

IN THE CITY COUNCIL OF THE CITY OF SAN LEANDRO

ORDINANCE NO. 2024-XXX

AN ORDINANCE TO AMEND SAN LEANDRO MUNICIPAL CODE TITLE 7 (MAPS, BUILDINGS, AND SUBDIVISIONS) BY ADDING ARTICLE 16 (EARTHQUAKE HAZARD REDUCTION IN EXISTING SOFT-STORY RESIDENTIAL BUILDINGS) TO CHAPTER 7-5 (BUILDING CODE)

WHEREAS, the City Council desires to lessen the risks to life and property of the residents of the City of San Leandro posed by a major earthquake along the Hayward Fault; and

WHEREAS, 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; and

WHEREAS, in 2005, California Health and Safety Code sections 19162 and 19163 were amended to expressly authorize local jurisdictions 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; and

WHEREAS, the current nationally recognized model code for the retrofit of soft-story residential buildings is Appendix Chapter A4 of the 2022 California Existing Building Code (CEBC), entitled "Earthquake Risk Reduction in Existing Wood-Frame Residential Buildings with Soft, Weak, or Open-Front Walls"; and

WHEREAS, the City of San Leandro is located within Design Category D & E, as defined in the 2022 CEBC; and

WHEREAS, it is the City's intent by this ordinance to adopt retrofit standards for soft-story residential buildings within the City of San Leandro that comply with, or are substantially equivalent to, the standards set forth in Appendix Chapter A4 of the CEBC; and

WHEREAS, these revisions to the City's current Building Code are not intended to provide structural performance equivalent to that provided by new construction built, rather these codes identify and provide for improving the structure's more vulnerable portions and, if identified improvements are made, in efforts to substantially reduce the likelihood of excessive building drift or collapse and substantially lessen the loss of human life; and

WHEREAS, 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; and

WHEREAS, 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; and

WHEREAS, 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; and

WHEREAS, 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 2022 CEBC, and requires owners to provide analysis of their building’s seismic adequacy.

NOW THEREFORE, the City of San Leandro City Council does **ORDAIN** as follows:

Section 1. Recitals. The recitals above are true and correct and when applicable, incorporated herein by reference.

Section 2. Amendment of Code. San Leandro Municipal Code Title 7 “Maps, Buildings, and Subdivisions,” Chapter 7-5 “Building Code” is hereby amended to add Article 16 “Earthquake Retrofit Standards and Requirements for Soft-Story Residential Buildings,” as provided for in Exhibit A, attached hereto and incorporated by reference.

Section 3. Environmental Review. The passage of this ordinance is not a project according to the definition in the California Environmental Quality Act and, therefore, is not subject to the provisions requiring environmental review.

Section 4. Severability. If any section, subsection, sentence, clause or phrase of this ordinance is for any reason held to be invalid or unconstitutional by a decision of any court of competent jurisdiction, such decision will not affect the validity of the remaining portions of this ordinance. The City Council hereby declares that it would have passed this ordinance and each of every section, subsection, sentence, clause, or phrase not declared invalid or unconstitutional without regard to whether any portion of the ordinance would be subsequently declared invalid or unconstitutional.

Section 5. Effective Date and Duration. This ordinance shall take effect thirty (30) days after its final adoption.

Section 6. Publication. The City Clerk is directed to cause this ordinance to be published in a manner required by law.

Introduced by Councilmember _____ and passed to print on the 2nd day of December 2024 by the following called vote:

| | |
|----------------|-----|
| AYES: | () |
| NOES: | () |
| ABSENT: | () |

EXHIBIT A

San Leandro Municipal Code Title 7 “Maps, Buildings, and Subdivisions,” Chapter 7-5 “Building Code” is hereby amended to add Article 16 “Earthquake Retrofit Standards and Requirements for Soft-Story Residential Buildings,” as follows:

ARTICLE 16 Earthquake Hazard Reduction in Existing Wood Frame Residential Structures with Soft-Story, Weak or Open Front Walls

7-5-1600 PURPOSE.

The provisions of this Article are intended to promote public safety and welfare through a program of seismic evaluation and minimum standards of certain residential buildings vulnerable to earthquake damage and collapse. The program is intended to reduce the risk of death or injury that may result from the effects of earthquakes on existing wood frame multi-unit residential structures and commercial properties with soft-story, weak or open front walls. The minimum standards contained in this Article shall substantially improve the seismic performance of these residential and commercial 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.

7-5-1605 SUBJECT BUILDINGS.

The provisions of this Article shall apply to:

- (1) All existing wood frame multi-unit residential buildings, or portions thereof, that contain five (5) or more dwelling units that were permitted for construction prior to January 1, 1985, under the 1982 Uniform Building Code, 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;
- (2) All existing wood frame non-residential or commercial buildings, or portions thereof, that were permitted for construction prior to January 1, 1985, under the 1982 Uniform Building Code, 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; and
- (3) These buildings are hereinafter referred to as “soft-story” construction.

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

7-5-1610 FINDINGS AND INTENT.

- a) The City Council desires to lessen the risks to life and property of the residents of the City of San Leandro posed by a major earthquake along the Hayward Fault.
- b) 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.
- c) The current nationally recognized model code for the retrofit of soft-story residential buildings is Appendix Chapter A4 of the 2022 California Existing Building Code (CEBC).
- d) The City of San Leandro is located within Design Category D & E, as defined in the 2022 CEBC.
- e) It is the City's intent by this ordinance to adopt retrofit standards for soft-story buildings within the City of San Leandro that comply with, or are substantially equivalent to, the standards set forth in Appendix Chapter A4 of the CEBC.
- f) The City Council has determined to implement a seismic hazard identification and mitigation program to investigate and correct the potential seismic hazards of certain residential and commercial buildings in the time and manner specified in this Article.

