

Emeryville's Seismic Hazard Mitigation Ordinance

THIS IS THE CITY OF EMERYVILLE'S SEISMIC HAZARD MITIGATION ORDINANCE PASSED IN 1995 TO AMEND AND CLARIFY AN EARLIER ORDINANCE PASSED IN 1990. THIS ORDINANCE APPLIES ONLY TO UNREINFORCED MASONRY BUILDINGS IDENTIFIED AS POTENTIAL SEISMIC HAZARDS. THE MITIGATION MEASURES CONTAINED IN THIS ORDINANCE ARE MINIMUM MEASURES ONLY AND CANNOT BE APPLIED TO ANY BUILDING THAT IS UNDERGOING A CHANGE OF OCCUPANCY. FOR UNREINFORCED AND UNDER REINFORCED BUILDINGS UNDERGOING A CHANGE OF OCCUPANCY THE CITY HAS ADOPTED APPENDIX CHAPTER 1 OF THE INTERNATIONAL EXISTING BUILDING CODE (IEBC).

ORDINANCE 95 - 001

AN ORDINANCE OF THE CITY OF EMERYVILLE AMENDING CHAPTER 15 OF TITLE 8 OF THE EMERYVILLE MUNICIPAL CODE TO CLARIFY AND STRENGTHEN THE SEISMIC HAZARD IDENTIFICATION AND MITIGATION PROGRAM FOR UNREINFORCED MASONRY BUILDINGS

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF EMERYVILLE DOES HEREBY ORDAIN AS FOLLOWS:

SECTION ONE. PURPOSE AND INTENT. The purpose and intent of this Ordinance is to amend existing provisions regarding the City's seismic hazard identification and mitigation program for unreinforced masonry buildings.

SECTION TWO. AMENDING CHAPTER 15 OF TITLE 8 OF THE EMERYVILLE MUNICIPAL CODE Chapter 15 of Title 8 of the Emeryville Municipal Code is hereby amended to read as follows

Section 8-15-01. Purpose. The purpose of this chapter is to promote public safety by identifying those buildings in the City of Emeryville which are most susceptible to earthquake damage and to require certain mitigation measures to protect the lives of persons working and residing in Emeryville.

Section 8-15.02. Definitions. For the purposes of this chapter the following definitions shall apply:

1. "Accessory Building" is a detached subordinate building, the use of which is customarily incidental to that of the principal building or to the primary uses of the land and which is located on the same lot with the principal building or use.
2. "Civil engineer or structural engineer" means a licensed civil or structural engineer registered by the State of California pursuant to the rules and regulations set forth in Chapter 5 of Title 16 of the California Administrative Code.
3. "Diaphragm" is a horizontal or nearly horizontal system acting to transmit lateral forces to the vertical resisting elements. When the term "diaphragm" is used, it includes horizontal bracing systems.
4. "Essential building" is any building housing a hospital or other medical facility having surgery or emergency treatment areas; fire or police stations; municipal government disaster operation and communication centers.
5. "Exterior design elements" include but are not limited to parapets, cornices, masonry veneers, and any additional exterior non-structural features which are likely to fall on the public right of way during an earthquake
6. "Uniform Building Code (UBC)" is as published by the International Conference of Building Officials, Whittier, California, as adopted by the City of Emeryville.
7. "Unreinforced masonry (URM) building" means any building containing load bearing walls and/or columns constructed wholly or partially of masonry which have an area of vertical, horizontal and combined reinforcing steel less than 50 percent of that required by the 1988

Uniform Building Code, and includes but is not limited to:

1. Unreinforced brick masonry
 2. Hollow clay tile
 3. Adobe unburned clay tile
 4. Stone masonry
8. "Load bearing walls" are masonry walls having all of the following characteristics:
1. Provide the vertical support for a floor or roof.
 2. Have a total superimposed load over 100 pounds per linear foot.

Section 8-15.03. Applicability. The provisions of this chapter shall apply to all unreinforced masonry buildings in the City, and to buildings with exterior design elements which, in the opinion of the Chief Building Official, are subject to failure in the event of an earthquake.

Section 8-15.04. Exempted Unreinforced Masonry Buildings. The following buildings are exempted from complying with this chapter:

- a. Unoccupied accessory buildings on residential lots.
- b. Buildings which meet the minimum hazard reduction requirements of Section 8-15.09, and are used as warehouses with not more than 10% of the gross floor area used as office space accessory to the warehouse use. Warehouses which contain pharmaceutical supplies or hazardous materials or are used for disaster relief or emergency services are not exempt from this chapter.
- c. Buildings which have been structurally upgraded in substantial conformity to the structural standards for unreinforced masonry buildings of Appendix Chapter 1 of the Uniform Code for Building Conservation ("UCBC"), or to the force levels of the 1973 or later, edition of the UBC, or to another standard approved by the Building Official.

