



City Council Report

City Council Meeting: February 14, 2017
Agenda Item: 7.A

To: Mayor and City Council
From: David Martin, Director, Building & Safety
Subject: Resolution Making Findings of Local Climatic, Geological and Topographical Conditions and Introduce for First Reading an Ordinance Updating Seismic Retrofit Requirements for Potentially Seismically Vulnerable Buildings, Updating Tenant Protection Laws and Implementing a Seismic Retrofit Program

Recommended Action

Staff recommends that the City Council:

1. Adopt the resolution making findings of local climatic, geological and topographical conditions necessary to support the adoption of local amendments to the California State Building Codes;
2. Introduce for first reading the ordinance, amending the California State Building Codes to adopt updates to seismic retrofit requirements and adopting enhancements to local tenant protection laws; and
3. Instruct staff to file the adopted resolution and seismic retrofit ordinance with the California Building Standards Commission following the second reading of the ordinance but at least 30 days before the effective date of the ordinance.

Executive Summary

A fundamental expectation in the occupancy of residential and commercial structures is that buildings are safe and free from hazard. Buildings that provide resistance to the destructive forces of earthquakes and aftershocks are an essential component in building safety and occupancy. Strengthening of older less resistant buildings is necessary in order to provide the structural resiliency to increase occupant safety.

An update to the City's existing seismic retrofit standards and implementing retrofit requirements for potentially vulnerable buildings would provide increased measures of occupant safety. The proposed ordinance, Attachment A, provides updates of the seismic retrofit requirements adopted by the City Council on June 8, 1999.

Both California state laws regulating Building Code adoption and California Health and Safety Code Sections 19101 and 19162-63.6 authorize local jurisdictions to establish mandatory seismic retrofit standards. Pursuant to Section 18941.5 of the California

Health and Safety Code, amendments to the California Building Standards Code are required to be justified by local climatic, geological and topographical conditions. The attached Resolution with proposed local findings is provided in Attachment B.

Staff has identified buildings that may be potentially seismically vulnerable and has represented these buildings in an inventory (List) provided as Attachment C. The Seismic Retrofit Program (Program) will target these identified unretrofitted buildings where Program compliance and enforcement will be required in conformance with the schedule outlined in the ordinance.

Retrofitting seismically vulnerable buildings is proposed through an active and ongoing Seismic Retrofit Program. The Program will include identification, notification, compliance procedures, and residential tenant protections. In addition, timely processing and compliance will also require consultant services to provide structural plan check and peer review of complex structural retrofit designs. Should Council adopt the Resolution and Ordinance, staff will initiate a Request for Proposal for the procurement of engineering consultant services to address processing of seismic retrofit plans and to maintain expected service levels in construction permitting.

The proposed ordinance also seeks revisions to Chapter 8.100 Tenant Protection During Construction and Chapter 4.36 Tenant Relocation Assistance. Revisions to these Chapters will enhance existing tenant protections and incorporate measures for hazardous material cases. A proposed revision includes addressing issues related to hazardous materials found in older construction materials. Additional proposed revisions will also require building owners to pay for environmental consulting services in the determination and resolution of hazardous materials. To address this issue, staff is recommending the issuance of a Request for Proposal for the procurement of environmental consultant services.

Since construction work has the potential to impact existing residential tenants, passage of the seismic retrofit ordinance and the resulting construction has the potential to create impacts to existing tenants. The implementation of the Program will include means for tenant advocacy and advisory. All affected City Departments will engage in the support of residential tenants and the response to retrofit compliances.

Background

On December 6, 2016, City Council conducted a Study Session on the degree of seismically vulnerable buildings¹ in Santa Monica that are subject to damage or collapse in a seismic event. The Staff Report of the Study Session, provided herein as Attachment D, provided the total number of unretrofitted buildings that were identified as potentially seismically vulnerable. Council was presented with recommendations for updates to the City's 1999 retrofit standards and recommendations for a fully active Seismic Retrofit Program. City Council instructed staff to proceed with the development of an ordinance that provides updates to the standards for seismic retrofit and implementation of a Seismic Retrofit Program. The proposed ordinance also includes compliance timeframes, notification procedures, and measures for increased tenant protections. Council instructed staff to research previous Federal and State grant funding related to seismic retrofit and if such grants are still available.

