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Nadel / Quan OAKLAND

Approved for Form and Legality


City Attorney

2008 JUL 16 PM 3:59
Councilmember

OAKLAND CITY COUNCIL

ORDINANCE No. _____ C.M.S.

**AN ORDINANCE AMENDING THE OAKLAND MUNICIPAL CODE AND
ADDING A NEW CHAPTER 15.26 ENTITLED MANDATORY SEISMIC
SCREENING OF CERTAIN MULTIPLE STORY RESIDENTIAL BUILDINGS
PERMITTED FOR CONSTRUCTION PRIOR TO THE ADOPTION BY THE
STATE OF CALIFORNIA ON JANUARY 1, 1991, OF THE 1988 EDITION
OF THE UNIFORM BUILDING CODE**

WHEREAS, the City of Oakland is subject to major earthquake-related hazards including very violent ground shaking and the resulting liquefaction and landslide of surrounding (in-situ) soils; and

WHEREAS, the United States Geological Survey has determined there is a sixty-two percent (62%) probability that one or more earthquakes of magnitude 6.7 or greater (Richter scale) will occur on one or more of several active faults in the San Francisco Bay Area within the next thirty (30) years; and

WHEREAS, the Hayward Earthquake Fault bisects the City of Oakland and has an expected reoccurrence for a major earthquake once every 140 years; and

WHEREAS, the last recorded major rupture of the Hayward Earthquake Fault occurred in 1868; and

WHEREAS, the City of Oakland endeavors to maintain its residential building stock and enhance the disaster-resistant of these buildings by reducing the potential for loss of life, property damage, and environmental degradation from natural disasters, while accelerating economic recovery from those disasters; and

WHEREAS, the City of Oakland is committed to helping meet the need of Oakland residents for safe housing and disaster-resistance of these buildings that are architecturally diverse and serve a variety of occupant sizes and household incomes; and

WHEREAS, multiple-story residential buildings (Residential Group R-1 and R-2 occupancies) with storage and parking (Storage Group S and Utility and Miscellaneous Group U occupancies) and/ or commercial spaces (Assembly Group A, Business Group B, and Mercantile Group M occupancies) on the ground-floor which were permitted for construction prior to the adoption by the State of California on January 1, 1991, of the 1988 edition of the Uniform Building Code, may have a limited resistance to seismically induced lateral forces (so called "soft story" condition) that makes these buildings inherently more vulnerable to major structural damage and catastrophic collapse; and

WHEREAS, these “soft story” residential buildings represent a substantial risk to the safety of the building residents and their personal property during a major earthquake; and

WHEREAS, the City of Oakland does not currently have non-engineered (prescriptive) analysis standards to screen these “soft story” residential buildings for the capacity to resist seismically induced lateral loads and potential critical structural deficiencies without requiring plans or calculations prepared by a registered design professional; and

WHEREAS, California Health and Safe Code Sections 19160 et seq. allows jurisdictions to identify buildings which are potentially hazardous to life in the event of an earthquake when such buildings are wood framed and have multiple stories and were constructed before January 1, 1978, and have multiple residential units and have automobile parking and/or commercial tenant spaces on the ground floor; and

WHEREAS, California Health and Safe Code Sections 19160 et seq. further allows jurisdictions to establish by ordinance seismic retrofit standards for such residential buildings which comply with nationally recognized model codes or substantially equivalent standards relating to the retrofit of existing structures and also provides that jurisdictions may adopt amendments to such model codes which are consistent with California Health and Safety Code Section 17958.5 and are reasonably necessary because of local climatic, geological, or topographical conditions; and

WHEREAS, California Health and Safe Code Sections 19160 et seq. further requires that such ordinances establishing seismic retrofit standards for seismically hazardous buildings be filed for informational purposes only with the California Department of Housing and Community Development; and

WHEREAS, Appendix Chapter A4 of the International Existing Building Code (IEBC) meets the requirements set forth in California Health and Safe Code Sections 19160 et seq. for a nationally recognized model code relating to the retrofit of existing structures; and

WHEREAS, the Existing Buildings Committee of the Structural Engineers Association of California (SEAOC) has proposed amendments to Appendix Chapter A4 of the International Existing Building Code which meet the requirements set forth in California Health and Safe Code Sections 19160 et seq. that such amendments be substantially equivalent standards and set forth in California Health and Safe Code Section 17958.5 that such amendments be reasonably necessary because of local geological conditions due to the proximity of the Hayward Earthquake Fault, and

WHEREAS, pursuant to California Health and Safe Code Sections 19160 et seq., the Legislature of the State of California has expressed its intent to encourage jurisdictions to address the seismic safety of “soft story” residential buildings and to initiate efforts to reduce the seismic risk in such vulnerable buildings; and

