



# Agenda Report

February 25, 2019

**TO:** Honorable Mayor and City Council

**THROUGH:** Public Safety Committee (February 4, 2019)

**FROM:** Planning & Community Development Department

**SUBJECT: REGULATIONS REQUIRING RETROFIT OF WOOD SOFT-STORY RESIDENTIAL BUILDINGS**

## **RECOMMENDATION:**

It is recommended that the City Council:

1. Find that the proposed regulations are exempt from CEQA pursuant to State CEQA Guidelines Section 15301 "Existing Facilities" (Class 1) and that there are no features that distinguish this project from others in the exempt class and, therefore, there are no unusual circumstances; and
2. Direct the City Attorney to prepare an ordinance within 60 days amending Title 14 of the Pasadena Municipal Code (Buildings and Construction) as presented in this report.

## **EXECUTIVE SUMMARY:**

Buildings that provide resistance to the destructive forces of earthquakes and aftershocks are an essential component of building safety in Southern California. In order to provide the necessary structural resiliency and to increase occupant safety, the state of California adopts a new set of codes and laws every three years. The 1978 building code update established new standards which eliminated the construction of multiple-story buildings with weak and/or open front wall lines creating a 'soft-story'. Soft-story buildings are wood-framed buildings with more than one story that typically have extensive ground-story windows, garage doors, or open-air spaces (such as tuck under parking) with little or no enclosing solid wall. These buildings result in a relatively soft or weak lateral load-resisting system in the lower story making them more vulnerable to collapse during an earthquake. The poor performance of these buildings was evident during the 1989 Loma Prieta and 1994 Northridge earthquakes, accounting for significant human loss and property damage. To address these structural hazards,

some cities have established regulations requiring these buildings to be retrofitted to comply with seismic standards.

Draft regulations have been developed in consultation with the Public Safety Committee and an advisory group composed of representatives from local housing, architecture, engineering and geological industries and input from owners of soft-story buildings at community meetings. The proposed regulations establish a process for implementing the soft-story retrofit program and would:

- Require all existing wood-framed, soft-story multiple-family residential buildings built prior to January 1, 1978 to complete a seismic retrofit;
- Establish three tiers for prioritization of the timing of the retrofits;
- Establish a five-year timeline for completion of the retrofits; and,
- Establish enforcement provisions for non-compliance with the retrofit requirements.

A summary of the recommendations is included in the *Proposed Regulations* section beginning on page 7 of this report.

#### **BACKGROUND AND DISCUSSION:**

In 1993, Pasadena implemented a local retrofit program which mandated all unreinforced masonry buildings (URMs) to be retrofitted, vacated and boarded up, or demolished by 2007. This program was successful in achieving 100% compliance, however there are still other categories of vulnerable buildings which exist in the City and throughout Southern California, such as wood soft-story buildings. There are approximately 472 wood soft-story buildings in Pasadena containing approximately 4,500 units. Most wood soft-story buildings were constructed between the 1920s and 1970s.

There is currently no federal or state requirement to retrofit soft-story buildings, however, California state laws regulating Building Code adoption and California Health and Safety Code Sections 19101 and 19162-63.6 authorize local jurisdictions to establish local retrofit standards so long as the requirements are justified by local climatic, geological and topographical conditions. In this regard, a growing number of jurisdictions, including Los Angeles, Santa Monica, West Hollywood, and San Francisco have already implemented local mandatory retrofit programs. Moreover, the City's Safety Element of the General Plan identifies the possible development of a mitigation program to require seismic retrofitting of non-URM vulnerable buildings, such as wood soft-story buildings.

The overarching goal of the proposed ordinance is to increase the safety of the City's residential building inventory. In addition to safety considerations, development of the proposed regulations also considered the cost and timing of the retrofits, possible tenant displacement during the repairs, loss of parking spaces or other deviations from zoning

standards resulting from the retrofit, and financial assistance to property owners. These issues as well as a summary of the advisory group process and community meetings follows.

### *Cost of Retrofit*

The cost of retrofitting will vary depending on the building's age, the number of stories, the number of units and its existing structural strength. Cities, such as Los Angeles, Santa Monica, West Hollywood, San Francisco and Berkeley, have generally estimated retrofit costs as being anywhere from \$5,000 to \$15,000 per unit and \$40,000 to \$160,000 per building.