¹ The categories of Seismically Vulnerable Buildings and existing Santa Monica Municipal Code Chapters are as follows:

- Unreinforced Masonry Bearing Wall Buildings (Chapter 8.60)
- Reinforced Concrete or Masonry Wall Buildings with Flexible Diaphragms (Chapter 8.64)
- Single-Family Dwellings, Strengthening of Cripple Walls and Sill Plate Anchorage (Chapter 8.68)
- Soft, Weak, or Open Front Wall in Wood-Framed Buildings (Chapter 8.72)
- Welded Steel Moment Frame Buildings (Chapter 8.76)
- Non-Ductile Concrete Buildings (Chapter 8.80)

Discussion

Retrofitting, or the strengthening of the structural system of older seismically vulnerable buildings increases the lateral load resisting system in these older buildings allowing better performance in earthquakes and aftershocks. Better performance will significantly reduce the potential for building damage and collapse, lessening the occurrences of occupant injury or death.

The updates to the technical standards for seismic retrofit in the proposed ordinance are recommended to improve performance of buildings to levels similar to minimum life-safety levels of the State building code. Although minimum life-safety levels of seismic retrofit does not eliminate the possibility of injury or death due to building damage, the proposed standards would result in substantial gains in protecting the City's inhabitants, workers and visitors.

Seismic Retrofit Program Implementation

List – Potentially Seismically Vulnerable Buildings

At the December 6, 2016 Study Session, staff presented to Council that the identification and inventory (List) of potentially seismically vulnerable buildings will be available in January 2017. The List was made publically available on January 26, 2017 on a City webpage dedicated to the Seismic Retrofit Program. As indicated on the List, all types of seismically vulnerable buildings will be targeted for notification, structural analysis and if found to be deficient, the requirement to complete retrofit of the building.

The List is an inventory of buildings that may require retrofit based on determination through building permit records and visual identification. In addition, the List will be dynamic as a structural analysis of some buildings may find that a building does not require retrofit in which case the building would be removed from the list. Likewise, buildings not currently on the List may someday be identified as requiring retrofit when structural systems are revealed during tenant modifications to the buildings. The List will serve as a basis in the milestone steps towards retrofit compliance with iterative steps noted once completed.

Notification, Time Limits and Recordation of Properties

Owners of buildings on the List will be notified that their building has been identified as potentially seismically vulnerable. Once notified, a building owner will be required to provide a structural analysis of the building and a recommendation for a retrofit solution, if necessary. The notification will serve as the official commencement of the time period in which the building owner has to comply with milestones of compliance.

The proposed ordinance identifies priorities of hazardous building types in which notification will be phased by order of hazard severity, compliance timeframe and building type. The phasing of the notices will allow for the segmenting of 4,594 notices to building owners. The overall compliance time limit is provided per building type in the table below.

Potentially Seismically Vulnerable Buildings Type	Years to Complete Retrofit
Unreinforced Masonry Buildings	2 Years
Concrete Tilt-Up Buildings	3 Years
Soft-Story Buildings	6 Years
Non-Ductile Concrete Buildings	10 Years
Steel Moment Frame Buildings	20 Years
Single-Family Brace and Bolts	Voluntary

In the case of multiple ownership of a building where a building consists of multiple parcels such as condominiums, each owner of a parcel will receive a notice. The List identifies condominium buildings by legal address with individual parcels.

The proposed ordinance includes major milestones in the process of seismic retrofitting of a building. The milestones include interim deadlines that will allow for compliance monitoring. Consultation by staff will be available to advise the small family-owned residential owners and small business/building owners with information necessary for understanding the steps of compliance in the retrofit process. At the December 6, 2016 Study Session, Council directed staff to examine the effects of a recorded notice on the title of a property. Staff explored if a recording will introduce constraints from lending institutions on property loans and discovered that there will be no significant effect. Staff is recommending that the proposal for a recorded notice will be a positive factor in the achievement of retrofit compliance as well as fair disclosure to parties involved in the affected properties. Staff will propose general language on the notice to be recorded with the County of Los Angeles Office of the Registrar/Recorder as to not overburden impact on title transfers and the securing of loans including loans for the financing of seismic retrofit. Both the City of Los Angeles and the City and County of San Francisco have included recordation of seismic retrofit requirements in their process.

