

ORDINANCE NO. 19-

AN ORDINANCE ADDING ARTICLE 7 TO CHAPTER 9 OF THE CITY OF HAYWARD MUNICIPAL CODE TO REQUIRE SEISMIC SCREENING OF CERTAIN RESIDENTIAL BUILDINGS

WHEREAS, the City of Hayward is acknowledged to be subject to severe earthquakes in the foreseeable future; and

WHEREAS, older multi-unit residential wood frame buildings with soft, weak, open, or otherwise vulnerable lower stories – commonly known as “soft story” buildings – are acknowledged to be among the most earthquake collapse-prone structures in the City of Hayward; and

WHEREAS, the number of soft story buildings in the City of Hayward is estimated as 900 buildings containing 8000 housing units, or 17 percent of the city’s total housing stock and 50 percent of its multi-family housing stock; and

WHEREAS, the number of soft story buildings in the City of Hayward is estimated as 900 buildings containing 8000 housing units, or 17 percent of the city’s total housing stock and 50 percent of its multi-family housing stock; and

WHEREAS, California Health and Safety Code Section 19160(m) encourages the City “to initiate efforts to reduce the seismic risk in vulnerable soft story residential buildings;” and

WHEREAS, seismic upgrade of the City’s soft story buildings is encouraged by Goal HAZ-2.9 of the *Hayward 2040 General Plan Policy Document*; and

WHEREAS, soft story retrofits are identified as a High priority by Hayward’s 2016 Local Hazard Mitigation Plan; and

WHEREAS, the mandatory screening ordinance would require owners of multi-unit residential buildings to submit information about their building to the City; and

WHEREAS, a soft story mitigation ordinance is listed as task 2.d.3.a of Hayward’s Complete Communities Strategy Two-Year Action Plan for FY 2018 and FY 2019;

NOW THEREFORE THE CITY COUNCIL OF THE CITY OF HAYWARD DOES ORDAIN AS FOLLOWS:

Section 1. Findings.

A. California Health and Safety Code Section 19161(a) authorizes the City of Hayward to assess its earthquake hazard and to identify potentially seismically hazardous buildings.

B. California Health and Safety Code Section 19161(b) requires such identification to be made by a licensed architect or civil engineer or by the staff of a local building department when supervised by a licensed architect or civil engineer.

C. With reference to California Health and Safety Code Section 19162(b)(1), the California Building Standards Commission has published, but has not adopted, Chapter A4 of the 2016 California Existing Building Code, titled “Earthquake Risk Reduction in Wood-Frame Residential Buildings with Soft, Weak or Open Front Walls.” As such, the City of Hayward is free to adopt, modify, interpret, and apply Chapter A4.

D. With reference to California Health and Safety Code Section 19162(b)(1), the California Building Standards Commission has adopted Section 317 of the California Existing Building Code, which allows a local jurisdiction to adopt standards for earthquake evaluation and retrofit based on the national standard known as ASCE 41, titled *Seismic Evaluation and Retrofit of Existing Buildings*, the latest version of which was published in 2017.

E. FEMA has published a procedure known as FEMA P-807, titled, *Seismic Evaluation and Retrofit of Multi-Unit Wood-Frame Buildings With Weak First Stories*, with model code provisions in its Appendix B. With reference to California Health and Safety Code Section 19163(b), the City of Hayward may adopt these provisions with an appropriate performance objective as “substantially equivalent standards” relative to CEBC Chapter A4 or ASCE 41.

F. California Health and Safety Code Section 19161(a)(2) identifies the buildings that are the subject of this ordinance as “potentially hazardous buildings.” California Building Code Section 1.1.8.1 states that local ordinances and mitigation programs for such buildings are exempt from making express findings otherwise required by California Health and Safety Code Section 19163(b) citing Section 17958.5 and Section 17958.7.

Section 2. Provisions. Article 7 as shown in the attached Exhibit A, is hereby added to Chapter 9, Building Regulations, of the Hayward Municipal Code, in order to establish a policy governing Mandatory Seismic Screening of Certain Residential Buildings.

Section 3. Severance. Should any part of this ordinance be declared by a final decision of a court or tribunal of competent jurisdiction to be unconstitutional, invalid, or beyond the authority of the City, such decision shall not affect the validity of the remainder of this authority of the city, such decision shall not affect the validity of the remainder of this ordinance, which shall continue in full force and effect, provided that the remainder of the ordinance, absent the unexcised portion, can be reasonably interpreted to give effect to the intentions of the City Council.

