

CITY OF ALAMEDA ORDINANCE NO. _____
New Series

Approved as to Form


City Attorney

AMENDING THE ALAMEDA MUNICIPAL CODE BY ADDING ARTICLE XX (EARTHQUAKE HAZARD REDUCTION IN EXISTING SOFT-STORY RESIDENTIAL BUILDINGS) TO CHAPTER XIII (BUILDING AND HOUSING), AND AMENDING SUBSECTION 30-7.12 (REDUCTION IN PARKING REQUIREMENTS FOR EXISTING FACILITIES) OF SECTION 30-7 (OFF-STREET PARKING AND LOADING SPACE REGULATIONS) OF CHAPTER XXX (DEVELOPMENT REGULATIONS) BY ADDING SUBSECTION 30-7.12(c) TO ALLOW FOR REDUCTION IN PARKING REQUIREMENTS FOR SEISMIC RETROFIT

BE IT ORDAINED by the City Council of the City of Alameda that:

Section 1. The Alameda Municipal Code is amended by adding Article XX, Earthquake Retrofit Standards and Requirements for Soft-Story Residential Buildings, to Chapter XIII, Building and Housing, consisting of subsections 13-80.1 through 13-80.16, which shall read as follows:

ARTICLE XX. EARTHQUAKE HAZARD REDUCTION IN EXISTING WOOD FRAME RESIDENTIAL STRUCTURES WITH SOFT-STORY, WEAK OR OPEN FRONT WALLS

13-80.1 Purpose

The provisions of this article are intended to promote public safety and welfare by reducing the risk of death or injury that may result from the effects of earthquakes on existing wood frame multi-unit residential structures with soft-story, weak or open front walls. The minimum standards contained in this Article shall substantially improve the seismic performance of these residential buildings, but will not necessarily prevent all earthquake damage. When fully followed, these standards will strengthen the portion of the structure that is most vulnerable to earthquake damage. This Article does not require alteration of existing electrical, plumbing, mechanical, or fire safety systems unless they constitute a hazard to life or property.

13-80.2 Scope

The provisions of this Chapter shall apply to all existing wood frame multi-unit residential buildings or portions thereof that contain five or more dwelling units that were permitted for construction prior to December 17, 1985, where the ground floor portion of the wood frame structure contains parking or other similar open floor space that causes soft, weak, or open wall lines as defined in this Chapter, and having one or more levels above the ground floor. These buildings are hereinafter referred to as "soft-story" construction.

The provisions of this Chapter shall apply equally to apartment buildings and condominiums. Buildings listed on national, state or local historical registers shall also comply with the provisions of this Chapter. At the Building Official's discretion, modifications to the code requirements contained in this Chapter may be permitted when such modifications are consistent with the provisions of the State Historical Building Code.

13-80.3 Findings and intent.

- (a) The City of Alameda is located within Design Category D & E, as defined in the 2007 California Building Code.
- (b) The City Council desires to lessen the risks to life and property of the residents of the City of Alameda posed by a major earthquake along the Hayward Fault.
- (c) Buildings with soft, weak or open front ground floor stories are recognized by engineers, and other seismic safety experts, as having potential for sustaining serious damage including collapse, in the event of strong earthquakes.
- (d) Neither the International Building Code nor the California Building Standards Code contains provisions governing the earthquake retrofit of soft-story residential buildings.
- (e) In 2006, the International Code Council published the second edition of the International Existing Building Code (IEBC). Chapter A4 of that Code, entitled "Earthquake Hazard Reduction in Existing Wood-Frame Residential Buildings with Soft, Weak, or Open-Front Walls", which is the basis for this chapter.
- (f) In 2005, California Health and Safety Code sections 19162 and 19163 were amended to expressly authorize local jurisdictions the authority to adopt by ordinance, retrofit standards for soft-story residential buildings that comply with a nationally recognized model code relating to the retrofit of existing buildings or substantially equivalent standards.
- (g) The current nationally recognized model code for the retrofit of soft-story residential buildings is Appendix Chapter A4 of the 2006 IEBC. The provisions of this chapter, as amended by this ordinance, comply with or are substantially equivalent to Appendix Chapter A4 of the IEBC.
- (h) These codes are not intended to provide structural performance equivalent to that provided by new construction built to the current City Building Code, rather these codes identify and provide for improving the structure's more vulnerable portions and, if identified improvements are made, can be expected to substantially reduce the likelihood of excessive building drift or collapse and substantially lessen the loss of human life.

(i) The establishment of an inventory of soft-story buildings and the notification of owners and residents is a necessary first step in developing a mitigation program and will provide the basis for obtaining input from affected parties for any future mandatory retrofit program.