### *Time Period for Completion of the Repairs*

The time period for completion of the repairs is at the discretion of the City. Other cities establish a range of four to seven years to complete the repairs. Los Angeles allows a seven year time period, while San Francisco has a tiered system, based on the type of structure and number of units, and allows four to seven years for completion.

### *Tenant Displacement during Repairs*

Although it is anticipated that most retrofits can be completed without the need to relocate tenants, it is possible that some retrofits may be so extensive that tenant relocation will be necessitated. In those circumstances, the property owner would be solely responsible to comply with section 9.75.070 'Temporary Relocation' of the City's Tenant Protection Ordinance. This section provides that if a landlord is required to temporarily recover possession of a rental housing unit in order to comply with housing, health, building, safety laws of the State of California or the City of Pasadena, the landlord shall provide temporary relocation benefits to the displaced tenant as provided for in the referenced section of the ordinance. For circumstances that fall under Temporary Relocation, the property would be required to pay tenant: a) an amount based on a daily rate equal to two (2) times the daily pro-rata portion of the rental rate of the tenant's unit; and b) the actual costs of moving and storage. Also, for each day that temporary housing is required, the tenant shall not be required to pay rent.

### *Possible Loss of Parking Spaces or other Zoning Deficiencies*

Depending upon the design of the retrofit and the existing siting of the building, the required retrofit could result in parking deficiencies or minor encroachments into a required yard setback. Most cities have opted to allow parking reductions in order to accommodate the retrofit if the property owner can show that there is no practical method to complete the retrofit without the reduction.

### *Financial Assistance*

Staff submitted a Notice of Interest (NOI) on October 5, 2018 to the California Office of Emergency Services (CalOES) for a Section 404 Hazard Mitigation grant to receive FEMA funding that would assist owners with a portion of the required retrofit costs. The amount of the grant is \$1.25 million and requires a City match of just over \$300,000. Pasadena was selected to proceed with the second phase of the selection process which includes a sub-application and a cost benefit analysis. CalOES is expected to make a final selection of the grant recipients in the fall of 2019. If the City is awarded the grant, it will help offset the cost of the retrofits to the property owners. In addition, staff recommends that building permits for retrofit soft story projects receive a rebate from the otherwise required construction tax.

### *Applicability*

Because this is not a state mandated program, the City has discretion in determining whether to exempt certain structures from the retrofit requirement. The City of Los Angeles, for example, exempts residential buildings with three or fewer units, and the City of San Francisco exempts two-story buildings with four or fewer units. Some cities also exempt buildings which have been seismically strengthened to meet prior building codes. For example, a soft-story apartment building built in 1968 that was seismically strengthened in 2000 may be exempted although its retrofit may not meet the proposed retrofit standards.

### **Process**

#### *Advisory Group*

In July 2018, staff assembled an Advisory Group composed of the City's consulting engineer, technical staff from various City Departments, a seismologist/Caltech professor, local structural engineers and architects and individuals from local housing associations. Staff and the Advisory Group met on July 17 and September 10, 2018 to discuss appropriate applicability, timeframes, and prioritization of the draft regulations.

#### *Technical Committee*

In addition to the Advisory Group, staff met with an experienced group of engineers from the Structural Engineers Association of Southern California (SEAOSC) to review the technical portions of the draft regulations and provide comments to staff. The technical language consists of the guidelines establishing appropriate engineering design methods, a list of acceptable materials and allowable engineering values. The proposed guidelines are similar to those used by other cities that are conducting similar seismic risk reduction programs. The Technical Committee provided comments that were focused on improving the language based on recent experience when implementing similar regulations.

### *Community Outreach*

In July 2018, notices were sent to owners soft-story buildings, which included 1,765 condominium unit owners and 440 apartment building owners. The notices advised property owners of the possibility of this mandatory retrofit ordinance and that their condominium unit or apartment building had been identified as a potentially vulnerable building which may be subject to the ordinance. Via a separate notice, these property owners were invited to attend a community meeting held on November 8, 2018 where the draft regulations of the proposed ordinance were presented. Approximately 200 property owners attended the meeting.

