

[Building, Housing Codes - Mandatory Seismic Retrofit Program - Wood-Frame Buildings]

Ordinance amending the Building Code to modify some of the evaluation and retrofit criteria for the Mandatory Earthquake Retrofit Program and add seismic members to the Board of Examiners; amending the Housing Code to require a Report of Residential Building Record (3R Report) to include information on whether a building is included in the program and whether the required upgrade has been completed; adopting environmental findings and findings of local conditions under the California Health and Safety Code; and directing the Clerk of the Board to forward the legislation to specified State agencies.

NOTE: **Unchanged Code text and uncodified text** are in plain Arial font. **Additions to Codes** are in *single-underline italics Times New Roman font*. **Deletions to Codes** are in *strikethrough italics Times New Roman font*. **Board amendment additions** are in double-underlined Arial font. **Board amendment deletions** are in ~~strikethrough Arial font~~. **Asterisks (* * * *)** indicate the omission of unchanged Code subsections or parts of tables.

Be it ordained by the People of the City and County of San Francisco:

Section 1. General Findings.

(a) At a duly noticed public hearing held on August 22, 2013, the Building Inspection Commission considered this ordinance.

(b) The Planning Department has determined that the actions contemplated in this ordinance comply with the California Environmental Quality Act (California Public Resources Code Sections 21000 et seq.). Said determination is on file with the Clerk of the Board of Supervisors in File No. 130782 and is incorporated herein by reference.

1 Section 2. Findings of Local Conditions Under California Health and Safety Code
2 Section 17958.7.

3 (a) Section 19162 of the California Health and Safety Code authorizes the governing
4 body of any city, city and county, or county to establish by ordinance seismic retrofit standards
5 for buildings within its jurisdiction that have been identified as hazardous to life in the event of
6 an earthquake. On April 18, 2013, the City and County of San Francisco enacted Ordinance
7 66-13, which added Chapter 34B to the San Francisco Building Code. As required by State
8 law, the Clerk of the Board forwarded Ordinance 66-13 with the required local findings to the
9 State Building Standards Commission and the California Department of Housing and
10 Community Development, as required by State law.

11 (b) Chapter 34B established the Mandatory Earthquake Retrofit Program for the
12 mandatory seismic strengthening of existing buildings, including mixed-occupancy buildings,
13 that: (1) are Type V (wood-frame) construction of three or more stories or two stories over a
14 basement or underfloor area that has any portion extending above grade, (2) contain five or
15 more dwelling units, (3) were constructed as a new building under an application filed before
16 January 1, 1978 or which is determined by the Department of Building Inspection to have
17 been originally constructed before January 1, 1978, and (4) has not been seismically
18 strengthened to meet or exceed the standards of Building Code Section 1604.11 or its
19 predecessor provisions within 15 years prior to the operative date of Chapter 34B.

20 (c) In Section 3406B, Chapter 34B establishes engineering criteria for evaluation and
21 retrofit of buildings within the scope of the mandatory retrofit program. This ordinance modifies
22 some of the criteria. These changes do not alter the scope, intention, or operation of Chapter
23 34B, but rather provide important technical clarifications, enhanced reporting, and a clear
24 appeals process.

1 Section 3. The Building Code is hereby amended by amending Section 3406B, to read
2 as follows:

3 **SECTION 3406B – ENGINEERING CRITERIA FOR EVALUATION AND RETROFIT.**

4 3406B.1. **General.** This Chapter requires that evaluation and/or retrofit of buildings
5 within its scope be undertaken using the engineering criteria established in this section.

6 3406B.2. **Engineering criteria.** A proposed seismic evaluation and/or retrofit plan
7 shall demonstrate that the building satisfies one of the following:

8 1. FEMA P-807, Seismic Evaluation and Retrofit of Multi-Unit Wood-Frame
9 Buildings With Weak First Stories, as detailed in an Administrative Bulletin to be prepared
10 pursuant to 3406B.3 of this ordinance, with the performance objective of ~~50~~ 30 percent
11 maximum probability of exceedance of Onset of Strength Loss drift limits with a spectral
12 demand equal to 0.50 SMS, or

13 2. ASCE 41-13, Seismic Evaluation and Rehabilitation of Existing Buildings,
14 with the performance objective of Structural Life Safety in the BSE-1E earthquake, or

15 3. ASCE 41-06, Seismic Rehabilitation of Existing Buildings, with the
16 performance objective of Structural Life Safety in the BSE-1 earthquake with earthquake
17 loads multiplied by 75 percent, or

18 4. for evaluation only, ASCE 31-03, Seismic Evaluation of Existing Buildings,
19 with the performance level of Life Safety, or

20 5. for retrofit only, 2012 International Existing Building Code (IEBC) Appendix
21 A-4, or

22 6. any other rational design basis deemed acceptable by the Department that
23 meets or exceeds the intent of this Chapter.