WHEREAS, providing lower-cost non-engineered (prescriptive) methodologies which property owners may readily use for screening such buildings for potential critical structural deficiencies in the lateral force resisting systems due to seismically induced loading is a key step in determining which residential buildings require additional engineered (non-prescriptive) analysis by qualified architects or engineers to ameliorate seismically hazardous conditions; and

WHEREAS, the requirements of the California Environmental Quality Act (CEQA) of 1970, the Guidelines as prescribed by the Secretary for Resources, and the provisions of the Statement of Objectives Criteria and Procedures for Implementation of the California Environmental Quality Act have been satisfied, and in accordance with Sections 15061(b)(3), 15301 (Existing Facilities), 15302 (Replacement or Reconstruction), and 15309 (Inspections) of the California Code of Regulations, this project is exempt from the provisions of the California Environmental Quality Act; now therefore,

THE COUNCIL OF THE CITY OF OAKLAND DOES ORDAIN AS FOLLOWS:

Section 1. The Council of the City of Oakland finds and determines that the foregoing recitals are true and correct and hereby adopts and incorporates them into this Ordinance.

Section 2.

A new Chapter 15.26 is hereby added to the Municipal Code of the City of Oakland as follows:

ARTICLE I. SCOPE

15.26.010 Title

This chapter shall be known as the "Mandatory Seismic Screening Of Multiple Story Residential Buildings", may be cited as such, and will be referred to herein as "this chapter".

15.30.020 Intent

This chapter is intended to promote public safety and welfare and safeguard life and limb, health, and property through a mandatory program for screening residential buildings which are most vulnerable to earthquake damage and catastrophic collapse. The non-engineered (prescriptive) analytical standards set forth herein will serve to screen buildings for potentially critical structural deficiencies in the lateral force resisting system of the ground-floor and the potential risk for seismically induced damage from an earthquake.

This chapter is not intended to create or otherwise establish or designate any particular class or group of persons who will or should be especially protected or benefited by the terms set forth herein, and these standards are not intended to endorse, authorize, or approve any prior work accomplished without required permits, inspections, fees, or final approvals.

15.26.030 Purpose

A. Level 1 Screening - Non-Engineered Analysis (Prescriptive)

1. This chapter establishes standards for non-engineered analysis (prescriptive) without requiring plans or structural calculations prepared by a registered design professional to screen residential buildings for the potential capacity to resist seismically induced lateral loads and potentially identify critical structural deficiencies which would foment catastrophic collapse. Sufficient documentation shall be submitted to accurately establish existing conditions. When the Building Official determines that existing conditions are

beyond the scope of these standards, a Level 2 Evaluation shall be submitted by the owner to the Building Official.

2. These standards are intended to screen residential buildings for potential critical structural deficiencies in the lateral force resisting system but will not necessarily quantify the level of risk for property damage and injury to occupants and loss of life from an earthquake.
3. Alternate details and methods equivalent to or exceeding these standards are permitted when approved by the Building Official. Sufficient written documentation shall be submitted by the owner to substantiate such equivalency, as determined by the Building Official.

B. Level 2 Evaluation - Engineered Analysis (Non-Prescriptive)

1. This chapter also allows an owner to perform an engineered analysis (non-prescriptive) which is equivalent to or exceeds the standards set forth in this chapter for a non-engineered analysis (prescriptive). Structural calculations shall be prepared by a registered design professional. Analysis and documentation with respect to lateral strength, deflection, and soil capacity shall be in accordance with the Oakland Building Construction Code and approved by the Building Official.

Exception: Pursuant to California Health and Safe Code Sections 19160 et seq., the provisions of Appendix A4 of the International Existing Building Code and associated amendments promulgated by the Structural Engineers Association of California may be used for evaluating residential buildings.

2. Engineered methods (non-prescriptive) for evaluating critical structural deficiencies may incorporate the standards set forth in this chapter for a non-engineered analysis (prescriptive) if approved by the Building Official.

15.26.040 Application

A. Inclusion

This chapter applies to multiple-story buildings that were designed before the adoption by the State of California on January 1, 1991, of the 1988 edition of the Uniform Building Code, and are classified either as a Residential Group R-1 or R-2 occupancy and have five (5) or more dwelling units and have an attached Assembly Group A, Business Group B, Mercantile Group M, Storage Group S, or Utility and Miscellaneous Group U occupancy located on the ground-floor.

B. Historic Buildings

Residential buildings that have been qualified as historic shall be permitted to use alternate building regulations, as set forth in the California Historical Building Code, to preserve their original or restored architectural elements and features.

15.26.050 Amendments

Where any section, subsection, sentence, clause, phrase, or other part of this chapter are amended subsequently, all provision of the original section not so specifically amended shall remain in full force and effect and all amended provisions shall be considered as added thereto.