### COMMUNITY INPUT

The following concerns were raised at the November 8, 2018 community meeting:

Engineers and Contractors – Several concerns were raised about the ability of the owners to find experienced and trustworthy engineers and contractors who are familiar with retrofit work. Requests were made for the City to provide a list of recommended engineers and contractors. The community members were notified that Pasadena typically does not provide recommendations for contractors or engineers as it can be misconstrued as a formal endorsement. Community members were directed to the California Contractor's State License Board website to find licensed engineers and contractors. Staff noted that the Department of Consumer Affairs also has published guidelines with general advice on hiring a contractor, such as obtaining a minimum of three different estimates and checking references.

Mandatory – A member of the public recommended that the ordinance be voluntary citing concerns about competing for contractors and the inflation of retrofit costs. Staff informed the community member that the retrofits are currently optional without the ordinance. Adoption of an ordinance will make the retrofits mandatory but will provide a timeline for compliance.

Permit Fees – A few community members asked if the City would be waiving permit fees for the retrofit projects. Staff informed the community members that they would need to study the impacts in order to make a formal recommendation to City Council. A recommendation to waive construction tax will be proposed.

Grant Funding – There were many questions regarding the implementation of any possible grant funding. Staff explained that the City had submitted a Notice of Interest application for the CalOES Section 404 Hazard Mitigation Grant Program. In December 2018, the City received notification that the proposal was selected to proceed with the application process.

Parking Impacts During Construction – Several community members were concerned about impacts of the retrofit to the availability of onsite parking during construction and many asked that there be some relief granted by the City via the issuance of permits for

overnight street parking. Staff has reviewed this question and has found that the City's Department of Transportation does issue temporary overnight street parking permits to properties where an active building permit is issued, but the owner(s) must request these permits.

Parking Impacts – Several community members were concerned about the retrofit requiring a reduction in the size and number of the existing parking. Staff informed the community members that adjacent cities implementing similar seismic programs have reported that engineers and contractors have found creative ways to minimize parking impacts. The Zoning Administrator will also retain the ability to waive parking requirements, such as a reduction in the size and/or number of parking, in order to complete the required retrofit.

Timeframes – A few community members requested that a comparison be made between the timeframe provided in the draft regulations versus other local cities which have implemented a similar ordinance. A comparison can be found in the table below:

<i>Jurisdiction</i>	Submit Engineering Report for Appeal of Soft-Story Determination	Submit Retrofit Plans	Obtain Building Permit	Commence Construction	Complete Construction	Total Time
<i>Los Angeles</i>	N/A	1 year after receiving Order to Comply	2 years after receiving Order to Comply	N/A	7 years after obtaining retrofit permit	7 years
<i>Santa Monica</i>	2 years from date of Service of Order	3 year from date of Service of Order		N/A	6 years from date of Service of Order	6 years
<i>West Hollywood</i>	1 year after receiving Notice to Owner	2 years after receiving Notice to Owner	4 years after receiving Notice to Owner	4 years from Notice to Owner	5 years from Notice to Owner	5 years
<i>Pasadena</i>	1 Year after receiving Notice to Owner	18 months after receiving Notice to Owner	3 years after receiving Notice to Owner		5 years from Notice to Owner	5 years

Plan Review/Inspections – Some members of the community were concerned about the City having enough resources to perform plan review and inspections. Staff informed the community members that the City has the ability to hire consultants to help them with the work overflow if needed.

At the end of the meeting, members of the community were directed to the City's webpage which contains information and resources about the proposed seismic program, and will have updated information posted as it becomes available. The

presentation from the community outreach meeting was posted to the website and a link was also provided so that people may register their email to receive updated information as it becomes available.

### ***Proposed Regulations***

#### *Applicability*

The recommended ordinance would apply to all existing wood-framed or partially wood-framed multiple-family residential buildings with 4 or more units, two or more stories with the ground floor or basement containing parking or other similar open-floor space that causes soft, weak, or open-front wall lines and where the structure was built under the building code standards enacted prior to January 1, 1978. Commercial buildings, hotels and motels are not included. Single-story multiple-family structures are also not included since they do not meet the criteria for soft-story.

#### *Prioritization*

After analyzing the unit count and age of the 472 buildings identified as being soft-story, staff recommends categorizing the buildings into three separate tiers and to prioritize the completion of the retrofits accordingly.