(j) Although the general vulnerability of such buildings is known, determining the seismic adequacy of each of the structures and the appropriate elements of a retrofit to remedy vulnerabilities requires a detailed evaluation by a licensed engineer.

(k) Such an evaluation is also necessary for the City to identify fully the risks to the city and its inhabitants and to determine the feasibility of programs to address the vulnerabilities.

(l) This ordinance requires the establishment of an inventory of potentially hazardous, wood frame, multi-unit (5 units or more) residential structures with soft-story, weak or open front walls; provides for notification of the owners, residents, and users of such buildings; adopts Appendix Chapter A4 of the 2006 IEBC and requires owners to provide analysis of their building's seismic adequacy.

13-80.4 Adoption and modifications of Chapter A4 of the 2006 IEBC.

Chapter A4 of the 2006 International Existing Building Code ("IEBC"), as published by the International Code Council is hereby adopted by reference, except where this chapter provides alternative language. For purposes of this Chapter, the standards in the IEBC shall be used for the analysis of seismic weakness and to formulate the elements of work required remedying any identified weaknesses.

13-80.5 Inventory of Potentially Hazardous Soft-Story Buildings.

Multi-unit wood frame residential buildings with five or more residential units identified by a survey conducted by the City as containing a Soft, Weak, or Open Front Ground Floor shall be defined and or designated as soft-story buildings and placed on the Inventory of Potentially Hazardous Soft-Story Buildings. The Inventory of Potentially Hazardous Soft-Story Buildings shall be maintained and revised as necessary by the Building Official. A copy shall be available for inspection in the office of the Building Official.

13-80.6 Notification of Owners and administration

(a) **Contents of Notice and Order.** When the Building Official determines that a building is within the scope of this Chapter, the Building Official shall issue a Notice and Order as provided herein. The Notice and Order shall specify that the building has been determined by the Building Official to be within the scope of this Chapter, placed on the Inventory of Potentially Hazardous Soft-Story Buildings, and, therefore, is required to meet the seismic analysis and other provisions of this Chapter. The Notice and Order shall set forth the owner's obligations under this chapter, the time limits for compliance, and appeal rights. The Building Official's determination shall be final at the end of 60 days unless a timely appeal is filed as provided below.

(b) Service of Notice and Order. The Notice and Order shall be in writing and may be given either by personal delivery thereof to the owner or by deposit in the United States Mail in a sealed envelope, postage prepaid, addressed to the owner of the property as shown on the last equalized assessment roll of the county, or as known to the Building Official, as well as to the following, if known 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 to serve any person required herein to receive service shall not invalidate any proceeding hereunder as to any person duly served or relieve any such person from any duty or obligation imposed by the provisions of this section.

13-80.7 Appeal of Notice and Order to Building Official

Any person entitled to service of notice under Section 13-80.6 (a) may request the Building Official to reconsider a determination to include a building on the Inventory of Potentially Hazardous Soft-Story Buildings by submitting information that the building's ground floor is not soft, weak, or open as defined by the applicable standard, that the building has been substantially reconstructed in accordance with the 1977 or later Uniform Building Code. The appeal to the Building Official shall be filed within 60 days from the date of the service of such Notice and Order of the Building Official.

13-80.8 Appeal of Decision of Building Official

(a) Any person entitled to service of notice under Section 13-80.6 (a) may appeal the decision of the Building Official to the Housing and Building Code Hearing and Appeals Board (Board) by filing a written Application for Appeal Hearing with the Secretary of the Board within ten (10) days of service of the Building Official's determination under Section 13-80.7.

(b) The fee for filing an appeal shall be established by resolution of the City Council. The appeal fee shall be required at the time that the appeal is filed. Appeal forms shall not be accepted without the appropriate appeal fee.

(c) The appeal shall contain the following information:

1. The specific identification of the subject property.
2. The name, address, telephone number, date and signature of all appellants.
3. The appellant(s)' legal interest in the property.
4. A statement in ordinary and concise language of the grounds for the appeal and all material facts in support thereof.
5. The address to which all notices shall be sent.
6. The verification under penalty of perjury of at least one (1) appellant as to the truth of the matters stated in the appeal.

- (d) The Secretary to the Board shall serve, or cause to be served, a written Notice of Hearing in the United States Mail, postage prepaid, certified, return receipt requested, addressed to all appellants at the address designated in the Application for Appeal Hearing. Such notice shall be served at least ten (10) days prior to the time set for the hearing. The Notice of Hearing shall contain the date, time and place of the hearing. Service shall be deemed complete on the fifth day after service.
- (e) The Secretary of the Board shall set a date for a hearing not less than ten (10) days nor more than sixty (60) days from the service of the Notice of Hearing, unless the Board determines good cause exists for an extension of time.
- (f) The Board or employee, upon giving notice of aforesaid, shall file an affidavit or declaration certifying the date of mailing the Notice of Hearing, and file it in the records of the Building Official.
- (g) Failure of the person filing the appeal to appear at the hearing after notice has been served shall be deemed a waiver of the hearing.
- (h) The Board shall determine whether the building is a soft-story building.
- (i) The Board shall prepare a written Statement of Decision, which shall contain findings of fact for each decision of the Board.
- (h) The Secretary of the Board shall serve, or cause to be served, a copy of the decision of the Board on the owner any person entitled to service of notice under Section 13-80.6 (a).