24 For retrofits demonstrating compliance through the use of ASCE 41-06, ASCE-41-13, or IEBC
25 Appendix A4, the strength of the retrofitted story need not exceed 1.3 times the strength of the story

1 above. For Site Class E, a factor of 1.3 shall be required for the short-period spectral
2 acceleration/demand.

3 3406B.3. **Alternative retrofit criteria.** A proposed seismic retrofit plan which fails
4 to meet the criteria of 3406B.2(1) or 3406B.2(5) shall be deemed to comply with this Chapter
5 if, with the approval of the Department, it satisfies the intent of FEMA P-807, Section 6.4.2
6 with a maximum acceptable Onset of Strength Loss drift limit probability of exceedance of ~~70~~
7 50 percent.

8 **Exception:** Alternative retrofit criteria shall not apply to buildings in which the
9 critical stories, basements, or underfloor areas contain other than parking, storage, or utility
10 uses or occupancies.

11 3406B.4. **Administrative bulletin for technical requirements.** The Department
12 shall develop and publish one or more Administrative Bulletins that detail the technical
13 requirements to be used for the evaluation and retrofitting of buildings required to meet the
14 criteria established in Section 3406B.2.

15 3406B.5. **Conformance period.** Any building retrofitted in compliance with this
16 Chapter and properly maintained, shall not, within a period of 15 years after the operative date
17 of this Chapter, be identified as a seismic hazard pursuant to any local building standards
18 adopted after the date of the building seismic retrofit unless the building incurred
19 disproportionate damage, or otherwise has been damaged or altered so that it no longer
20 meets the engineering criteria under which it was retrofitted.

21 3406B.6. Compliance with this Chapter does not supersede the requirements for
22 compliance with Section 3401.B when otherwise required under Chapter 34 of this Code. A
23 permit issued solely for compliance with the provisions of this Chapter shall not be considered
24 a “substantial change” or “structural work” as defined in Chapter 34 and compliance with
25 Section 3401.10 will not be required by such work.

1 Section 4. The Building Code is hereby amended by adding Section 3404.8, to read as
2 follows:

3 **SECTION 3404 – ALTERATIONS**

4 Add the following section

5 3404.8 **Mandatory Seismic Retrofit.** Submittal documents shall include plans indicating
6 locations and construction of existing, new, and modified building elements used to comply with
7 Chapter 34B.

8 Section 5. The Building Code is hereby amended by amending Section 105A.1, to
9 read as follows:

10 **SECTION 105A – BOARDS, COMMISSIONS AND COMMITTEES**

11 105A.1 **Board of Examiners.**

12 105A.1.1 **Establishment.** There is hereby created a Board of Examiners who are
13 qualified by experience and training to pass upon matters pertaining to building design and
14 construction. The functions of the Board of Examiners shall be:

15 105A.1.1.1 To determine whether specific new materials, new methods and types of
16 construction comply with the standards of safety established by this code, and to recommend
17 the approval or disapproval of such new materials, new methods and types of construction.

18 105A.1.1.2 To determine whether variances from the requirements of this code should
19 be approved for specific cases where new materials, new methods and types of construction
20 are not involved, and where the enforcement of compliance therewith would result in
21 unreasonable hardship.

22 105A.1.1.3 To recommend to the Building Official reasonable interpretations of the
23 provisions of this code.

24 105A.1.1.4 To hear appeals from any Abatement Order of the Building Official
25 involving construction methods, assemblies or materials or where safety is involved.

1 A copy of the findings of the Board of Examiners shall be forwarded to the Abatement
2 Appeals Board.

3 Matters involving compliance with Chapters 16B and 16C and other related structural
4 provisions of this code regulating the strengthening of unreinforced masonry bearing wall
5 buildings shall be heard by the Board of Examiners as provided in Section 105A.1.

6 105A.1.2 **Definition.** The term “standard of safety,” as used in this section, shall
7 mean the general degree of safety conforming to the provisions of this code as required to
8 safeguard life or limb, health and public welfare.