Priority I would consist of the following:

- All applicable buildings that are 3 or more stories; or
- All applicable buildings with more than 24 units; or
- All applicable buildings that have been designated or qualify as a Historic Building.

Priority II would consist of applicable buildings which contain 10 to 24 units, and Priority III would consist of all other applicable buildings not identified as Priority I or II. A breakdown of the number of buildings within each priority is identified in the Table below.

<b><i>Priority</i></b>	<b>Priority Description</b>	<b>Number of Buildings</b>
<b><i>Priority I</i></b>	Buildings with 3 or more stories, buildings containing 25 or more units, all historic buildings	165
<b><i>Priority II</i></b>	Buildings containing 10 to 24 units (not meeting other Priority I criteria)	106
<b><i>Priority III</i></b>	Buildings not falling within Priority I or II	201

*Timelines for Compliance*

Staff considered the timelines established by other jurisdictions which have adopted a soft-story retrofit ordinance, including those of Los Angeles, Santa Monica and West Hollywood. While there is no standard or average compliance period, each jurisdiction appears to have set their timelines based upon their capacity to review, approve and inspect their inventory of soft-story buildings. Los Angeles, for example, has the largest inventory of soft-story buildings with over 16,000 thus their compliance timeline is also the longest providing property owners with 7 years to complete the retrofit.

Staff also considered the owner’s need to secure funding, retain professional engineering services and complete construction. As such, the proposed regulations would allow property owners 5 years to complete the retrofit and allow up to two six-month extensions, based on a demonstrated hardship.

<b>Required Action by Owner</b>	<b>Submit Engineering Report*</b>	<b>Submit Retrofit Plans</b>	<b>Submit Retrofit Plans &amp; Obtain Building Permit</b>	<b>Complete Construction</b>	<b>Total Time</b>
<b>Milestone</b>	1 Year from Notice to the Owner	18 months from Notice to the Owner	3 Years from Notice to the Owner	5 Years from Notice to the Owner	5 Years

*\*Cost of engineering report will vary depending on number of units, type of construction, etc. Costs may vary between \$500 - \$1,000 per unit. (Notices for compliance will be sent to all buildings within Priority I first, followed by notices to Priority II and III in six month increments).*

*Penalty for Non-Compliance*

Owners who fail to comply with the specified timeframes of the ordinance or who fail to complete the retrofit requirements shall be guilty of a misdemeanor and may be subject to the issuance of administrative fines of up to \$1,000 per day or imprisonment for not more than six months, or both fines and imprisonment. Any building which is not brought into compliance within the specified timeframes shall be declared unsafe and a notice shall be recorded on the title of the property giving notice that such building(s) is in violation of the Ordinance. Owners who fail to comply shall also be responsible for the City’s enforcement costs associated with their failure to comply.

**ENVIRONMENTAL REVIEW:**

The action proposed herein is exempt from the California Environmental Quality Act (CEQA) in accordance with Section 15301 “Existing Facilities” (Class 1). Class 1 consists of the operation, repair, maintenance, permitting, leasing, licensing, or minor alteration of existing public or private structures, facilities, mechanical equipment, or topographical features, involving negligible or no expansion of use. As previously noted, the proposed regulations for a soft-story retrofit program would require reinforcement of certain existing buildings. The expected result of the ordinance is safer, reinforced multi-family residential buildings which are more resilient to withstand

the impacts of earthquakes and aftershocks. Designated historic multiple-family soft story buildings will also be subject to the retrofit requirements but are required to ensure that the retrofit improvements comply with the Secretary of Interior standards. The proposed regulations are applicable to existing multi-family residential structures and there would be no expansion of use, as the required retrofits would be limited to enhancing structural integrity. There are no features that distinguish this project from others in the exempt class and, therefore, there are no unusual circumstances.

**FISCAL IMPACT:**

Although the cost of plan review and inspections will be fully recovered through plan check and building permit fees, there will be administrative costs associated with the ordinance. Any future policy decisions will be evaluated for fiscal impacts and, if awarded, shall include the \$312,500 in matching funds for the potential CalOES grant and also the waiver of the construction tax in the building permit fees, which is calculated at 1.92% of the valuation.

Respectfully submitted,



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Attachment: (1)

Attachment A – Draft Regulations