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# AGENDA REPORT

**TO:** Sabrina B. Landreth  
City Administrator

**FROM:** William A. Gilchrist  
Director, PBD

**SUBJECT:** Amendments to OMC 15.24  
Earthquake Damaged Structures

**DATE:** October 21, 2019

City Administrator Approval

Date:

10/21/19

## RECOMMENDATION

**Staff Recommends That The City Council Conduct A Public Hearing And Upon Conclusion Adopt An Ordinance Amending Oakland Municipal Code, Chapter 15.24, Entitled Earthquake Damaged Structures, Delegating To The City Administrator Or Designee The Authority To Establish An Administrative Regulatory Program For Abatement And Upgrade Of Earthquake Damaged Structures, Which Program May Be Updated As Needed In Response To Changes In Laws, Codes, or Local Circumstances.**

## EXECUTIVE SUMMARY

The proposed amended Oakland Municipal Code (OMC) Chapter 15.24, entitled Earthquake Damaged Structures, will provide the City with updated and streamlined regulations to facilitate the safe and orderly repair, demolition, or preservation of structures subject to damage from an earthquake. The current OMC Chapter 15.24, entitled Earthquake Damaged Structures, became effective shortly after the earthquake on October 17, 1989 when the City Council adopted Ordinances No. 11217 C.M.S. and No. 11359 C.M.S.

## BACKGROUND / LEGISLATIVE HISTORY

The earthquake of October 17, 1989, which became known as the 1989 Loma Prieta Earthquake, resulted in significant damage and loss of life along the San Andreas Fault System, including the City of Oakland. In Oakland, numerous structures were damaged by the earthquake and the City responded by adopting an Emergency Ordinance, Ordinance No. 11173 C.M.S. on December 19, 1989. On May 29, 1990, the City adopted Ordinance No. 11217 C.M.S. which provided more permanent procedures for the abatement and upgrade of earthquake damaged structures. These procedures and standards were further modified when the City adopted Ordinance No. 11359 C.M.S. on July 16, 1991. These ordinances form the basis for the current OMC Chapter 15.24, entitled Earthquake Damaged Structures.

Item: \_\_\_\_\_  
CED Committee  
November 12, 2019

## **ANALYSIS AND POLICY ALTERNATIVES**

Building codes and administrative practices have further evolved since 1991. As a result, City staff believes that more flexibility is needed to ensure building owners have an organized, fair, equitable, and practical method to mitigate their structure's deficiencies. The existing regulations and procedures set forth in OMC Chapter 15.24 are very prescriptive and depending on the nature and extent of damage from a future earthquake, may not provide an efficient mechanism for balancing the needs of property owners and the community.

The proposed amendments will provide this flexibility by authorizing the City Administrator to develop a program with specific standards and procedures to address how owners should repair and strengthen their earthquake damaged structures. In addition, staff will be able to rapidly respond to the needs of building owners and the community by issuing revised administrative programs and procedures as needed following an earthquake and to address the particular nature of the damage.

## **FISCAL IMPACT**

This item does not have a fiscal impact or cost. This proposed Ordinance would allow for staff to develop an administrative program to address post-earthquake repair and retrofit of buildings. It is anticipated that staff time would be cost covered by any permit fees allowed under the Master Fee Schedule.

## **PUBLIC OUTREACH / INTEREST**

Staff has done outreach to the general public, representatives of professional architects and engineers societies, website and public counter postings, and informational meetings.

## **COORDINATION**

This report and legislation have been reviewed by the Office of the City Attorney and the Budget Bureau

## **SUSTAINABLE OPPORTUNITIES**

***Economic:*** Amendments to the Oakland Municipal Code Chapter 15.24 will allow the City Administrator to establish procedures that facilitate the restoration and improvement of: residential, commercial; and, office buildings to aid in the recovery of livelihoods and living conditions following an earthquake.

***Environmental:*** Oakland Municipal Code Chapter 15.24 will support the organized and safe rehabilitation and recovery of Earthquake Damaged Structures following an earthquake, and the

reduction of public health irritants, contaminants, pollutants, toxics, and vectors for occupants and neighbors.

**Social Equity:** Amendments to the Oakland Municipal Code Chapter 15.24 will allow the City Administrator to balance social equity when establishing procedures for addressing earthquake damaged buildings.

**CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA)**

Staff has made the determination that the proposed amendments are exempt from the California Environmental Quality Act pursuant to CEQA Guidelines sections 15378; 15061(b)(3) (General Rule), 15301 (Existing Facilities), 15303 (New Construction or Conversion of Small Structures), and 15183 (Projects Consistent with a Community Plan, General Plan, or Zoning). Each of the foregoing provides a separate and independent basis for CEQA compliance and, when viewed collectively, provides an overall basis for CEQA compliance.

**ACTION REQUESTED OF THE CITY COUNCIL**

Staff recommends that the City Council conduct a Public Hearing and upon conclusion adopt an Ordinance amending Oakland Municipal Code, Chapter 15.24, entitled Earthquake Damaged Structures, delegating to the City Administrator or Designee the authority to establish an administrative regulatory program for abatement and upgrade of earthquake damaged structures, which program may be updated as needed in response to changes in laws, codes, or local circumstances.

For questions regarding this report, please contact Katie Dignan, Assistant Director, Planning and Building Department, at (510) 238-3663.

Respectfully submitted,

  
WILLIAM A. GILCHRIST, Director  
Planning and Building Department

Reviewed by:

Katie Dignan, Assistant Director  
Planning and Building Department

Prepared by:

David Harlan, Engineering Manager  
Bureau of Building

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APPROVED AS TO FORM AND LEGALITY

INTRODUCED BY COUNCIL MEMBER 2019 OCT 31 PM 3:48

  
CITY ATTORNEY'S OFFICE

## OAKLAND CITY COUNCIL

ORDINANCE NO. \_\_\_\_\_ C.M.S.

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**AN ORDINANCE AMENDING OAKLAND MUNICIPAL CODE, CHAPTER 15.24, ENTITLED EARTHQUAKE DAMAGED STRUCTURES, DELEGATING TO THE CITY ADMINISTRATOR OR DESIGNEE THE AUTHORITY TO ESTABLISH AN ADMINISTRATIVE REGULATORY PROGRAM FOR ABATEMENT AND UPGRADE OF EARTHQUAKE DAMAGED STRUCTURES, WHICH PROGRAM MAY BE UPDATED AS NEEDED IN RESPONSE TO CHANGES IN LAWS, CODES, OR LOCAL CIRCUMSTANCES**

**WHEREAS**, the earthquake of October 17, 1989, which became known as the 1989 Loma Prieta Earthquake, resulted in significant damage and loss of life along the San Andreas Fault System, including the City of Oakland; and

**WHEREAS**, in Oakland, numerous structures were damage by the 1989 Loma Prieta earthquake; and

**WHEREAS**, the City responded by adopting Emergency Ordinance 11173 CMS on December 19, 1989, Ordinance 11217 CMS on May 29, 1990 and Ordinance 11359 CMS on July 16, 1991; and

**WHEREAS**, these previous ordinances which are codified as Oakland Municipal Code Chapter 15.24 provide specific procedures for the abatement and upgrade of Earthquake Damaged Structures; and

**WHEREAS**, building codes and administrative practices have further evolved since 1991; and

**WHEREAS**, more flexibility is needed to facilitate building owners having an organized, fair, equitable; and practical method to mitigate their building's deficiencies following an earthquake; and

**WHEREAS**, the proposed amendments will provide this flexibility by authorizing the City Administrator or her designee to develop an administrative program and procedures for recovery; and

**WHEREAS**, adoption and immediate effectiveness of the code amendments is necessary to preserve public health and safety; and

**WHEREAS**, the proposed Ordinance is exempt from the California Environmental Quality Act pursuant to CEQA Guidelines sections 15378, 15061(b)(3) (General Rule), 15301 (Existing Facilities), 15303 (New Construction or Conversion of Small Structures), and 15183 (Projects Consistent with a Community Plan, General Plan, or Zoning). Each of the foregoing provides a separate and independent basis for CEQA compliance and, when viewed collectively, provides an overall basis for CEQA compliance; and

**WHEREAS**, after a duly noticed public meeting on November 12, 2019, the Community and Economic Development (CED) Committee voted to recommend the proposal to the City Council; and

**WHEREAS**, the City Council held a duly noticed public hearing on November 19, 2019, to consider the proposed amendments and all interested parties were provided an ample opportunity to participate in said hearing and express their views; and

**WHEREAS**, based on all written and oral reports and presentations to Council, including the Agenda Report and each of the Attachments thereto, the City Council finds and determines that the proposed amendments serve the legitimate governmental interest of providing a specific program and procedures for the abatement and upgrade of Earthquake Damaged Structures, and as a result greater protections to the public health, safety and welfare; and

**NOW, THEREFORE, THE COUNCIL OF THE CITY OF OAKLAND DOES ORDAIN AS FOLLOWS:**

**SECTION 1. Recitals.** The City Council of the City of Oakland hereby determines that the preceding recitals are true and correct and an integral part of the City Council's decision, and hereby adopts and incorporates them into this Ordinance.

