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**ORDINANCE NO. 2023-04**

**AN ORDINANCE OF THE ALBANY CITY COUNCIL ADDING  
SECTION 12-15 TO THE ALBANY MUNICIPAL CODE TO REQUIRE  
SEISMIC RETROFIT OF CERTAIN RESIDENTIAL BUILDINGS**

**WHEREAS**, the City of Albany (the City) is acknowledged to be subject to severe earthquakes in the foreseeable future, with a roughly 70 percent chance of a Northridge-sized earthquake (M6.7) in the next 30 years; and

**WHEREAS**, older multi-unit residential wood frame buildings with soft, weak, open, or otherwise vulnerable lower stories, sometimes known as “soft story” buildings, are acknowledged to be among the most earthquake collapse-prone structures in the City; and

**WHEREAS**, the number of “soft story” buildings in the City is estimated as 150 buildings containing 800 housing units, or as much as 11 percent of the city’s total housing stock and 24 percent of its multi-family housing stock; and

**WHEREAS**, the Albany Municipal Code and the California Existing Building Code require seismic retrofit only in exceptionally rare cases; and

**WHEREAS**, California Health and Safety Code Section 19160(n) encourages the City “to initiate efforts to reduce the seismic risk in vulnerable soft story residential buildings;” and

**WHEREAS**, development and implementation of a “soft story” retrofit program is listed as a strategy in the City’s 2018 Local Hazard Mitigation Plan and in its 2019 Strategic Plan; and

**WHEREAS**, it is acknowledged to be in the best interests of the City’s building owners, commercial and residential tenants, and all residents to apply retrofit standards that balance the benefits of reduced earthquake losses with the costs and disruptions of seismic retrofit; and

1  
2           **WHEREAS**, other Bay Area cities have implemented “soft story” retrofit programs and  
3 have identified cost-beneficial improvements and interpretations of existing model codes and  
4 standards.

5  
6           **NOW, THEREFORE, THE ALBANY CITY COUNCIL DOES ORDAIN AS**  
7 **FOLLOWS:**

8  
9 **SECTION 1: FINDINGS:**

10  
11 **A.** California Health and Safety Code Section 19161(a) authorizes the City to assess its  
12 earthquake hazard and to identify potentially seismically hazardous buildings.

13  
14 **B.** California Health and Safety Code Section 19161(b) requires such identification to be made  
15 by a licensed architect or civil engineer or by the staff of a local building department when  
16 supervised by a licensed architect or civil engineer.

17  
18 **C.** With reference to California Health and Safety Code Section 19162(b)(1), the California  
19 Building Standards Commission has published, but has not adopted, Chapter A4 of the  
20 *California Existing Building Code*, titled “Earthquake Risk Reduction in Wood-Frame  
21 Residential Buildings with Soft, Weak or Open Front Walls.” As such, the City is free to adopt,  
22 modify, interpret, and apply Chapter A4.

23  
24 **D.** With reference to California Health and Safety Code Section 19162(b)(1), the California  
25 Building Standards Commission has adopted Section 317 of the *California Existing Building*  
26 *Code*, which allows a local jurisdiction to adopt standards for earthquake evaluation and retrofit  
27 based on the national standard known as ASCE 41, titled *Seismic Evaluation and Retrofit of*  
28 *Existing Buildings*.

1 **E.** FEMA has published a procedure known as FEMA P-807, titled, *Seismic Evaluation and*  
2 *Retrofit of Multi-Unit Wood-Frame Buildings With Weak First Stories*, with model code  
3 provisions in its Appendix B. With reference to California Health and Safety Code Section  
4 19163(b), the City may adopt these provisions with an appropriate performance objective as  
5 “substantially equivalent standards” relative to CEBC Chapter A4 or ASCE 41.  
6

7  
8 **F.** California Health and Safety Code Section 19161(a)(2) identifies the buildings that are the  
9 subject of this ordinance as “potentially hazardous buildings.” *California Building Code* Section  
10 1.1.8.1 states that local ordinances and mitigation programs for such buildings are exempt from  
11 making express findings otherwise required by *California Health and Safety Code* Section  
12 19163(b) citing Section 17958.5 and Section 17958.7.