Section 4. Effective Date. This ordinance shall become effective thirty (30) days from the date of adoption by the City Council.

INTRODUCED at a regular meeting of the City Council of the City of Hayward, held the ____ day of ____, 2019, by Council Member _____.

ADOPTED at a regular meeting of the City Council of the City of Hayward, held the ____ day of ____, 2019, by the following votes of members of said City Council.

AYES: COUNCIL MEMBERS:

MAYOR:

NOES: COUNCIL MEMBERS:

ABSTAIN: COUNCIL MEMBERS:

ABSENT: COUNCIL MEMBERS:

APPROVED:

Mayor of the City of Hayward

DATE: _____

ATTEST:

City Clerk of the City of Hayward

APPROVED AS TO FORM:

City Attorney of the City of Hayward

EXHIBIT A**CHAPTER 9 – BUILDING REGULATIONS*****ARTICLE 7 – MANDATORY SEISMIC SCREENING OF CERTAIN RESIDENTIAL BUILDINGS*****SEC. 9-7.100 – ADMINISTRATION**

SEC. 9-7.100.10 Title. This article shall be known as “Mandatory Seismic Screening of Certain Residential Buildings,” may be cited as such, and will be referred to herein as “this article.”

SEC. 9-7.100.20 Intent. This article is intended to promote public safety and welfare through a program of mandatory seismic screening of certain residential buildings. The program is intended to identify certain buildings vulnerable to earthquake damage and collapse.

SEC. 9-7.100.30 Subject Buildings. This article shall apply to buildings constructed or permitted for construction before January 1, 1978 or designed based on an adopted version of the 1976 or earlier edition of the Uniform Building Code and that contain three or more dwelling units.

SEC. 9-7.100.40 Notification. Within 90 days of the effective date of this article, the building official shall send a written notice to the owner or owners of each known subject building informing the owner of the requirement to comply with this article.

Failure of the building official to send or provide a written notice to unidentified owners of subject buildings or to owners of buildings not known to be subject buildings shall not relieve the owner of a subject building from the requirement to comply with this article. Failure of an owner to receive a written notice shall not relieve the owner of a subject building from the requirement to comply with this article.

SEC. 9-7.100.50 Design Professionals. Unless specifically noted, all work intended to comply with this article and related to the structural attributes of a subject building shall be performed by appropriately licensed individuals, and all documents submitted for compliance and related to the structural attributes of a subject building shall be sealed by a California-licensed architect or civil engineer.

SEC. 9-7.100.60 Submittals. The building official is authorized to develop, distribute, and require the use of certain forms, templates, and other tools as needed to facilitate compliance, review, approval, and records maintenance contemplated by this article.

SEC. 9-7.100.70 Technical bulletins and administrative regulations. The building official is responsible for the administration of this article and is authorized to develop and require compliance with one or more technical bulletins and/or administrative regulations containing interpretations, clarifications, and commentary to facilitate implementation of the engineering criteria and other requirements set forth in this article.

SEC. 9-7.100.80 Retention of plans. The building official shall retain an official copy of any approved materials submitted to comply with this article.

SEC. 9-7.100.90 Public record keeping. The building official shall maintain a listing of buildings subject to this article and shall make that listing readily accessible to the public.

SEC. 9-7.200. COMPLIANCE

SEC. 9-7.200.10 Scope for the owner of a subject building. The owner of each parcel containing a subject building shall submit a screening document following procedures to be prescribed by the building official. At a minimum, the document shall confirm that the building either does or does not have a wood frame target story. The building official is authorized to require the submittal of additional information regarding the subject building or other buildings on the same parcel to confirm or supplement the City's inventory and to support future mitigation planning.

SEC. 9-7.200.20 Compliance tiers. Each parcel containing a subject building shall be assigned to a compliance tier as follows.

Tier 1. Parcels containing at least one subject building with five or more dwelling units.

Tier 2. Parcels not assigned to Tier 1.

SEC. 9-7.200.30 Schedule. The owner of a parcel assigned to Tier 1 shall submit the screening document within 12 months of the notification deadline. The owner of a parcel assigned to Tier 2 shall submit the screening document with 18 months of the notification deadline. In no case shall transfer of title cause any deadline to be extended.