**SECTION 2. Amendment of Oakland Municipal Code Chapter 15.24 – Earthquake Damaged Structures.** Oakland Municipal Code Chapter 15.24, entitled Earthquake Damaged Structures, is hereby replaced in its entirety by the following:

**Sections:**

**Article I. - General Provisions**

**15.24.010 - Purpose of chapter.**

A major purpose of this Chapter is to facilitate the provision of a just, equitable, expedient and practicable program with specific procedures whereby Structures that are damaged by an earthquake may be altered, repaired, restored, rehabilitated or demolished.

**15.24.020 - Scope of chapter.**

The provisions of this Chapter shall apply to all Structures that are damaged by an earthquake.

**15.24.030 - Inspections.**

The Fire Marshal, the Planning and Building Director, and the Building Official are authorized to make such inspections and take such actions as may be required to enforce the provisions of this Chapter.

No owner, occupant or any other person having charge, care or control of any Structure or premises shall fail or refuse, after authorized demand made as herein provided, to promptly permit entry therein by the Planning and Building Director, Fire Marshal, or the Building Official for the purpose of inspection and examination of the premises pursuant to this Chapter.

**15.24.040 - Definitions.**

For the purpose of this Chapter, certain words, phrases, terms and their derivatives shall be construed as specified in this Section. Words, phrases, and terms that are used in this Chapter, but not specifically defined, shall have the meaning set forth in the applicable local, state, or federal code, if appropriate. Other such words, phrases and terms shall be accorded their ordinary meanings.

"Abatement" means action necessary to make safe or demolish any Earthquake-damaged Structure.

"Building Official" means the city of Oakland Building Official or his or her designee.

"Damage Assessment Report" means a report prepared pursuant to the requirements of this Chapter.

"Earthquake Damaged Structure" means a Structure damaged by earthquake, resultant aftershocks or other earthquake-related occurrences.

"Fire Marshal" means the city of Oakland Fire Marshal or his or her designee.

"Immediate Hazard and Danger" means a Structure which has been determined by the Building Official to constitute an immediate health and safety hazard because the Structure, or some portion thereof, has been damaged by earthquake, and is determined by the Building Official, using accepted practices, to be subject to immediate failure,

detachment, dislodgment or collapse and is likely to injure persons, damage property or cause serious public safety problems.

"Planning and Building Director" means the city of Oakland Planning and Building Director or his or her designee.

"Public Nuisance" means a Structure that represents an Immediate Hazard and Danger.

"Structure" means and includes a building, bridge, fence, pole, street, wall, wire or other Structure. The term "Structure" includes portions of a Structure.

#### **15.24.050 Immediate Hazard and Danger Structures**

Pursuant to section 15.08.340, any residential or non-residential building, Structure, or portion thereof which is determined to be Unsafe in accordance with the Oakland Building Construction Code; or any residential or non-residential building, Structure or portion thereof, including but not limited to any dwelling unit, guest room or suite of rooms, commercial office or retail sales space, classroom or associated locker room or toilet room, assembly space, or any real property in which there exists any of the conditions referenced in this Section to an extent that is Unsafe to the life, limb, health, property, safety or welfare of the public or the occupants thereof shall be deemed and hereby is declared to be substandard and a Public Nuisance and is subject to Chapter 15.08 sections 15.08.350 to 15.08.410.