Consultant Services

Buildings with complex structural systems, such as the Steel Moment Frame and Non-Ductile Concrete buildings will have detailed complicated retrofit solutions. Complex retrofit designs will require peer review which is a standard practice in structural design of complicated buildings. Peer review is the process where an independent structural engineer reviews the design of a retrofit plan and provides input to best practices in the structural design of a project. Peer review is a detailed highly-technical exercise involving specialized expertise that should be handled by consultant services. Therefore, staff recommends incorporating the

procedure of peer review as a necessary part of seismic retrofit. Costs for peer review will be proposed and presented to the City Council as part of the FY 2017-19 biennial budget.

In addition to peer review, the volume of plans anticipated for seismic retrofit will require consulting services for the plan check of seismic retrofit designs. The consulting services will augment Building and Safety staff, as-needed, for the plan review of large complex buildings and for peak submittals of plans. Funding for consultant plan check will be incorporated with the FY 2017-19 biennial City budget.

It is recommended that City Council authorize staff to issue a Request for Proposals for consultant services for seismic retrofit plan check and peer review.

Parking Effects

The structural strengthening of a building related to seismic retrofit may have an effect on parking spaces by reducing the dimensions of a required parking space or in some cases eliminating required parking. Where the retrofit solution provides that there is no alternate practical solutions to a retrofit, the proposed ordinance provides that the Zoning Administrator may reduce the required size of a parking space or the number of required spaces. The proposal is that parking shall not be reduced more than twenty-percent (20%) of required parking spaces or one (1) space, whichever is greater.

Tenant Protection

Protection of tenants and the stock of affordable housing in the City are of paramount importance. Construction in residential buildings, if not conducted or monitored with diligence could be of significant impact to tenants. The proposed ordinance provides for several amendments to strengthen tenant protections for standard ongoing construction projects, and for construction related to the Seismic Retrofit Program. Added requirements and revisions to Chapters 8.100 and 4.36 are presented as part of the proposed ordinance.

Enhancements to Tenant Protection During Construction, Chapter 8.100

The following proposed revisions to Chapter 8.100 are purposed to enhance protection of tenants during construction activity.

- Older buildings are likely to contain building materials of hazardous content and if disturbed, can be of detrimental effect to humans and possibly pets. Materials such as asbestos and lead paint may still be present in some of the buildings that require seismic retrofit. Existing State Law procedures require a building owner to abate hazardous materials in accordance with procedures of the Southern California Air Quality Management District (AQMD). Proper adherence to these procedures should provide tenants with the assurance that hazardous materials are abated and no longer pose a health threat. Staff proposes to add additional requirements to Chapter 8.100 to: (1) clarify that owners must ensure that all hazardous materials are properly handled during construction; (2) the City will actively monitor such handling; and (3) the City may reasonable engage the services of qualified experts, at the owner's expense, to assist the City in evaluating the owner's compliance.
- Relatedly, staff also request that the City Council instruct staff to initiate a Request for Proposals to procure the services of licensed environmental consultants as advisors to the City on issues of hazardous materials.
- Section 8.100.040(c)(9) requires a building owner to provide monthly notices to tenants on construction progress for projects that exceed thirty-days of construction. This section also allows the Building Officer to request meetings to allow tenant feedback to construction issues. Proposed with this ordinance is clarifying that the request of the Building Officer is not appealable given the timeliness of a requested meeting and tenant concerns.

Enhancements to Tenant Relocation Assistance, Chapter 4.36

The following clarifications and enhancements are proposed to Chapter 4.36 to address improvements and revisions in tenant relocation.