15.26.060 Effect Of Adoption And Repeals

A. Legislation

Unless expressly stated herein, this chapter is not intended to amend, repeal, or supersede provisions of any other City codes, regulations or ordinances, including the demolition ordinance, Earthquake Damage Structures Code, Unreinforced Masonry Buildings Code, Dangerous Building and Structures Code, Planning Code, Building Construction Code, Building Maintenance Code, Fire Code, or Voluntary Seismic Strengthening For Residential Buildings Code.

B. Conflict

In any specific section or case where there is a conflict within or between or among provisions, the most restrictive which prescribes and establishes the higher standard of safety or public benefit shall prevail and control.

C. Validity

Neither the adoption of this Code nor the repeal by the ordinance codified in this chapter of any City ordinance shall in any manner affect the prosecution for violation of ordinances, which violations were committed prior to the effective date hereof or be construed as a waiver of any license or penalty at said effective date due and unpaid under such ordinance relating to the collection of any such license or penalty or the penal provisions applicable to any violations hereof.

ARTICLE II. ADMINISTRATIVE

Section 15.26.100 Definitions

The following words and phrases, wherever used in this chapter, shall be construed as defined in this section unless otherwise required by the context. The singular shall be taken to mean the plural and the plural shall mean the singular when required by the context of this chapter. The following definitions will not necessarily apply to other portions of this chapter:

Building Official means the Building Official of the City of Oakland, as identified in the Oakland Building Construction Code, or his or her designee, and successors in title.

Certified Inspector means an individual possessing a valid certification issued by an approved national organization to perform building or home inspections.

City means the City of Oakland, a municipal corporation.

City Administrator means the City Administrator of the City of Oakland or his or her designee, and successors in title.

Critical Structural Deficiency means a structural weakness in the first story of the lateral force resisting system of a residential building which has open-front wall lines in the ground-floor that could initiate catastrophic collapse due to seismically induced loading.

Ground-floor means the first story of a building as defined in the Oakland Building Construction Code.

Group A, Group B, Group M, Group R, Group S, and Group U means occupancy classifications as defined and used in the Oakland Building Construction Code.

Level 1 Screening means an approved non-engineered analysis that is prepared under the responsible charge of a registered design professional or by a licensed contractor or a certified inspector to identify residential buildings which may have critical structural deficiencies.

Level 2 Evaluation means an approved engineering analysis that is prepared under the responsible charge of a registered design professional to identify critical structural deficiencies in a residential building.

Licensed Contractor means an individual possessing a valid license issued by the State of California to construct residential buildings.

Oakland Building Construction Code means the most current edition of the California Building Code with amendments adopted by the City of Oakland, as set forth in Oakland Municipal Code, Title 15, Chapter 15.04, and successors in title.

Owner means any individual or group of individuals or firm or any other entity holding legal or equitable title to the real property

Registered Design Professional means an architect or engineer possessing a valid license issued by the State of California to perform civil or structural related design, material classification and analysis, and structural observation.

Residential Building means a building which conforms to the occupancy limitations and density minimums set forth in section 15.26.040.B of this chapter.

15.26.110 Authority

- A. The Building Official and his or her designees are hereby authorized and directed to enforce all of the provisions of this chapter.
- B. The Building Official may adopt administrative rules and regulations as required to implement this chapter.

15.26.120 Right of Entry

- A. When it is necessary to make an inspection to enforce the provisions of this chapter, the Building Official or his or her designee may enter the building or premises at reasonable times to inspect or to perform the duties imposed by this chapter, provided that if such building or structure or premises be occupied that credentials be presented to the occupant and entry requested. If such building or premises be secured against entry, the Building Official shall first make a reasonable effort to locate the record owner of the property or other adult person having lawful charge or control of the building or structure or premises and request entry. If such entry is refused, the Building Official shall have resource to the remedies provided by law to secure entry.
- B. No person authorized by this chapter to enter buildings shall enter an occupied unit or space or other non-public area without the consent and presence of the owner or the owner's designated agent or the lawful and adult occupant of the unit or space or other non-public area or without a proper written order executed and issued by a court having jurisdiction to issue the order.

15.26.130 Fees, Penalties, and Collections

The fees and costs incurred and the penalties assessed and the interest accrued in the processing and enforcement of the provisions of this chapter shall be as established in the Master Fee Schedule of the City of Oakland and shall be a charge against the property and the owner and may be recovered by all appropriate legal means as set forth in Section 15.08.130 of the Oakland Municipal Code.