#### **15.24.070 Post Earthquake Repair and Retrofit Program**

The City Administrator, or his or her designee, is authorized to establish a program with specific standards and procedures to address how owners should repair and strengthen their damaged Structures after an earthquake. The standards and procedures are required to ensure just, equitable, and practical methods for repair and mitigation efforts following an earthquake. While the City Administrator or her designee is authorized to establish the specifics of the program, the program shall be generally outlined as follows:

- A. Securing Earthquake-damaged Structures
  - a. Historic Requirements
  - b. Non-Historic Requirements
- B. Damage Assessment Reports
  - a. Requirements for Submittal
  - b. Process and Timelines for Review and Approval
  - c. Penalties for non-compliance
- C. Post-Earthquake Repair and Retrofit
  - a. Non-historic Earthquake Damaged Structures Performance of Work
    - i. Design Guidelines
    - ii. Process and Timelines for Reviews and Approval
  - b. Historic Earthquake Damaged Structures Performance of Work



- i. Design Guidelines
    - ii. Process and Timelines for Reviews and Approval
  - c. Mitigation Repairs and Retrofits
    - i. Design Guidelines
    - ii. Process and Timelines for Reviews and Approval
- D. Mandatory Earthquake Damage Abatement Program
  - a. Earthquake Damage Abatement Board
    - i. Membership composition
    - ii. Mandatory Abatement Process and Timelines
    - iii. Process and Timelines for Appeals
      - 1. Damage Assessment Reports
      - 2. Design Standards for Repair and Timelines
      - 3. Penalties

**15.24.080 Adoption of Post Earthquake Repair and Retrofit Program**

The initial Post Earthquake Repair and Retrofit Program documents shall be presented to City Council for adoption by December 31, 2020. Any substantial revisions that occur to the program documents shall be presented to City Council for adoption.

**SECTION 3. Severability.** If any section, subsection, sentence, clause or phrase of this Ordinance is for any reason held to be invalid or unconstitutional by decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of the Chapter. The City Council hereby declares that it would have passed this Ordinance and each section, subsection, clause or phrase thereof irrespective of the fact that one or more other sections, subsections, clauses or phrases may be declared invalid or unconstitutional.

**SECTION 4. Effective Date.** This Ordinance shall become effective on and after its adoption by sufficient affirmative votes of the Council of the City of Oakland, as provided in the Charter of the City of Oakland, Section 216.

**SECTION 5. Direction to the City Administrator.** The City Administrator or designee shall establish a program with specific standards and procedures to address how owners should repair and strengthen their Earthquake Damaged Structures after an earthquake.

**SECTION 6. California Environmental Quality Act.** The City Council has reviewed the proposed amendments to the Oakland Municipal Code and independently finds and determines that these actions are exempt from the California Environmental Quality Act (CEQA) pursuant to CEQA Guidelines sections 15378, 15061(b)(3) (General Rule), 15301 (Existing Facilities), 15303 (New Construction or Conversion of Small Structures), and 15183 (Projects Consistent with a Community Plan, General Plan, or Zoning). Each of the foregoing provides a separate and independent basis for CEQA compliance and, when viewed collectively, provides an overall basis for CEQA compliance.

IN COUNCIL, OAKLAND, CALIFORNIA,

PASSED BY THE FOLLOWING VOTE:

AYES - FORTUNATO BAS, GALLO, GIBSON MCELHANEY, KALB, REID, TAYLOR, THAO AND  
PRESIDENT KAPLAN

NOES -

ABSENT -

ABSTENTION -

ATTEST: \_\_\_\_\_

LATONDA SIMMONS  
City Clerk and Clerk of the Council of the City of  
Oakland, California

Date of Attestation: \_\_\_\_\_

Attestation: \_\_\_\_\_

## NOTICE AND DIGEST

**AN ORDINANCE AMENDING OAKLAND MUNICIPAL CODE, CHAPTER 15.24, ENTITLED EARTHQUAKE DAMAGED STRUCTURES, DELEGATING TO THE CITY ADMINISTRATOR OR DESIGNEE THE AUTHORITY TO ESTABLISH AN ADMINISTRATIVE REGULATORY PROGRAM FOR ABATEMENT AND UPGRADE OF EARTHQUAKE DAMAGED STRUCTURES, WHICH PROGRAM MAY BE UPDATED AS NEEDED IN RESPONSE TO CHANGES IN LAWS, CODES, OR LOCAL CIRCUMSTANCES**

This Ordinance amends Oakland Municipal Code Chapter 15.24, Entitled Earthquake Damaged Structures, to allow the City Administrator or Designee to create an Administrative Program for the Abatement and Upgrade of Earthquake Damaged Structures.