13-80.9 Analysis of structural seismic adequacy.

Within 18 months of the date of service of the notice of inclusion on the Inventory of Potentially Hazardous Soft-Story Buildings, the owner of each building on the Inventory of Potentially Hazardous Soft-Story Buildings shall submit an Initial Screening and a detailed seismic engineering evaluation report prepared by a qualified California licensed structural or civil engineer that analyzes the structural ability of the building to resist the seismic effects of earthquakes and the extent to which the building meets the standards for structural seismic adequacy as set forth in Appendix Chapter 4 of the 2006 IEBC, as modified by this ordinance, identifies any hazardous exterior design elements, describes the elements of work needed to remedy the identified weaknesses, and provides other relevant information as requested by the Building Official. This Chapter does not require the retrofit of any building and does not require the submittal of plans of the type required with an application for a building permit. The purpose of the analysis is to investigate the structural systems of a building that resist forces imposed by earthquakes and to determine if any individual portion or combination of these systems is inadequate to prevent a collapse or partial collapse or other damage hazardous to life.

13-80.10 Earthquake-Actuated Gas Shutoff Valve

Within 60 days of the date of service of the notice of inclusion on the Inventory of Potentially Hazardous Soft-Story Buildings, the owner of each building on the Inventory of Potentially Hazardous Soft-Story Buildings shall install an earthquake-actuated gas shutoff valve certified by the State Architect as conforming to California Referenced Standard 12-16-1 contained in the 2007 California Referenced Standard Code.

13-80.11 Fees

(a) **Engineering Report Review Fees.** Engineering report review fees shall be established by resolution of the City Council. Review fees shall be reduced as follows: 100% for qualifying reports submitted within 3 months of the date of service of the notice of inclusion on the Inventory, 75% for qualifying reports submitted within 6 months of the date of service of the notice of inclusion on the Inventory, 50% for qualifying reports submitted within 9 months of the date of service of the notice of inclusion on the Inventory, and 25% for qualifying reports submitted within 12 months of the date of service of the notice of inclusion on the Inventory of Potentially Hazardous Soft-Story Buildings.

(b) **Plan Review and Inspection Fees.** Plan review and inspection fees shall be established by resolution of the City Council. All plan review and inspection fees shall be waived for soft-story retrofit projects for which permits are issued prior to 18 months of the date of service of the notice of inclusion on the Inventory of Potentially Hazardous Soft-Story Buildings.

13-80.12 Owners' and tenants' obligations.

(a) **Obligation of owners to notify tenants and post building.** Within 18 months of the date of service of the notice of inclusion on the Inventory of Potentially Hazardous Soft-Story Buildings, the owner of each building on the Inventory of Potentially Soft-Story Buildings shall;

1. Notify each tenant in writing and notify each new tenant at a change of tenancy, that the building is included on the Inventory of Potentially Soft-Story Buildings.
2. Post in a conspicuous place within five feet of each main entrance of the building, and maintain until the building is removed from the Inventory of Potentially Soft-Story Buildings, a clearly visible warning sign not less than 8" by 10" the following statement, with the first two words printed in 50-point bold type and the remaining words in at least 30-point type:

“Earthquake Warning. This is a soft-story building with a soft, weak, or open front ground floor. Occupants and Visitors may not be safe inside or near such buildings during an earthquake.”

3. Mail, within thirty (30) days of service, a copy of each tenant notification form in compliance with this section and a completed proof of service addressed to: Building Official, Planning and Building Department, 2263 Santa Clara Ave, Alameda, CA 94501.

(b) **Obligations of tenants to cooperate.** Each tenant of a building on the Inventory of Potentially Hazardous Soft-Story Buildings shall cooperate with the owner and the owner's agents, including but not limited to engineers, contractors, and inspectors, to accomplish the required analysis. In so doing, tenants shall allow reasonable access to the building and their unit or space as needed and as permitted by California Civil Code Section 1954.

13-80.13 Removal of building from the inventory.