Section 8-15.05. Notification of Owners. Owners of buildings subject to the provisions of this Chapter shall be notified within ten (10) days of the effective date of this chapter by the Building Division of the City of Emeryville that each such building has been included in the City's list of potentially hazardous buildings, and of all of the requirements of this chapter.

Section 8-15.06. Removal from List of Potentially Hazardous Buildings. A building may be removed from the City's list of potentially hazardous buildings by demonstrating to the satisfaction of the Building Official that either:

- a. The building is exempt under the provisions of Section 8-15.04; or
- b. All of the following conditions are met:
 1. The minimum hazard reduction requirement of Section 8-15.09 has been satisfied;
 2. A seismic safety report has been prepared in accordance with section 8-15.07 herein; and
 3. That any additional mitigation work recommended in the seismic safety report has been performed and the building has been structurally upgraded to be in substantial conformity with the structural standards for unreinforced masonry buildings of Appendix Chapter 1 of the Uniform Code

for Building Conservation ("UCBC"), or to the force levels of the 1973, or later, edition of the UBC, or to another standard approved by the Building Official.

Section 8-15.07. Seismic Safety Report . Owners of buildings identified as potentially hazardous shall submit a seismic safety report to the Building Division of the City of Emeryville as follows:

a. Time Frame. Seismic safety reports shall be submitted within twelve (12) months of the effective date of this chapter, or such additional time as the Building Official deems necessary and proper.

b. Authorized Preparers. Seismic safety reports shall be prepared by a civil or structural engineer licensed by the State of California. Each seismic safety report shall bear the signature and professional registration number, including its expiration date, or the responsible engineer.

c. Purpose. The purpose of the seismic safety report shall be to evaluate the structural adequacy of the building to resist the seismic effects of earthquake, meet the standards described in subparagraph "d" hereof, and to identify any exterior design elements. The report may include a compliance plan as described in Section 8-15.08, if rehabilitation is deemed necessary. Building Standards. The building standards to be used in preparation of seismic safety reports shall be the minimum hazard reduction described in Section 8-15.09 the UCBC or the 1973 or later edition of the UBC, and any other standards accepted by the Building Official.

d. Format. The format for seismic safety reports shall incorporate the following data:

General information. The building's address, age, original use, and any subsequent changes in use or occupancy.

Configuration. A description of the building's size, shape, arrangement of structural elements, and any irregularities or discontinuities. Shall also include non-structural elements such as appendages, parapets, and veneers.

Materials. The types, ages and present conditions of all materials.

Plans of existing construction. A description of the seismic integrity of existing conditions with an adequate and appropriate degree of detail .

Calculations to check existing construction. A description of the capacities of existing resisting elements and connections and including any testing results.

Conclusions and recommendations. A description of the areas found to be deficient in their ability to withstand prescribed seismic forces. This section discuss in general terms the alternatives available for mitigation to the applicable standards of these inadequacies and recommendations for the most suitable solutions.

Section 8-15.08. Compliance Plan. If the seismic safety report for a building has identified deficiencies the owner shall submit a compliance plan for approval by the Building Official within ninety (90) days after submittal of the seismic safety report. The report shall describe how the building owner intends to approach hazard reductions of the building in addition to improvements required under Section 8-15.09 (Minimum Hazard Reduction Requirement) and when the indicated improvements will be made. Options available to the building owner to achieve hazard reduction include, but are not limited to, the following:

a. Commence the structural rehabilitation of the building to meet or exceed the seismic provisions of the engineering standards referenced in Section 8-15.07(d) above.

b. Any building which qualifies as "historical property" as determined by an appropriate governmental agency under Section 37602 of the Health and Safety Code shall be retrofitted in

accordance with the State Historical Building Code.

c. Vacate the Building. Any vacated building shall either be rehabilitated or demolished within 24 months from the date of the engineers report.

d. Demolish the building, or proportions thereof, to eliminate the potentially hazardous conditions. Any reconstruction shall be made in accordance with the design review provisions of the Zoning Code (Chapter 4 Article 9-4.84 et.seq.).

Section 8-15.09. Minimum Hazard Reduction Requirement. Owners of buildings included in the list of potentially hazardous buildings shall be required to do the following within 36 months of the effective date of this chapter: (1) to secure the roof and floor (s) to the building's walls if such attachment is lacking or declared inadequate in the seismic safety report to insure that bearing walls will transfer loads of at least 100 pounds per linear foot of wall, and (2) remove, upgrade or repair dangerous exterior design elements. The Building Official may, at his or her sole discretion, grant additional time to comply with this section.