13  
14 **G.** This ordinance creates a program requiring work in certain privately owned buildings  
15 throughout the City. Implementation of the program will require tracking of compliance for  
16 potentially subject buildings, and the compliance status of each potentially subject building will  
17 be made readily accessible to the public. In developing this ordinance, City staff has compiled  
18 information, including estimates and approximations, regarding privately owned buildings that  
19 might or might not become subject buildings. Council recognizes that public disclosure of this  
20 preliminary information prior to the effective date of the ordinance and prior to confirmation  
21 through program procedures could create conflicts for building owners or between owners and  
22 tenants. Therefore, with reference to Government Code Section 6254, the Council finds and  
23 declares that building information for specific parcels or addresses compiled prior to the effective  
24 date of the ordinance may be held in confidence, and that the public interest in nondisclosure of  
25 such information clearly outweighs the public interest in disclosure.

26 **H.** Section 12-5.2 (l) of this ordinance, entitled “Eviction Protection”, is more protective than  
27 the provisions of CA Civil Code section 1946.2. Namely, this ordinance further limits the reasons  
28 for termination of residential tenancy by determining that the need to vacate any unit of a subject  
building in order to comply with this Chapter shall not be considered a just cause for eviction of

1 a tenant. Moreover, this ordinance provides for certain temporary relocation assistance where  
2 tenants are required to temporarily vacate their residential units.

3  
4 The recitals above are each incorporated by reference and adopted as findings by the City  
5 Council.  
6

7  
8 **SECTION 2: CHAPTER 12 OF THE ALBANY MUNICIPAL CODE, SECTION 12-15**  
9 **TITLED “MANDATORY SEISMIC RETROFIT OF CERTAIN RESIDENTIAL**  
10 **BULIDNGS” IS HEREBY CREATED AND ADDED**

11 **SECTION 12-15. MANDATORY SEISMIC RETROFIT OF CERTAIN RESIDENTIAL**  
12 **BUILDINGS**

13  
14 **SECTION 12-15.1. DEFINITIONS**

15 **a. Supplemental definitions.** In addition to or in place of definitions given elsewhere in this  
16 code, the following definitions shall apply for purposes of this section.

17 **Building Official.** The designated staff person authorized and responsible for implementing  
18 the California Building Code.

19 **Dwelling unit.** A single unit providing complete, independent living facilities for one or  
20 more persons, including permanent provisions for living, sleeping, eating, cooking, and  
21 sanitation; or any individual residential unit in a building with R-1 or R-2 occupancy,  
22 including short-term rental units; or any guestroom, with or without a kitchen, in either a  
23 tourist or residential hotel or motel. Any unit occupied as a dwelling unit, whether approved  
24 or not approved for such use, shall be counted as a dwelling unit.

25 **Owner.** The owner of record as shown on the last equalized assessment roll of the county.  
26 For purposes of providing notice to an owner of any action or proceeding under this section,  
27 the term owner includes the actual owner of record, or part owner, or such owner's agent,  
28 employee or other legal representative.

1  
2 **Target story.** Either (1) a basement story or underfloor area that extends above grade at any  
3 point or (2) any story above grade, where the wall configuration of such basement, underfloor  
4 area, or story is substantially more vulnerable to earthquake damage than the wall configuration  
5 of the story above; except that a story is not a target story if it is the topmost story or if the  
6 difference in vulnerability is primarily due to the story above being a penthouse or an attic with  
7 a pitched roof.  
8

9  
10 **Wood frame target story.** A target story in which a significant portion of lateral or torsional  
11 story strength or story stiffness is provided by wood frame walls.  
12

## 13 **SECTION 12-15.2. ADMINISTRATION**

14  
15 **a. Title.** Section 12-15 shall be known as “Mandatory Seismic Retrofit of Certain Residential  
16 Buildings,” may be cited as such, and will be referred to herein as “this section.”

17 **b. Intent.** This section is intended to promote public safety and welfare through a program of  
18 mandatory seismic retrofit of certain residential buildings vulnerable to earthquake damage and  
19 collapse. The program is intended to do some or all of the following: reduce earthquake-related  
20 deaths and injuries, improve the durability of the existing housing stock, facilitate post-  
21 earthquake emergency response, improve community stability, minimize displacement during  
22 retrofits and after an earthquake, and reduce the economic impacts of a damaging earthquake.