A building shall be removed from the inventory under the following circumstances:

(a) A determination by the Building Official that the building does not contain a Weak, Soft, or Open Front Story and meets the applicable standards; or

(b) The satisfactory completion of a seismic retrofit and appropriate inspections bringing the Soft, Weak, or Open Front Story of the building up to the requirements of the applicable standards of Chapter A4 of the 2006 IEBC; or

(c) A determination by the Building Official or a decision on appeal that the building is not a building with Soft, Weak, Or Open Front Stories; or

(d) Lawful demolition of the building.

13-80.14 Compliance schedule for submittal of seismic analysis.

(a) **Deadlines.** All owners of potentially hazardous soft-story buildings shall submit the required analysis of structural seismic adequacy in accordance with this Chapter no later than 18 months from notice by the City.

(b) **Acceleration of deadline.** Notwithstanding subdivision (a) of this section, this deadline shall be accelerated, and the owner shall submit the required analysis of structural seismic adequacy, whenever any one or more of the following occurs:

1. The building will undergo a remodel, alteration, addition or structural repairs valued at more than \$100,000, except for repairs found by the Building Official to be required for routine maintenance or emergency.

2. The use of the building changes such that Section 110 of the 2007 California Building Code applies.

3. The building is identified by the Building Official as an Unsafe Building as defined in Section 115 of the 2007 California Building Code or AMC Section 13-10.2.4.

(c) **Extensions of deadline.** The Building official may extend the deadline for the required analysis by up to six (6) months if the owner submits to the Building Official a detailed written statement requesting the extension, explaining why it should be granted and clearly documenting the reasons therefore in accordance with the requirements of this part.

Extensions granted under this part shall not extend deadlines for correction of any other violations of any other ordinances.

(d) **Required findings.** In order to grant an extension, the Building Official must find that:

1. The building does not present an imminent threat to life safety of occupants or the public, based on a report from a California licensed structural or civil engineer;
2. The owner has demonstrated there are unique and exceptional circumstances that prevent compliance.

13-80.15 Fifteen year exemption for retrofitted buildings

Any building, or any portion of a building that is identified under this Chapter as being a Potentially Hazardous Soft, Weak, Open Front Story Building and is retrofitted in compliance with the applicable standards or the City of Alameda Building Code shall not, within a period of 15 years, be identified as a Potentially Hazardous Soft-Story Building because of a Soft, Weak, or Open Front Story pursuant to any local building standards adopted after the date of the building retrofit unless such building no longer meets the standards under which it was retrofitted.

13-80.16 Violation and remedies.

(a) It shall be unlawful for any person, business or corporation to maintain, use or occupy a building that is not in compliance with the requirements of this Chapter. For purposes of this section, any person includes an owner, lessor, sublessor, manager, or person in control of a building subject to this Chapter, but shall not include tenants in residential units.

(b) All remedies available to the City for correcting violations of any other Chapter in this Code shall be available to remedy violations of this Chapter. The remedies described herein are cumulative and in addition to any other remedies available for violation of this Chapter.

Section 2. The Alameda Municipal Code is amended by adding Section 30-7.12. (c) Reduction in Parking Requirements for Existing Facilities of Chapter XXX, Development Regulations to read as follows:

30-7.12 Reduction in Parking Requirements for Existing Facilities

(c) Additional parking spaces serving existing multi-family dwellings may be eliminated from properties with five (5) or more units, with the approval of the Planning and Building Director, if needed to seismically retrofit these structures to meet health and safety requirements.

Section 3. If any section, subsection, sentence, clause or phrase of this ordinance is, for any reason, held invalid or unconstitutional, such decision shall not affect the validity or constitutionality of the remaining portions of this ordinance. The City Council of the City of Alameda hereby declares that it would have passed this ordinance, and each section, subsection, sentence, clause or phrase hereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses or phrases be declared unconstitutional.

Section 4. All former ordinances or parts thereof conflicting or inconsistent with the provisions of this ordinance hereby adopted, to the extent of such conflict only, are hereby repealed.

Section 5. The City Clerk of the City of Alameda is hereby directed to cause this ordinance to be published in the Official Newspaper of the City of Alameda.

Section 6. This ordinance and the rules, regulations, provisions, requirements, orders and matters established and adopted hereby shall take effect and be in full force and effect 30 days after the date of its final passage and adoption.

Presiding Officer of the City Council

Attest:

Lara Weisiger, City Clerk
City of Alameda

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I, the undersigned, hereby certify that the foregoing Ordinance was duly and regularly adopted and passed by Council of the City of Alameda in regular meeting assembled on the 17th day of March, 2009 by the following vote to wit:

AYES:

NOES:

ABSENT:

ABSTENTIONS:

IN WITNESS, WHEREOF, I have hereunto set my hand and affixed the official seal of said City this 18th day of March, 2009.

Lara Weisiger, City Clerk
City of Alameda