Section 8-15.10. City's Review of Seismic Safety Reports and Compliance Plan. The Building Division shall review the documents submitted for each building identified as potentially hazardous and approve the seismic safety report and compliance plan pursuant to this chapter. Copies of approved seismic safety reports submitted shall be available to the public for inspection at the Building Division upon request.

Section 8-15.11. Interpretations. The interpretation of the Building Official shall prevail on matters relating to the implementation of this chapter.

Section 8-15.12. Appeal of Buildings Officials Determinations. Any decision made by the Building Official pursuant to this chapter may be appealed in writing to the City Manager or his/or her designee who may be a licensed civil or structural engineer. The written appeal shall include all facts relevant to the decision and reasons to support any alleged abuse of discretion by the Building Official. The City Manager may take testimony of the appellant and the Building Official and independent experts or may in his or her discretion determine the appeal based upon the written record. The decision of the City Manager or his or her designee shall be final.

Section 8-15.13. Fees and Costs of Appeal. The building owners shall pay an Engineer's Report Review fee for review of the seismic safety report as established under the master fee schedule. The amount of this fee shall be deducted from the plan checking fee collected for any building permit issued for the seismic rehabilitation of the structure. The Building owner is responsible for any fees and costs necessary for an appeal and shall also deposit, in advance of any appeal provided herein, an amount equal to the estimated cost of experts retained to testify or to determine the appeal.

Section 8-15.14. Remedies. It shall be unlawful for the owner of any building subject to this chapter to violate any provision of this chapter. The remedies that are available to the City shall include but not be limited to:

a. The City may seek injunctive relief to enjoin a building owner's violation of this chapter.

b. A building owner violating this chapter shall be guilty of a misdemeanor and, upon conviction thereof, shall be punishable by a fine of not more than Five Hundred Dollars (\$500) or by imprisonment in the County Jail for a term not exceeding six (6) months, or by both such fin and imprisonment. Such building owner shall be guilty of a separate offense for each and every day during any portion of which such violation of this chapter is committed, continued or permitted by such building owner. c. These remedies are not exclusive.

Section 8-15.15. Building Tenant Notification. Owners of each identified building shall provide each of their tenants with written notification that a seismic investigation of their building has taken place, and that the seismic safety report documenting the investigation is available for review at the Building Division. Such notification shall occur within thirty (30) days after submittal of the seismic

safety report to the Building Division.

Section 8-15.16. Notification of Owners. Owners of buildings subject to the provisions of this Chapter shall be notified by the Building Division of the City of Emeryville within thirty (30) days of the effective date of the amendments to this chapter that such buildings are on the City's list of potentially hazardous buildings, and of all of the requirements of this Chapter.

Section 8-15.17 Exemption From Subsequent Amendments. Buildings on which construction has been completed in compliance with all requirements of this Chapter existing at the date of completion shall not be declared a potentially hazardous building under standards adopted after the date of completion. This exemption from later adopted standards shall be effective for a period of 15 years from the date of completion. This exemption shall not apply to a building which no longer meets the standards under which the seismic work was completed or buildings which undergo a change of use or occupancy. For the purposes of this section "date of completion" shall refer to the date that the building is removed from the list of potentially hazardous buildings.

SECTION THREE. SEVERABILITY: The City Council hereby declares that every section, paragraph, clause, and phrase of this Ordinance is severable. If, for any reason, any section, paragraph, clause, or phrase is held to be invalid or unconstitutional, such invalidity or unconstitutionality shall not affect the validity or constitutionality of the remaining sections, paragraphs, clauses or phrases.

SECTION FOUR. EXEMPTION FROM CEQA. The City Council finds, pursuant to Title 14 of the California Administrative Code, Sections 15061(b)(3) and 15378(a), that this Ordinance is exempt from the requirement of the California Environmental Quality Act (CEQA) because it is not a Project which has the potential to cause a significant effect on the environment. This action is also exempt under the definition of Project in Section 15378(b)(3) in that it concerns general policy and procedure making. The Council therefore directs that a Notice of Exemption be filed with the Alameda County Clerk.

SECTION FIVE. EFFECTIVE DATE AND POSTING. This Ordinance shall take effect thirty (30) days following its final passage. The City Clerk shall cause copies of this Ordinance to be posted or published pursuant to the requirements of Government Code section 36933.

SECTION SIX. CODIFICATION. Section Two of this Ordinance shall be codified in the Emeryville Municipal Code. Sections One, Three, Four, Five and Six shall NOT be codified.