23 **c. Subject Buildings.** This section shall apply to buildings constructed or permitted for  
24 construction before January 1, 1981 or designed based on an adopted version of the 1976 or  
25 earlier edition of the Uniform Building Code, that contain three or more dwelling units, and have  
26 a wood frame target story. This section refers to any such building as a subject building.  
27  
28

1 **d. Notification.** Within 90 days of the effective date of this section, the Building Official shall  
2 send a written notice to the owner of each known subject building informing the owner of the  
3 requirement to comply with this section. Failure of the Building Official to send or provide a  
4 written notice to unidentified owners of subject buildings or to owners of buildings not known  
5 to be subject buildings shall not relieve the owner of a subject building from the requirement to  
6 comply with this section. Failure of an owner to receive a written notice shall not relieve the  
7 owner of a subject building from the requirement to comply with this section.  
8

9  
10 **e. Exemption or extension.** The owner of a subject building may apply for an exemption from  
11 the requirements of this section or for the extension of one or more deadlines. Exemption or  
12 extension may be granted for the following conditions applies:

- 13 1. A significant financial hardship related to the cost of the required work that will make it  
14 infeasible to complete construction in the required time.
- 15 2. An extension would prevent or minimize the displacement of a tenant.
- 16 3. A temporary, extreme shortage of, or price increase for, construction materials or labor.

17 To request an exemption or extension, the owner shall submit an application to the Building  
18 Official with supporting documentation. The burden is on the building owner to show that at  
19 least one of the listed conditions applies. The Building Official shall have discretion to grant or  
20 deny an exemption or extension. The Building Official may also refer the application to the  
21 Planning and Zoning Commission. If the application is referred to the Planning and Zoning  
22 Commission, the Building Official may establish procedures and application requirements. The  
23 Commission shall review the information supplied by the owner and shall make a  
24 recommendation to the Building Official.

25 **f. Design Professionals.** Unless specifically noted, all work intended to comply with this section  
26 shall be performed by appropriately licensed individuals, and all documents submitted for  
27 compliance shall be sealed by a California-licensed architect or civil engineer.  
28

1 **g. Submittals.** In addition to submittals required by other provisions of this code, the Building  
2 Official is authorized to develop, distribute, and require the use of certain forms, templates, and  
3 other tools as needed to facilitate compliance, review, approval, and records maintenance  
4 contemplated by this section. The Building Official is authorized to require separate submittals  
5 and permit applications for work required for compliance with this section and for voluntary  
6 work to be performed simultaneously.  
7

8  
9 **h. Technical bulletins and administrative regulations.** The Building Official is responsible  
10 for the administration of this section and is authorized to develop and require compliance with  
11 one or more technical bulletins and/or administrative regulations containing interpretations,  
12 clarifications, and commentary to facilitate implementation of the engineering criteria and other  
13 requirements set forth in this section.

14  
15 **i. Retention of plans.** The Building Official shall retain an official copy of any approved target  
16 story evaluation reports and retrofit design plans submitted to comply with this section.

17 **j. Public record keeping.** The Building Official shall maintain a list of subject buildings and  
18 shall make the list readily accessible to the public. The Building Official shall convey the list  
19 with a summary of the compliance status of each subject building and its parcel number to the  
20 County Clerk-Recorder once every six months.

21  
22 **k. Conformance Period.** No subject building for which permitted retrofit work is completed in  
23 compliance with this section shall be required by the City to undergo additional seismic retrofit  
24 of its seismic force-resisting system within a period of 15 years after the effective date of this  
25 section, except that any provisions in this code related to addition, alteration, repair, or change  
26 of occupancy shall still apply. Any such additional seismic retrofit requirements shall apply at  
27 the end of the conformance period, with schedule adjustments to be determined by the Building  
28 Official.