- For short-term tenant displacements (e.g. due to inoperable equipment such as hot water heating or environmental heat) a proposal to allow owners to relocate tenants to a hotel is presented in the ordinance. The relocation to a hotel would be an option instead of paying the daily per diem, or providing comparable housing if relocation is estimated to be five days or less. Tenants would be entitled to per diem payments or be relocated to comparable accommodations if relocation extends beyond five days. Staff is proposing five days as a measure for timely relocations as staff determined that the majority of relocations are typically at five days or less.
- Existing law does not require owners to expeditiously repair tenant units while tenants are relocated. In some relocation cases, the extent of a tenant being relocated was not proportionate to the estimated time to address the condition causing the relocation. A proposal to require a maximum time limit in which a tenant is relocated is included in the ordinance. The estimated maximum time frame will be based on the condition causing relocation as determined by the Building Officer. Should the estimated time limit be exceeded, an investigation will be warranted to determine causes for the delay. Where relocation is in excess of the estimated time limit without reasonable cause, the Code Enforcement Division would initiate enforcement action.
- As timely resolution is desired in a relocation case to remedy conditions of uninhabitability, added language to Chapter 4.36 is proposed to ensure that the owner has access to the rental unit and have the opportunity to timely address the condition without interference from the tenant. This is proposed to address recent issues where building owners were prevented by a tenant from making necessary repairs causing relocations to be prolonged. Staff asserts that this allowance will provide for timely resolutions.
- Sections 4.36.120(c) and (d) currently do not allow relocation benefits when a tenant is displaced as a result of seismic retrofit. Research

determined that this language was written in the 1999 seismic retrofit ordinance. It was included in hopes of incentivizing owners to commence retrofitting; however, experience has shown that this incentive is ineffective and that it unnecessarily burdens tenants. Staff proposes that this Section be repealed to meet current relocation goals of the City. Eliminating this provision will likely also encourage more timely completion of seismic retrofit projects.

Exemptions to Zonal Restrictions on Construction

Due to the mandated timeline contained in the seismic retrofit ordinance, it is possible that seismic retrofit of several multi-family buildings may occur simultaneously. However, local law (namely the Construction Rate Program of Chapter 9.37.110) only allows one project (involving the new construction or alteration of 2 or more dwelling units in the R2, R3, R4, OF, RMH, OPD, OP2, OP3, and OP4 Districts) to occur within a 500-foot radius at a time. This restriction could have a negative impact on the retrofit compliance efforts of multi-family buildings. Although Section 9.37.110 contains an exemption for seismic retrofit projects, that exemption only applies to unreinforced masonry type buildings. The proposed ordinance seeks to override this prohibition and allow all seismic retrofit projects to proceed simultaneously.

Tenant and Occupant Advisory

The proposed ordinance includes a requirement that building owners must notify each residential and commercial tenant when the Building Officer determines that a building is seismically vulnerable and subject to retrofit to comply with local law. This notice is an advisory to tenants and will include references to contacts in the City for assistance.

As part of milestone compliance, the building owner is required to provide the Department with evidence that each tenant has been provided with the tenant advisory related to seismic retrofit. For buildings that will require retrofit construction, Chapter 8.100 currently requires posting of Construction Notification (on a 30-inch by 40-inch poster) that states effects during the construction and interruptions to building services.

Public Assistance, Public Information

Staff will be available for general and detailed questions for each aspect of compliance with the Program. To assist with general information, a webpage dedicated to the Seismic Retrofit Program is already available on the City's website.

Webpage

On January 26, 2017, the Department launched the Seismic Retrofit Program webpage which includes the List of potentially seismically vulnerable buildings. Should Council adopt the ordinance, the webpage will be updated with program information for owners and tenants.

Other information planned for the webpage will include financing information for loan assistance for seismic retrofit. This will include the seven private financiers listed on the Resolution that City Council approved on February 23, 2016 as indicated in the Study Session report.