15.26.140 Enforcement

- A. The City shall be authorized to exercise any other remedy at law or equity for enforcement of this chapter. Procedures and actions under this chapter may be utilized in conjunction with, or in addition to, any other procedure applicable to the regulation of buildings, structures, or property, including, but not limited to, injunctive or other judicial relief, and the impositions of penalties pursuant to the provisions of Chapter 1.12 of the Oakland Municipal Code.
- B. Violations of this chapter shall be subject to the provisions of Chapter 1.28 of the Oakland Municipal Code.

15.26.150 Appeals Of The Building Official's Decision Or Determination

- A. The owner may appeal a decision or determination by the Building Official or his or her designee made relative to the applications of Article III of this chapter by filing a written request which shall contain the following information:
1. A brief statement in ordinary and concise language of that specific action protested, together with any material facts claimed to support the contentions of the appellant.
 2. A brief statement in ordinary and concise language of the relief sought and the reasons why it is claimed the protested action was a result of error or abuse of discretion and therefore should be reversed, modified, or otherwise set aside.

Such written appeal together with fees as may be established in the Master Fee Schedule shall be received by the Building Official within twenty-one (21) calendar days from the date of the service, as set forth in Section 15.26.160 of the issuance of such decision or determination. Failure by the record owner to file such written appeal along with full payment of fees within the period of time prescribed herein shall constitute a waiver by the owner of an administrative adjudication of such action or to any portion thereof.

- B. The limitation period provided pursuant to California Code of Civil Procedure Section 1094.6 shall apply to all petitions filed seeking judicial review of administrative actions made by the Building Official or his or her designee.

15.26.160 Notification Of The Building Official's Decision Or Determination

The initial Notice shall be served to the owner by one or more of the following methods of service:

1. Personal delivery with acknowledged receipt; or
2. Mailing with certified postage to the record owner's address as it appears on the last equalized assessment roll of the Alameda County Tax Assessor or as otherwise may be known to the Building Official; or
3. Constructive public notification, including but not limited to the following:
 - a. publication in a newspaper of general circulation; or
 - b. conspicuous posting on or in the vicinity of the property.

Failure to serve any person required by this Code to be served or failure of said person to receive said notification shall not invalidate any proceedings hereunder as to any other person duly served or relieve any such person from any duty or obligation imposed by this Code.

ARTICLE III. TECHNICAL

15.26.200 Level 1 Screening

A. Non-Engineered Analysis (Prescriptive)

The owner shall employ a registered design professional or a licensed contractor or a certified inspector to prepare a written non-engineered analysis (prescriptive) in an approved format and in accordance with the provisions of this section to screen the lateral force resisting system of the ground-floor of a residential building.

B. Scope

A non-engineered analysis (prescriptive) shall include the following information:

1. Scaled drawing with horizontal dimensions (feet and inches) of the exterior ground-floor walls, set-backs from property lines and public right-of-way, and location of occupancies on the ground-floor.
2. Locations and horizontal dimensions of cantilevered portions of the second story supported by the exterior ground-floor walls.
3. Locations and vertical and horizontal dimensions of fenestration, doors, and similar openings in the exterior ground-floor walls.
4. Locations and vertical and horizontal dimensions of foundation cripple walls.
5. Locations and approximate gradient of sloping ground surface adjoining the exterior ground-floor walls.
6. Ratios, expressed as percentages, of the vertical square footage of each planar section of exterior ground-floor wall and the combined square footage of the openings therein.
7. Additional arithmetical computations and scaled drawings with locations and dimensions as may be required by the Building Official.

15.26.210 Level 2 Evaluation

A. Engineered Analysis (Non-Prescriptive)

As an alternative to a Level 1 Screening, the owner may employ a registered design professional to prepare a written engineered analysis (non-prescriptive) in an approved format and in accordance with the provisions of this section to evaluate the lateral force resisting system of the ground-floor of a residential building.

B. Scope

The scope of the engineered analysis (non-prescriptive) shall be in accordance with the provisions of section 15.26.030.B of this chapter.

15.26.220 Format

The format for a Level 1 Screening and a Level 2 Evaluation shall include the following information:

1. Date the field inspection was performed.
2. Name, address, and telephone number of owner.
3. Types of occupancies or uses within the building.
4. Photographs of front, side, and rear elevations of the building.
5. Name of building (if any) and approximate date of construction.
6. Number of residential and non-residential units within the building.
7. Name, address, telephone number, and signature of the preparer and qualifying license number or certificate.
8. Additional information as may be required by the Building Official.

15.26.230 Compliance

The owner shall submit a written Level 1 Screening or a written Level 2 Evaluation to the Building Official within two (2) calendar years following the effective date of this chapter, or by such earlier date as may be required by the Building Official upon notification to the owner as set forth in section 15.26.160 of this chapter. Failure of the owner to comply fully with the provisions of this chapter and this section shall be sufficient cause for administrative and non-administration actions set forth in sections 15.26.130 and 15.26.140 of this chapter.

