located in Oakland that contain 10 or more residential units and an elevator.
- Exceptions: units in any hospital, skilled nursing facility, or health facility.

Who Counts as a “Building Operator”?

- Duties created by Ordinance apply to “building operators.”
- “Building operator” means any owner or lessor of the entirety of a building, or any agent with responsibility of managing the building.

Duty to Conduct Regular Maintenance

- Must establish a program of regular elevator maintenance to ensure that elevators remain usable and accessible at all times and that any needed repairs or servicing are completed within the shortest practicable time.

Duty to Make Repairs Expeditiously

- When an elevator malfunctions, the elevator should be repaired at the earliest practicable time, not to exceed 24 hours after notice of the malfunction.

Duty to Provide Alternative Housing

- If unable to complete repairs within 24 hours, must locate and provide alternative housing for anyone who needs to use the elevator to access their unit due to “impaired ability to use stairs as a result of such person’s physical disability, medical condition, illness, health impairment, or other similar circumstance.”

Requirements for Alternative Housing

- Must be “decent, safe, sanitary, located within reasonable distance, and accessible to people with disabilities.”*
- Access/egress does not require stairs.
- Daily cost not to exceed \$250.

Notice Requirements: Regular Maintenance

- If elevator will be posted next out of service due to regular maintenance, notice must be posted on each floor 48 hours in advance.
- Notice must indicate expected duration of inoperability.
- If inoperability expected to be more than 4 hours, must provide written notice to each occupant in addition to posting next to elevator.

Notice Requirements: Unanticipated Repair

- If elevator will be out of service due to unexpected malfunction, notice must be provided to all occupants and posted next to elevator on each floor immediately upon notice of the malfunction.
- Notice must indicate the date, time, and duration of the repair.

Notice Requirements: Right to Alternative Housing

- If repairs cannot be completed within 24 hours, and no other elevator available, notice must also include information about the right to alternative housing.
- Notice must be provided “as soon as reasonably possible” upon learning repairs may take over 24 hours.
- Notice must include clear instructions on how to request alt. housing, including phone number to call.

Remedies for Non-Compliance

- Persons whose access/egress to unit is substantially restricted because of building operator's failure to comply with Ordinance can bring civil suit for damages and injunctive relief.
- Statutory damages of \$1k each day elevator out of service (unless beyond building operator's control).
- \$2.5k per day for failure to relocate.

Remedies for Non-Compliance

- Attorneys fees
- City may bring action for injunction

Discrimination and Retaliation Prohibited

- Unlawful to retaliate for exercising rights under Ordinance
- Unlawful to refuse to rent to someone because they may exercise rights under Ordinance.

Questions? Concerns?