Planned with Council's passage of the ordinance is a Seismic Retrofit Fair where building owners, residential and commercial tenants and business merchants may obtain information about the Seismic Retrofit Program in a "one stop" event. In addition to City staff, financiers, product vendors, consulting architects and engineers, and building contractors who specialize in seismic retrofit will have a presence at the Fair. The webpage will provide event dates, and information related to the Seismic Retrofit Fair.

Staffing

A major component in achieving compliance of the Seismic Retrofit Program is the timely completion of a building retrofit. A key factor in timely compliance is staff's ability to process applications, structural reports, seismic design plans and the issuance of building permits. Three additional positions will provide the needed resources to address additional workload such as resident and owner services, application-notification-recording processing, structural engineering analysis and customer

guidance. The positions will be covered with new revenues and presented as part of the FY 2017-19 biennial budget process.

Cost and Financing of Retrofit

The Study Session Staff Report contained approximate costs for seismic retrofit. Staff reported at the Study Session that State Assembly Bill 837 set up the *California Seismic Safety Capital Access Loan Program Fund* for residences and small businesses related to seismic retrofit. This Bill is now codified as California Health and Safety Code 44559.14 and provides another source of financing for seismic retrofit.

At the December 6, 2016 Study Session, Council asked if previous seismic retrofit funding after the 1994 Northridge Earthquake from the Federal and State governments granted to building owners in Santa Monica might still be available. Research found that many buildings were retrofitted utilizing grant monies, however, the funds are no longer available.

Rent Control Board Hearing

Should City Council adopt the proposed ordinance, following the second reading of the ordinance, the Rent Control Board will be presented with a request to determine the extent of pass-through costs of retrofit work to tenants. The Rent Control Board will be asked to determine if pass-through costs should be included as part of monthly tenant rents, and if so, the percentage of retrofit cost attributed to the pass-through, the total term and the maximum monthly pass-through costs.

CEQA Exemption

The proposed ordinance is categorically exempt from the California Environmental Quality Act (CEQA) pursuant to Sections 15061(b)(3), 15301 and 15302 of the CEQA Guidelines. Section 15301 provides exemption for a class of projects (Class 1) consisting of repair, maintenance or minor alterations to public or private structures or facilities involving negligible or no expansion of use. Section 15302 provides exemption for a class of projects (Class 2) consisting of replacement or reconstruction of existing structures or facilities where the new structure or facility will be located on the same site and will have substantially the same purpose and capacity. The proposed ordinance

requires repair, maintenance and minor alterations of existing structures and facilities to meet minimum seismic safety standards. The ordinance does not require or contemplate any appreciable expansion or change in use or capacity of any existing structure or facility. Accordingly, the ordinance is categorically exemption pursuant to CEQA Guidelines Sections 15301 and 15302. Additionally, the proposed ordinance is also exempt pursuant to CEQA Guidelines Section 15061(b)(3) because, as described by this Staff Report, it can be seen with certainty that there is no possibility that the proposed ordinance could have a significant effect on the environment.

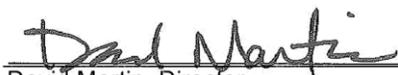
Financial Impacts & Budget Actions

There is no immediate financial impact or budget action necessary as a result of recommended action. Staff will return to Council if specific budget actions are required in the future. Concurrent with the FY 2017-19 biennial City budget, a City-wide fee study will be presented. Included in the fee study will be fees related to the Seismic Retrofit Program which will allow a cost neutral program with no effect to the General Fund. The Program will not have impacts to the current 2016-17 fiscal year budget as all requests are deferred to the FY 2017-19 biennial budget.

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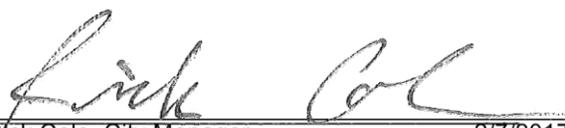
Approved

Forwarded to Council



David Martin, Director

2/7/2017



Rick Cole, City Manager

2/7/2017

Attachments:

- A. Ordinance
- B. Resolution Local Geological Conditions

C. Inventory (List)

D. December 6, 2016 Council Study Session Staff Report

E. Written Comments

F. PowerPoint Presentation

G. PowerPoint Presentation