15.26.240 Occupant And Tenant Advisory

If a Level 2 Evaluation is performed, the owner shall advise all current and prospective residential occupants and non-residential tenants of the residential building in a method and written format approved by the Building Official within six (6) months following submittal of the Level 2 Evaluation to the Building Official, and periodically thereafter as determined by the Building Official.

Section 3. Applicability

A. Construction and Severability

Should any article, section, subsection, sentence, clause, or phrase of this ordinance or exhibit be held to be invalid or unconstitutional, the offending portion shall be severed and shall not affect the validity of remaining portions which shall remain in full force and effect.

B. Authority

This ordinance is enacted by the Council of the City of Oakland pursuant to the police powers

accorded to the City by and through section 106 of the Charter of the City of Oakland and Article XI of the Constitution of the State of California.

C. Effective Date

Pursuant to Section 216 of the Charter of the City of Oakland, this ordinance shall become effective immediately on final adoption if it receives six (6) or more affirmative votes on final adoption. Otherwise, it shall become effective upon the seventh day after final adoption.

Section 4. The Council of the City of Oakland hereby directs that staff shall not begin the compilation and analysis of the Mandatory Seismic Screening data submitted by building owners unless and until a minimum of \$50,000.00 in fees has been collected from said owners under this Chapter. In the event that a minimum of \$50,000 has not been collected before December 1, 2010, the Building Official of the City of Oakland shall present recommendation(s) to the Council, at such subsequent date deemed convenient, for implementing the program so that staff costs are reimbursed.

IN COUNCIL, OAKLAND, CALIFORNIA, _____, 2009

PASSED BY THE FOLLOWING VOTE:

AYES - BROOKS, DE LA FUENTE, KAPLAN, KERNIGHAN, NADEL, QUAN, REID,
AND PRESIDENT BRUNNER

NOES -

ABSENT -

ABSTENTION -

ATTEST: _____
LATONDA SIMMONS
City Clerk and Clerk of the Council
of the City of Oakland, California

DATE OF ATTESTATION _____

NOTICE AND DIGEST

**AN ORDINANCE AMENDING THE OAKLAND MUNICIPAL CODE AND
ADDING A NEW CHAPTER 15.26 ENTITLED MANDATORY SEISMIC
SCREENING OF CERTAIN MULTIPLE STORY RESIDENTIAL BUILDINGS
PERMITTED FOR CONSTRUCTION PRIOR TO THE ADOPTION BY THE
STATE OF CALIFORNIA ON JANUARY 1, 1991, OF THE 1988 EDITION
OF THE UNIFORM BUILDING CODE**

The ordinance will add a new Chapter 15.26 to the Oakland Municipal Code to require property owners of multiple-story buildings permitted for constructed before 1991 containing five (5) or more residential units with commercial or parking space on the ground floor to perform a low-cost screening (Level 1) for earthquake stability. No mandatory structural retrofitting is required.

Introduced by
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WHEREAS, the City of Oakland is subject to major earthquake-related hazards including very violent ground shaking and the resulting liquefaction and landslide of surrounding (in-situ) soils; and

WHEREAS, the United States Geological Survey has determined there is a sixty-two percent (62%) probability that one or more earthquakes of magnitude 6.7 or greater (Richter scale) will occur on one or more of several active faults in the San Francisco Bay Area within the next thirty (30) years; and

WHEREAS, the Hayward Earthquake Fault bisects the City of Oakland and has an expected reoccurrence for a major earthquake once every 140 years; and

WHEREAS, the last recorded major rupture of the Hayward Earthquake Fault occurred in 1868; and

WHEREAS, the City of Oakland endeavors to maintain its residential building stock and enhance the disaster-resistant of these buildings by reducing the potential for loss of life, property damage, and environmental degradation from natural disasters, while accelerating economic recovery from those disasters; and

WHEREAS, the City of Oakland is committed to helping meet the need of Oakland residents for safe housing and disaster-resistance of these buildings that are architecturally diverse and serve a variety of occupant sizes and household incomes; and

WHEREAS, multiple-story residential buildings (Residential Group R-1 and R-2 occupancies) with storage and parking (Storage Group S and Utility and Miscellaneous Group U occupancies) and/ or commercial spaces (Assembly Group A, Business Group B, and Mercantile Group M occupancies) on the ground-floor which were permitted for construction prior to the adoption by the State of California on January 1, 1991, of the 1988 edition of the Uniform Building Code, may have a limited resistance to seismically induced lateral forces (so called "soft story" condition) that makes these buildings inherently more vulnerable to major structural damage and catastrophic collapse; and

WHEREAS, these “soft story” residential buildings represent a substantial risk to the safety of the building residents and their personal property during a major earthquake; and