SEC. 9-7.300. DEFINITIONS

SEC. 9-7.300.10 Supplemental definitions. In addition to or in place of definitions given elsewhere in the Hayward Building Code, the following definitions shall apply for purposes of this article.

Dwelling unit. A single unit providing complete, independent living facilities for one or more persons, including permanent provisions for living, sleeping, eating, cooking, and sanitation; or any individual residential unit in a building with R-1 or R-2 occupancy; or any guestroom, with or without a kitchen, in either a tourist or residential hotel or motel. Any unit occupied as a dwelling unit, whether approved or not approved for such use, shall be counted as a dwelling unit.

Target story. Either (1) a basement story or underfloor area that extends above grade at any point or (2) any story above grade, where the wall configuration of such basement, underfloor area, or story is substantially more vulnerable to earthquake damage than the wall configuration of the story above; except that a story is not a target story if it is the topmost story or if the difference in vulnerability is primarily due to the story above being a penthouse, or an attic with a pitched roof.

Wood frame target story. A wood frame target story means a target story in which a significant portion of lateral or torsional story strength or story stiffness is provided by wood frame walls.

SEC. 9-7.400. VOLUNTARY SEISMIC EVALUATION

SEC. 9-7.400.10 Intent. An evaluation satisfying the criteria set forth in this section shall be allowed as a means of demonstrating that a subject building does not have a wood

frame target story. If the evaluation is completed after the screening deadline, the owner may submit a revised screening document.

SEC. 9-7.400.20 Evaluation criteria. Any of the following criteria, as applicable and as interpreted by the building official, may be used to satisfy the intent of Section 9-7.400.10. The evaluation criteria need only be applied to the existing elements along a load path between the foundation and the diaphragm at the top of the uppermost wood frame target story, inclusive.

A. ASCE 41. The latest edition of *Seismic Evaluation and Retrofit of Existing Buildings* [ASCE/SEI 41], with a performance objective of Structural Life Safety in the BSE-1E hazard.

B. FEMA P-807. The latest edition of *Seismic Evaluation and Retrofit of Multi-Unit Wood-Frame Buildings With Weak First Stories* [FEMA P-807] with a performance objective and detailed provisions as provided by the building official.

C. CEBC Appendix Chapter A4. For evaluation of retrofits designed after January 1, 2000, the latest edition of Appendix Chapter A4 of the *California Existing Building Code*.

SEC. 9-7.500. VOLUNTARY SEISMIC RETROFIT

SEC. 9-7.500.10 Intent. A retrofit satisfying the criteria set forth in this section shall be allowed as a means of eliminating an existing wood frame target story and as a means of demonstrating eligibility for such incentives as the City of Hayward may offer. If the retrofit is completed after the screening deadline, the owner may submit a revised screening document.

SEC. 9-7.500.20 Conformance Period. No subject building for which retrofit work is completed in compliance with this section shall be required by the City of Hayward to undergo additional seismic retrofit of its seismic force-resisting system within a period of 15 years after the effective date of this chapter, except that any provisions in the Hayward Building Code related to addition, alteration, repair, or change of occupancy shall still apply. Any additional seismic retrofit requirements waived by this provision during the conformance period shall apply at the end of the conformance period, with schedule adjustments to be determined by the building official.

SEC. 9-7.500.30 Retrofit criteria. Any of the following criteria, as applicable and as interpreted by the building official, may be used to satisfy the intent of Section 9-7.500.10. The retrofit criteria need only be applied to the existing elements along a load path between the foundation and the diaphragm at the top of the uppermost wood frame target story, inclusive.

A. ASCE 41. The latest edition of *Seismic Evaluation and Retrofit of Existing Buildings* [ASCE/SEI 41], with a performance objective of Structural Life Safety in the BSE-1E hazard.

B. FEMA P-807. The latest edition of *Seismic Evaluation and Retrofit of Multi-Unit Wood-Frame Buildings With Weak First Stories* [FEMA P-807] with a performance objective and detailed provisions as provided by the building official.

C. CEBC Appendix Chapter A4. The latest edition of Appendix Chapter A4 of the *California Existing Building Code*.

D. CHBC. For a subject building qualified as an historical resource in accordance with Chapter 10 Article 11 of this code, the latest edition of the *California Historical Building Code*, with CEBC Appendix Chapter A4 taken as the regular code.