9 105A.1.3 **Intent.** It is the intent of this section that new materials, new methods and
10 types of construction which do not comply with the standards of safety established by this
11 code shall in no event be approved; but that the requirements of this code, other than those
12 involving such standards of safety, may be modified or waived under the circumstances set
13 forth in this section.

14 105A.1.4 **Membership.** The Board of Examiners shall consist of ~~10~~ 13 members,
15 which shall include one plumbing member and one electrical member, who shall serve only
16 when cases related to plumbing or electrical code issues are being considered, and one high-
17 rise sprinkler member who shall serve only when cases related to high-rise sprinkler issues
18 are being considered, and three seismic improvement members who shall serve only when cases
19 related to Chapter 34B seismic retrofit issues are being considered. All members are to be
20 appointed by the Building Inspection Commission and shall serve at the Building Inspection
21 Commission’s pleasure for a three-year term or until a successor is appointed. The present
22 members shall be continued in office until the expiration of their terms.

23 In the event a vacancy occurs during the term of office of any member of the Board of
24 Examiners, a new appointment shall be made in a manner similar to that described herein for
25 new members.

1 The membership shall consist of:

- 2 1. A registered structural engineer.
- 3 2. A registered mechanical engineer.
- 4 3. A registered electrical engineer.
- 5 4. A registered fire protection engineer.
- 6 5. A licensed general contractor.
- 7 6. A licensed architect.
- 8 7. A building trades representative.
- 9 8. As the plumbing member, a licensed plumbing contractor.
- 10 9. As the electrical member, a licensed electrical contractor.
- 11 10. As a high-rise sprinkler member, one building owner representative.
- 12 11. As a Seismic Improvement member, one tenant also a licensed or registered architect,
- 13 civil or structural engineer.
- 14 12. As a Seismic Improvement member, one property owner also a licensed or registered
- 15 architect, civil or structural engineer.
- 16 13. As a Seismic Improvement member, one registered structural engineer specializing in
- 17 seismic improvement.

18 The terms “registered” and “licensed” shall be understood to mean by the State of
19 California. The Building Inspection Commission shall make such appointments after giving
20 careful consideration to nominations made by technical associations and general contractor
21 organizations including the Consulting Engineers Association of California, the Structural
22 Engineers Association of Northern California, the San Francisco District of the Associated
23 General Contractors of California, the Plumbing and Mechanical Cooling Contractors of San
24 Francisco, the San Francisco Electrical Contractors Association, the San Francisco Chapter

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1 of the American Institute of Architects, and the San Francisco Building Trades Council. Each
2 member of the Board of Examiners shall receive compensation of \$125 per meeting attended.

3 The following shall constitute ex officio members of the Board of Examiners, without
4 vote and without compensation: The Building Official, who shall act as Secretary of the Board
5 of Examiners, and the Fire Marshal.

6 In the event a member cannot attend meetings of the Board of Examiners for a
7 period of three or more consecutive meetings due to illness, work away from San Francisco,
8 or any other valid reason, the Building Inspection Commission may appoint an alternate
9 member representing the same profession or trade as the absent member and meeting the
10 same registration or licensing requirements as the absent member. The appointment of such
11 alternate need not require solicitation of nominees from the respective organizations. The
12 alternate shall serve on the Board of Examiners until the return of the absent member or until
13 the expiration of the absent member's term, whichever comes first. The compensation
14 indicated in section 4 above shall be paid the alternate member for each meetings attended.
15 The alternate member shall, during the time of service on the Board of Examiners, have all
16 the rights, duties, and privileges of a duly appointed member of the Board of Examiners.

17 * * * *

18 Section 6. The Housing Code is hereby amended by amending Section 351, to read as
19 follows:

20 **SEC. 351. REPORT.**

21 (a) **Report of Residential Building Record Required.** Prior to the sale or exchange
22 of any residential building, except the first sale or exchange, if this occurs within one year of
23 the date of the Certificate of Final Completion of the construction of the building, the owner
24 thereof, or their authorized agent, shall obtain from the Department of Building Inspection, a
25 Report of Residential Building Record. Said report shall set forth the existing authorized

1 occupancy or use of said residential building and the other information prescribed in Section
2 351(c) herein below.

3 Such Report of Residential Building Record shall be delivered by the owner, or the
4 authorized agent of said owner, to the buyer or transferee of said residential building prior to
5 the consummation of the sale or exchange thereof, and the buyer shall file with the
6 Department of Building Inspection, a receipt therefor, on a form furnished by said Department.