7-5-1615 ADOPTION AND MODIFICATIONS OF CHAPTER A4 OF THE 2022 CEBC.

Appendix Chapter A4 of the 2022 California Existing Building Code (CEBC) is hereby adopted by reference, except where this Article provides alternative language. For purposes of this Article, the standards in the CEBC shall be used for the analysis of seismic weakness and to formulate the elements of work required remedying any identified weaknesses.

7-5-1620 INVENTORY OF POTENTIALLY HAZARDOUS SOFT-STORY BUILDINGS.

Soft-story buildings as defined by Section 7-5-1605, 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.

7-5-1625 NOTIFICATION OF OWNERS AND ADMINISTRATION.

- a) **Contents of Notice and Order.** When the Building Official determines that a building is a soft-story building within the scope of this Article, the Building Official shall issue a Notice and Order to the property owner 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 Article, placed on the Inventory of Potentially Hazardous Soft-Story Buildings, and, therefore, is required to meet the seismic analysis and other provisions of this Article. The Notice and Order shall set forth the property owner's obligations under this Article, the time limits for compliance, and appeal rights.

The Building Official's determination shall be final at the end of sixty (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.

7-5-1630 APPEAL OF NOTICE AND ORDER TO BUILDING OFFICIAL.

Any person entitled to service of notice under Section 7-5-1625 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 1982 or later Uniform Building Code. The appeal to the Building Official shall be filed within sixty (60) days from the date of the service of such Notice and Order of the Building Official. The Building Official shall provide a final decision in writing. Whenever a notice and order has been issued by the Building Official and served as provided in Section 7-5-1625 and no appeal has been filed in accordance with Section 7-5-1635, the notice and order shall be deemed final and conclusive.

7-5-1635 APPEAL OF DECISION OF BUILDING OFFICIAL.

- a) The Board of Appeals created under Section 115 of the San Leandro Building Code shall hear and decide appeals of orders, decisions or determinations made by the Building Official relative to the application and interpretation of this Code. The Board shall function as described in said section of the San Leandro Building Code.
- b) Any person aggrieved by a final decision of the Building Official, in the manner stated in Section 7-5-1630 herein, to include a building on the Inventory of Potentially Hazardous Soft-Story Buildings, may appeal such decision by filing a written Application for Appeal Hearing with the Secretary of the Board of Appeals, as within ten (10) days of service of the Building Official's determination.
- c) 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.
- d) The written 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.
- e) On receipt of such appeal, 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.
 - f) 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.
 - g) The Board or employee, upon giving notice of the 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.
 - h) At the time and place stated in the notice, the Board of Appeals shall hold a hearing, and consider any relevant evidence offered by the Building Official and the owner, occupant or person in charge and control of the property, or any other person having any legal interest in said building or structure, pertaining to the matters set forth in the final decision. After a full and fair consideration of the evidence and testimony received at the hearing, the Board shall determine whether the building is a soft-story building. Whenever in the course of any proceedings taken hereunder, the Board shall have cause, the Board may seek technical advice or analysis relative to the application and interpretation of this Code from subject matter experts. The Board may continue the hearing from time to time at its discretion.
 - i) 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.
 - j) The Board shall prepare a written Statement of Decision, which shall contain findings of fact for each decision of the Board.
 - k) 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 7-5-1625 (b).

7-5-1640 ANALYSIS OF STRUCTURAL SEISMIC ADEQUACY.

Within eighteen (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 soft-story 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 2022 CEBC, 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 Article 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.

7-5-1645 EARTHQUAKE-ACTUATED GAS SHUTOFF VALVE.

Within sixty (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.

7-5-1650 FEES.

- a) **Engineering Report Review Fees.** Engineering report review fees shall be established by resolution of the City Council.
- 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 reduced as follows: 100% for qualifying reports submitted within six (6) months of the date of service of the notice of inclusion on the Inventory, 50% for qualifying reports submitted within twelve (12) months of the date of service of the notice of inclusion on the Inventory, and 25% for qualifying reports submitted within eighteen (18) months of the date of service of the notice of inclusion on the Inventory of Potentially Hazardous Soft-Story Buildings.

7-5-1655 OWNERS' AND TENANTS' OBLIGATIONS.

- a) **Obligation of owners to notify tenants and post building.** Within eighteen (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;
 - 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 Hazardous Soft- Story Buildings.

2. Post in a conspicuous place within five (5) 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, Building & Safety Department, 835 E. 14th Street, San Leandro, CA 94577.
- 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.

7-5-1660 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 Appendix Chapter A4 of the 2022 CEBC; 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.

7-5-1665 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 eighteen (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 2022 California Building Code applies.
 3. The building is identified by the Building Official as an Unsafe Building as defined in Section 115 of the 2022 California Building Code.
- 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; and
 2. The owner has demonstrated there are unique and exceptional circumstances that prevent compliance.

7-5-1670 FIFTEEN-YEAR EXEMPTION FOR RETROFITTED BUILDINGS.

Any building, or any portion of a building that is identified under this Article as being a Potentially Hazardous Soft, Weak, Open Front Story Building and is retrofitted in compliance with the applicable standards of the City of San Leandro Building Code shall not, within a period of fifteen (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.

7-5-1675 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 Article. For purposes of this section, any person includes an owner, lessor, sublessor, manager, or person in control of a building subject to this Article but shall not include tenants in residential units.
- b) All remedies available to the City for correcting violations of any other Article in this Code shall be available to remedy violations of this Article. The remedies described herein are cumulative and in addition to any other remedies available for violation of this Article.