1 **I. Eviction Protection.** All provisions of California Civil Code section 1946.2 shall apply to  
2 each subject building that is required to undergo seismic retrofitting under this Chapter.  
3 However, the following additional protections shall apply as well:

- 4 1. Notwithstanding the provisions of California Civil Code Section 1946.2, and as  
5 permitted by California Civil Code Section 1946.2(g), the need to vacate any unit of a  
6 subject building in order to comply with this Chapter shall not be considered a just cause  
7 for eviction of a tenant. Moreover, if a tenant is required to temporarily vacate in order  
8 to comply with this chapter, the building owner shall either provide temporary housing  
9 to the tenant of comparable size and quality or reimburse the tenant a portion of their  
10 previously paid rent in an amount equal to the rent for the number of days that the tenant  
11 is required to vacate.  
12

13  
14 **SECTION 12-15.3. COMPLIANCE**

15  
16 **a. Scope of work for each subject building.** The owner of each subject building shall, in  
17 accordance with the schedule given in Section 12-15.3.c, complete the following compliance  
18 scope.

19 **1. Complete the screening.** The owner shall submit a screening document following  
20 procedures to be prescribed by the Building Official. Where required, the screening  
21 document shall be sealed by a California-licensed architect or civil engineer. The document  
22 shall either show that the building is not a subject building per Section 12-15.2.c or shall  
23 confirm that the building is a subject building assigned to a certain compliance tier.

24  
25 **2. Complete the structural retrofit.** The owner shall:

26 **2.1.** Obtain a building permit to retrofit the subject building in compliance with the criteria  
27 given in Section 12-15.4; and

28 **2.2.** Complete or cause to be completed all permitted construction, and obtain a certificate of  
completion.



1 Alternatively, the owner may submit to the Building Official a seismic evaluation report  
2 demonstrating compliance of each wood frame target story with the criteria given in Section  
3 12-15.4.  
4

5 **3. Submit affidavits of compliance.** The owner shall submit one or more affidavits  
6 prescribed by the Building Official confirming compliance with the required scope and with  
7 other administrative regulations.  
8

9  
10 **b. Compliance tiers.** Each subject building shall be assigned to a compliance tier as follows.

11 **Tier 1.** Subject buildings with 5 or more dwelling units shall be assigned to Tier 1, unless  
12 eligible for Tier 3.

13 **Tier 2.** Subject buildings with 3 or 4 dwelling units shall be assigned to Tier 2, unless eligible  
14 for Tier 4.

15 **Tier 3.** Subject buildings with 5 or more dwelling units, with at least one legally permitted  
16 dwelling unit or business, mercantile, or assembly occupancy in a wood frame target story,  
17 shall be assigned to Tier 3.

18 **Tier 4.** Subject buildings with 3 or 4 dwelling units, with at least one legally permitted  
19 dwelling unit or business, mercantile, or assembly occupancy in a wood frame target story,  
20 shall be assigned to Tier 4.

21 **c. Schedule.** The owner of a subject building shall comply with each of this section's  
22 requirements in accordance with the deadlines given in Table 12-15.3.c unless extended in  
23 accordance with Section 12-15.2.e. Failure to fully comply with any deadline or to receive  
24 approval of submitted materials shall not alter other applicable deadlines. In no case shall transfer  
25 of title cause any deadline to be extended.  
26  
27  
28

**TABLE 12-15.3.c. Compliance deadlines in years after the effective date of this section**

<b>Compliance Tier</b>	<b>1. Screening</b>	<b>2.1. Retrofit Permit</b>	<b>2.2. Retrofit Construction</b>	<b>3. Affidavits</b>
Tier 1	1 year	2 years	3 years	3 years
Tier 2	1 year	3 years	4 years	4 years
Tier 3	1 year	4 years	5 years	5 years
Tier 4	1 year	5 years	6 years	6 years

**SECTION 12-15.4. STRUCTURAL ENGINEERING CRITERIA**

**a. Engineering intent.** The structural criteria provided in this section have been selected as appropriate to the intent of this section. The structural retrofit criteria are expected to significantly reduce the collapse risk of subject buildings and to increase the likelihood that a subject building will be structurally safe to repair and occupy shortly after an earthquake.

The structural criteria are intended to apply to existing wood frame target stories in order to improve building performance while limiting retrofit costs and impacts. It is not the intent of this section to require mitigation of all structural deficiencies, seismic or non-seismic, that might exist within or adjacent to the building. The structural criteria might not achieve the same performance as design requirements for new buildings or any full-building retrofit objective for existing buildings.