7 It shall be unlawful for the owner of such residential building to sell or exchange
8 same without first having obtained and delivered to the buyer the Report of Residential
9 Building Record herein provided for.

10 In addition to the foregoing, any person licensed by the State of California to sell
11 property shall provide upon request, to any prospective buyer a copy of the Report of
12 Residential Building Record issued in the manner herein above required for any residential
13 property which the real estate broker has listed for sale.

14 (b) **Residential Building Defined.** A residential building, as used in this chapter,
15 is a building or a portion thereof containing one or more dwelling units but not including hotels
16 containing 30 or more guest rooms, or motels.

17 (c) **Contents of Report of Residential Building Record.** The Department of
18 Building Inspection shall, upon application in the manner hereinafter provided, issue a Report
19 of Residential Building Record to the owner which shall contain, in respect to said residential
20 building, the following information, insofar as ascertainable from City records:

21 (1) (a) Present authorized occupancy or use.

22 (b) Is this building classified as a residential condominium?

23 Yes _____ No _____

24 (c) Does this building contain any Residential Hotel Guest Rooms as
25 defined in Chapter 41, San Francisco Administrative Code?

- 1 Yes _____ No _____
- 2 (2) Zoning district in which located.
- 3 (3) Building Code Occupancy Classification.
- 4 (4) Do records of the Planning Department reveal an expiration date for any
5 nonconforming use of this property?
- 6 Yes _____ No _____
- 7 If yes, what date? _____
- 8 (5) Building construction date.
- 9 (6) Original occupancy or use.
- 10 (7) Construction, conversion, or alteration permits issued, if any.
- 11 (8) (a) Is there an active Franchise Tax Board Referral on file?
- 12 Yes _____ No _____
- 13 (b) Is this property currently under abatement proceedings for code
14 violations?
- 15 Yes _____ No _____
- 16 (9) Number of residential structures on property.
- 17 (10) (a) Has an energy inspection been completed?
- 18 Yes _____ No _____
- 19 (b) If yes, has a proof of compliance been issued?
- 20 Yes _____ No _____
- 21 (11) (a) Is the building in the Mandatory Earthquake Retrofit of Wood-Frame
22 Building Program.
- 23 Yes _____ No _____
- 24 (b) If yes, has the required upgrade work been completed?
- 25 Yes _____ No _____

1 On the face of the report shall appear the following note in bold 10-point type:

2 Beware. This report describes the current legal use of this property as compiled from
3 records of City Departments. There has been no physical examination of the property itself.
4 This record contains no history of any plumbing or electrical permits. The report makes no
5 representation that the property is in compliance with the law. Any occupancy or use of the
6 property other than that listed as authorized in this report may be illegal and subject to
7 removal or abatement, and should be reviewed with the Planning Department and the
8 Department of Building Inspection. Errors or omissions in this report shall not bind or stop the
9 City from enforcing any and all building and zoning codes against the seller, buyer and any
10 subsequent owner. The preparation or delivery of this report shall not impose any liability on
11 the City for any errors or omissions contained in said report, nor shall the City bear any liability
12 not otherwise imposed by law.

13 Section 7. Effective Date. This ordinance shall become effective 30 days after
14 enactment. Enactment occurs when the Mayor signs the ordinance, the Mayor returns the
15 ordinance unsigned or does not sign the ordinance within ten days of receiving it, or the Board
16 of Supervisors overrides the Mayor’s veto of the ordinance.

17 Section 8. Scope of Ordinance. In enacting this ordinance, the Board of Supervisors
18 intends to amend only those words, phrases, paragraphs, subsections, sections, articles,
19 numbers, punctuation marks, charts, diagrams, or any other constituent parts of the Municipal
20 Code that are explicitly shown in this ordinance as additions, deletions, Board amendment
21 additions, and Board amendment deletions in accordance with the “Note” that appears under
22 the official title of the ordinance.

23 Section 9. Directions to Clerk of the Board. The Clerk of the Board is directed to
24 forward this ordinance to the State Building Standards Commission after final passage, as
25 required by Health and Safety Code Section 17958.7. The Clerk is further directed to send a

1 copy of the finally-passed ordinance to the California Department of Housing and Community
2 Development for informational purposes, as required by Health and Safety Code Section
3 19165.

4 APPROVED AS TO FORM:
5 DENNIS J. HERRERA, City Attorney

6 By: _____
7 JUDITH A. BOYAJIAN
8 Deputy City Attorney

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