WHEREAS, the City of Oakland does not currently have non-engineered (prescriptive) analysis standards to screen these “soft story” residential buildings for the capacity to resist seismically induced lateral loads and potential critical structural deficiencies without requiring plans or calculations prepared by a registered design professional; and

WHEREAS, California Health and Safe Code Sections 19160 et seq. allows jurisdictions to identify buildings which are potentially hazardous to life in the event of an earthquake when such buildings are wood framed and have multiple stories and were constructed before January 1, 1978, and have multiple residential units and have automobile parking and/or commercial tenant spaces on the ground floor; and

WHEREAS, California Health and Safe Code Sections 19160 et seq. further allows jurisdictions to establish by ordinance seismic retrofit standards for such residential buildings which comply with nationally recognized model codes or substantially equivalent standards relating to the retrofit of existing structures and also provides that jurisdictions may adopt amendments to such model codes which are consistent with California Health and Safety Code Section 17958.5 and are reasonably necessary because of local climatic, geological, or topographical conditions; and

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WHEREAS, Appendix Chapter A4 of the International Existing Building Code (IEBC) meets the requirements set forth in California Health and Safe Code Sections 19160 et seq. for a nationally recognized model code relating to the retrofit of existing structures; and

WHEREAS, the Existing Buildings Committee of the Structural Engineers Association of California (SEAOC) has proposed amendments to Appendix Chapter A4 of the International Existing Building Code which meet the requirements set forth in California Health and Safe Code Sections 19160 et seq. that such amendments be substantially equivalent standards and set forth in California Health and Safe Code Section 17958.5 that such amendments be reasonably necessary because of local geological conditions due to the proximity of the Hayward Earthquake Fault, and

WHEREAS, pursuant to California Health and Safe Code Sections 19160 et seq., the Legislature of the State of California has expressed its intent to encourage jurisdictions to address the seismic safety of “soft story” residential buildings and to initiate efforts to reduce the seismic risk in such vulnerable buildings; and

WHEREAS, providing lower-cost non-engineered (prescriptive) methodologies which property owners may readily use for screening such buildings for potential critical structural deficiencies in the lateral force resisting systems due to seismically induced loading is a key step in determining which residential buildings require additional engineered (non-prescriptive) analysis by qualified architects or engineers to ameliorate seismically hazardous conditions; and

WHEREAS, the requirements of the California Environmental Quality Act (CEQA) of 1970, the Guidelines as prescribed by the Secretary for Resources, and the provisions of the Statement of Objectives Criteria and Procedures for Implementation of the California Environmental Quality Act have been satisfied, and in accordance with Sections 15061(b)(3), 15301 (Existing Facilities), 15302 (Replacement or Reconstruction), and 15309 (Inspections) of the California Code of Regulations, this project is exempt from the provisions of the California Environmental Quality Act; now therefore,

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15.26.030 Purpose

A. Level 1 Screening - Non-Engineered Analysis (Prescriptive)

1. This chapter establishes standards for non-engineered analysis (prescriptive) without requiring plans or structural calculations prepared by a registered design professional to screen residential buildings for the potential capacity to resist seismically induced lateral loads and potentially identify critical structural deficiencies which would foment catastrophic collapse. Sufficient documentation shall be submitted to accurately establish existing conditions. When the Building Official determines that existing conditions are

beyond the scope of these standards, a Level 2 Evaluation shall be submitted by the owner to the Building Official.

2. These standards are intended to screen residential buildings for potential critical structural deficiencies in the lateral force resisting system but will not necessarily quantify the level of risk for property damage and injury to occupants and loss of life from an earthquake.
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2. Engineered methods (non-prescriptive) for evaluating critical structural deficiencies may incorporate the standards set forth in this chapter for a non-engineered analysis (prescriptive) if approved by the Building Official.

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Section 15.26.100 Definitions

The following words and phrases, wherever used in this chapter, shall be construed as defined in this section unless otherwise required by the context. The singular shall be taken to mean the plural and the plural shall mean the singular when required by the context of this chapter. The following definitions will not necessarily apply to other portions of this chapter:

Building Official means the Building Official of the City of Oakland, as identified in the Oakland Building Construction Code, or his or her designee, and successors in title.

Certified Inspector means an individual possessing a valid certification issued by an approved national organization to perform building or home inspections.

City means the City of Oakland, a municipal corporation.

City Administrator means the City Administrator of the City of Oakland or his or her designee, and successors in title.

Critical Structural Deficiency means a structural weakness in the first story of the lateral force resisting system of a residential building which has open-front wall lines in the ground-floor that could initiate catastrophic collapse due to seismically induced loading.

Ground-floor means the first story of a building as defined in the Oakland Building Construction Code.