**b. Structural seismic evaluation.** Where performed, seismic evaluation of each wood frame target story shall comply with the latest edition of *Seismic Evaluation and Retrofit of Existing Buildings* [ASCE/SEI 41] with a performance objective of Structural Life Safety with the BSE-1E hazard or Structural Collapse Prevention with the BSE-2E hazard, as interpreted by the Building Official.

1 **c. Structural seismic retrofit.** Seismic retrofit of each wood frame target story shall comply  
2 with one of the following criteria.

3  
4 **1.** Chapter A4 of the latest edition of the *California Existing Building Code*, as interpreted  
5 by the Building Official.

6  
7  
8 **2.** The latest edition of *Seismic Evaluation and Retrofit of Existing Buildings* [ASCE/SEI 41]  
9 with a performance objective of Structural Life Safety with the BSE-1E hazard or Structural  
10 Collapse Prevention with the BSE-2E hazard, as interpreted by the Building Official.

11  
12 **3.** For subject buildings qualified as historic, alternate building regulations of the 2022  
13 *California Historical Building Code*.

14  
15 **SECTION 12-15.5. APPLICATION OF OTHER PROVISIONS OF THIS CODE**

16 **a. Approval.** Except for unsafe conditions, work triggered by the required scope of work, or as  
17 specifically noted in this section, the Building Official shall not withhold approval of submitted  
18 materials for reasons unrelated to the required scope and the engineering criteria.

19  
20 **b. Green Building Measures.** Work required by this section is exempt from compliance with  
21 Green Building Measures otherwise required by City of Albany Resolution 2022-135. This  
22 exemption applies only to work expressly required for compliance with this section.

23 **c. Alteration provisions.** Prior to compliance with this section, each subject building shall be  
24 considered a substandard building per *California Health and Safety Code* Section 17920.3(o).  
25 When considering the work required by this section as an alteration, the Building Official is  
26 authorized to waive any of 2022 *California Existing Building Code Sections* 503.4 through  
27 503.12 and their successor provisions, as adopted and amended by the City of Albany.

28

1 **d. Existing building requirements.** Unless specified otherwise, work on subject buildings that  
2 is neither required by this section nor triggered by compliance with this section shall comply  
3 with all applicable provisions of this code.  
4

5 **SECTION 3: SEVERABILITY:**

6  
7 If any provision of this Ordinance or its application to any person or circumstances is  
8 held invalid, such invalidity has no effect on the other provisions or applications of the Ordinance  
9 that can be given effect without the invalid provision or application, and to this extent, the  
10 provisions of this Ordinance are severable. The City Council declares that it would have adopted  
11 this Ordinance irrespective of the invalidity of any portion thereof.  
12

13 **SECTION 4: PUBLICATION AND EFFECTIVE DATE:**

14  
15 This ordinance shall be posted at three public places within the City of Albany and shall  
16 become effective ninety days after the date of its posting.  
17

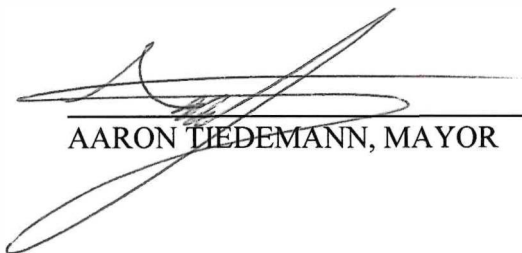
18 **PASSED AND ADOPTED** by the City Council of the City of Albany at its meeting on  
19 the 17th day of July 2023, by the following vote:

20 AYES: Council Members Hansen-Romero, Jordan, López, Miki, and Mayor Tiedemann

21 NOES:

22 ABSENT:

23 ABSTAIN:

24  
25   
26 AARON TIEDEMANN, MAYOR  
27  
28



# City of Albany

1000 San Pablo Avenue • Albany, California 94706  
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## **ORDINANCE NO. 2023-04**

PASSED AND APPROVED BY THE COUNCIL OF THE CITY OF ALBANY,

The 17th day of July, 2023, by the following votes:

AYES: Council Members Hansen-Romero, Jordan, López, Miki and Mayor

Tiedemann

NOES: none

ABSENT: none

ABSTAINED: none

RECUSED: none

WITNESS MY HAND AND THE SEAL OF THE CITY OF ALBANY, this 18th  
day of July, 2023.

Anne Hsu  
CITY CLERK