Group A, Group B, Group M, Group R, Group S, and Group U means occupancy classifications as defined and used in the Oakland Building Construction Code.

Level 1 Screening means an approved non-engineered analysis that is prepared under the responsible charge of a registered design professional or by a licensed contractor or a certified inspector to identify residential buildings which may have critical structural deficiencies.

Level 2 Evaluation means an approved engineering analysis that is prepared under the responsible charge of a registered design professional to identify critical structural deficiencies in a residential building.

Licensed Contractor means an individual possessing a valid license issued by the State of California to construct residential buildings.

Oakland Building Construction Code means the most current edition of the California Building Code with amendments adopted by the City of Oakland, as set forth in Oakland Municipal Code, Title 15, Chapter 15.04, and successors in title.

Owner means any individual or group of individuals or firm or any other entity holding legal or equitable title to the real property

Registered Design Professional means an architect or engineer possessing a valid license issued by the State of California to perform civil or structural related design, material classification and analysis, and structural observation.

Residential Building means a building which conforms to the occupancy limitations and density minimums set forth in section 15.26.040.B of this chapter.

15.26.110 Authority

- A. The Building Official and his or her designees are hereby authorized and directed to enforce all of the provisions of this chapter.
- B. The Building Official may adopt administrative rules and regulations as required to implement this chapter.

15.26.120 Right of Entry

- A. When it is necessary to make an inspection to enforce the provisions of this chapter, the Building Official or his or her designee may enter the building or premises at reasonable times to inspect or to perform the duties imposed by this chapter, provided that if such building or structure or premises be occupied that credentials be presented to the occupant and entry requested. If such building or premises be secured against entry, the Building Official shall first make a reasonable effort to locate the record owner of the property or other adult person having lawful charge or control of the building or structure or premises and request entry. If such entry is refused, the Building Official shall have resource to the remedies provided by law to secure entry.
- B. No person authorized by this chapter to enter buildings shall enter an occupied unit or space or other non-public area without the consent and presence of the owner or the owner's designated agent or the lawful and adult occupant of the unit or space or other non-public area or without a proper written order executed and issued by a court having jurisdiction to issue the order.

15.26.130 Fees, Penalties, and Collections

The fees and costs incurred and the penalties assessed and the interest accrued in the processing and enforcement of the provisions of this chapter shall be as established in the Master Fee Schedule of the City of Oakland and shall be a charge against the property and the owner and may be recovered by all appropriate legal means as set forth in Section 15.08.130 of the Oakland Municipal Code.

15.26.140 Enforcement

- A. The City shall be authorized to exercise any other remedy at law or equity for enforcement of this chapter. Procedures and actions under this chapter may be utilized in conjunction with, or in addition to, any other procedure applicable to the regulation of buildings, structures, or property, including, but not limited to, injunctive or other judicial relief, and the impositions of penalties pursuant to the provisions of Chapter 1.12 of the Oakland Municipal Code.
- B. Violations of this chapter shall be subject to the provisions of Chapter 1.28 of the Oakland Municipal Code.

15.26.150 Appeals Of The Building Official's Decision Or Determination

- A. The owner may appeal a decision or determination by the Building Official or his or her designee made relative to the applications of Article III of this chapter by filing a written request which shall contain the following information:
1. A brief statement in ordinary and concise language of that specific action protested, together with any material facts claimed to support the contentions of the appellant.
 2. A brief statement in ordinary and concise language of the relief sought and the reasons why it is claimed the protested action was a result of error or abuse of discretion and therefore should be reversed, modified, or otherwise set aside.

Such written appeal together with fees as may be established in the Master Fee Schedule shall be received by the Building Official within twenty-one (21) calendar days from the date of the service, as set forth in Section 15.26.160 of the issuance of such decision or determination. Failure by the record owner to file such written appeal along with full payment of fees within the period of time prescribed herein shall constitute a waiver by the owner of an administrative adjudication of such action or to any portion thereof.

- B. The limitation period provided pursuant to California Code of Civil Procedure Section 1094.6 shall apply to all petitions filed seeking judicial review of administrative actions made by the Building Official or his or her designee.

15.26.160 Notification Of The Building Official's Decision Or Determination

The initial Notice shall be served to the owner by one or more of the following methods of service:

1. Personal delivery with acknowledged receipt; or
2. Mailing with certified postage to the record owner's address as it appears on the last equalized assessment roll of the Alameda County Tax Assessor or as otherwise may be known to the Building Official; or
3. Constructive public notification, including but not limited to the following:
 - a. publication in a newspaper of general circulation; or
 - b. conspicuous posting on or in the vicinity of the property.

Failure to serve any person required by this Code to be served or failure of said person to receive said notification shall not invalidate any proceedings hereunder as to any other person duly served or relieve any such person from any duty or obligation imposed by this Code.

ARTICLE III. TECHNICAL

15.26.200 Level 1 Screening

A. Non-Engineered Analysis (Prescriptive)

The owner shall employ a registered design professional or a licensed contractor or a certified inspector to prepare a written non-engineered analysis (prescriptive) in an approved format and in accordance with the provisions of this section to screen the lateral force resisting system of the ground-floor of a residential building.

B. Scope

A non-engineered analysis (prescriptive) shall include the following information:

1. Scaled drawing with horizontal dimensions (feet and inches) of the exterior ground-floor walls, set-backs from property lines and public right-of-way, and location of occupancies on the ground-floor.
2. Locations and horizontal dimensions of cantilevered portions of the second story supported by the exterior ground-floor walls.
3. Locations and vertical and horizontal dimensions of fenestration, doors, and similar openings in the exterior ground-floor walls.
4. Locations and vertical and horizontal dimensions of foundation cripple walls.
5. Locations and approximate gradient of sloping ground surface adjoining the exterior ground-floor walls.
6. Ratios, expressed as percentages, of the vertical square footage of each planar section of exterior ground-floor wall and the combined square footage of the openings therein.
7. Additional arithmetical computations and scaled drawings with locations and dimensions as may be required by the Building Official.

15.26.210 Level 2 Evaluation

A. Engineered Analysis (Non-Prescriptive)

As an alternative to a Level 1 Screening, the owner may employ a registered design professional to prepare a written engineered analysis (non-prescriptive) in an approved format and in accordance with the provisions of this section to evaluate the lateral force resisting system of the ground-floor of a residential building.

B. Scope

The scope of the engineered analysis (non-prescriptive) shall be in accordance with the provisions of section 15.26.030.B of this chapter.

15.26.220 Format

The format for a Level 1 Screening and a Level 2 Evaluation shall include the following information:

1. Date the field inspection was performed.
2. Name, address, and telephone number of owner.
3. Types of occupancies or uses within the building.
4. Photographs of front, side, and rear elevations of the building.
5. Name of building (if any) and approximate date of construction.
6. Number of residential and non-residential units within the building.
7. Name, address, telephone number, and signature of the preparer and qualifying license number or certificate.
8. Additional information as may be required by the Building Official.

15.26.230 Compliance

The owner shall submit a written Level 1 Screening or a written Level 2 Evaluation to the Building Official within two (2) calendar years following the effective date of this chapter, or by such earlier date as may be required by the Building Official upon notification to the owner as set forth in section 15.26.160 of this chapter. Failure of the owner to comply fully with the provisions of this chapter and this section shall be sufficient cause for administrative and non-administration actions set forth in sections 15.26.130 and 15.26.140 of this chapter.

15.26.240 Occupant And Tenant Advisory

If a Level 2 Evaluation is performed, the owner shall advise all current and prospective residential occupants and non-residential tenants of the residential building in a method and written format approved by the Building Official within six (6) months following submittal of the Level 2 Evaluation to the Building Official, and periodically thereafter as determined by the Building Official.

Section 3. Applicability

A. Construction and Severability

Should any article, section, subsection, sentence, clause, or phrase of this ordinance or exhibit be held to be invalid or unconstitutional, the offending portion shall be severed and shall not affect the validity of remaining portions which shall remain in full force and effect.

B. Authority

This ordinance is enacted by the Council of the City of Oakland pursuant to the police powers

accorded to the City by and through section 106 of the Charter of the City of Oakland and Article XI of the Constitution of the State of California.

C. Effective Date

Pursuant to Section 216 of the Charter of the City of Oakland, this ordinance shall become effective immediately on final adoption if it receives six (6) or more affirmative votes on final adoption. Otherwise, it shall become effective upon the seventh day after final adoption.

Section 4. The Council of the City of Oakland hereby directs that staff shall not begin the compilation and analysis of the Mandatory Seismic Screening data submitted by building owners unless and until a minimum of \$50,000.00 in fees has been collected from said owners under this Chapter. In the event that a minimum of \$50,000 has not been collected before December 1, 2010, the Building Official of the City of Oakland shall present recommendation(s) to the Council, at such subsequent date deemed convenient, for implementing the program so that staff costs are reimbursed.

IN COUNCIL, OAKLAND, CALIFORNIA, _____, 2009

PASSED BY THE FOLLOWING VOTE:

AYES - BROOKS, DE LA FUENTE, KAPLAN, KERNIGHAN, NADEL, QUAN, REID,
AND PRESIDENT BRUNNER

NOES -

ABSENT -

ABSTENTION -

ATTEST: _____
LATONDA SIMMONS
City Clerk and Clerk of the Council
of the City of Oakland, California

DATE OF ATTESTATION _____