



# City of Culver City

## Staff Report Details (With Text)

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**Title:** CC - CONTINUED PUBLIC HEARING FROM AUGUST 23, 2021 MEETING: (1) Introduction of an Ordinance Amending Chapter 15.02 of the Culver City Municipal Code by Adding Subchapter 15.02.500, Mandatory Seismic Strengthening Provisions for Existing Wood-Frame Buildings with Soft, Weak or Open-Front Walls (Soft Story Seismic Retrofit); (2) Discussion of Fees, Costs to Owners, and Tenant Pass-Throughs; and (3) Direction to the City Manager as Deemed Appropriate

**Sponsors:**

**Indexes:**

**Code sections:**

**Attachments:** 1. 2021\_09\_13\_ATT No. 1\_Degenkolb Survey of Wood SWOF (Soft Story) Buildings and Recommendations.pdf, 2. 2021-09-13\_ATT\_Proposed Ordinance Soft Story Retrofit.pdf, 3. 2021-09-13\_ATT\_Public Notification.pdf

Date	Ver.	Action By	Action	Result
9/13/2021	1	City Council Meeting Agenda		
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**Meeting Date:** September 13, 2021

**Contact Person/Dept:** Sol Blumenfeld / CDD  
Lukas Quach / Building Safety

**Phone Number:** (310) 253-5700  
(310) 253-5802

**Fiscal Impact:** Yes  No       **General Fund:** Yes  No

**Public Hearing:**       **Action Item:**       **Attachments:**

**Planning Commission Action Required:** Yes  No       **Date:**

**Public Notification:** Public Notification: (E-Mail) Meetings and Agendas - City Council (09/08/2021); (Posted); Gov Delivery (7/28/2021, 8/5/21 and 8/20/21); (Published) Culver City News

(7/15/2021 and 7/22/2021).

**Department Approval:** Sol Blumenfeld, Community Development Director (08/17/2021)

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## **RECOMMENDATION**

Staff recommends the City Council conduct a public hearing and (1) introduce an Ordinance Amending Chapter 15.02 of the Culver City Municipal Code by adding Subchapter 15.02.500 "Mandatory Seismic Strengthening Provisions for Existing Wood-Frame Buildings with Soft, Weak or Open-Front Walls (Soft Story Seismic Retrofit); (2) further discuss related matters including fees, costs to owners, and tenant pass-throughs; and (3) provide direction to the City Manager as deemed appropriate.

## **PROCEDURE:**

### **The following procedures were completed at the meeting of August 9, 2021:**

1. The City Council adopted a motion to receive and file the affidavits of publication and posting of notices, and correspondence received in response to the public hearing notices; and,
2. The City Council opened the public hearing to take any public comment (no public comment was received) and continued the matter to August 23, 2021.

### **The following procedures were completed at the meeting of August 23, 2021:**

1. After determining there was no public comment, the City Council further continued the public hearing to September 13, 2021.

### **The following procedures are to completed at the meeting of September 13, 2021:**

1. Mayor calls for a staff report, and the City Council Members may pose questions to staff as desired; and,
2. The Mayor announces the public hearing was opened on August 9<sup>th</sup>, was continued to August 23<sup>rd</sup>, and further continued to the meeting of September 13<sup>th</sup>.
3. The City Council receives public comment.
4. Mayor seeks a motion to close the public hearing after all public testimony has been presented; and,
5. The City Council discusses the item and arrives at its decision.

## **BACKGROUND/DISCUSSION**

At the July 12, 2021 City Council meeting, staff presented a draft Soft-Story Seismic Retrofit Ordinance (Ordinance) for discussion and obtained direction regarding the scope, prioritization, timeframe and staffing necessary for Ordinance implementation. Staff noted the scope of the draft

ordinance involved approximately 400 multi-family buildings potentially categorized as having a soft-story deficiency (see Attachment 1). The proposed Ordinance (Attachment 2) would improve public safety by requiring structural retrofit of soft-story structures to reduce the risk of collapse in an earthquake and protect the public safety. Approximately 80% of the of the identified buildings were constructed prior to the development of stricter building code standards in 1978.

City Council was asked to consider seven issues:

1. A five-year implementation timetable - Council majority approved.
2. Ordinance focus on multifamily residential and commercial properties - Council majority approved.
3. Parking stall width reductions related to seismic retrofits resulting in non-conforming parking - Council majority approved
4. Nonconforming Parking Ordinance amendment to address seismic retrofit - Council majority approved
5. Staffing impacts related to plan check and inspections for seismic retrofits (either limited term or contract staff)- Council majority directed staff to study potential for bringing on “permanent” staff for up to five years (to implement the program).
  - A fulltime senior plan check staff engineer would need to allocate a majority of time to the seismic retrofit projects. There will also be an increase in inspections demand as a result of the retrofitting requirement. Based on estimated plan check and permit fees, for the 5 years of the program with approximately 400 buildings, the total estimate fees collected would be \$1.5M, averaging \$300,000 per year. This revenue would be offset by the General Fund expenditures of one (1) additional plan check engineer (\$143,340) and one (1) additional building inspector (\$116,500).

Staff also surveyed neighboring cities such as, West Hollywood, and found additional fiscal impacts to consider during development and implementation. Such additional impacts include staffing to assist with outreach, implementation, permitting systems GIS updates, and technical inquiries. Staff estimates that \$75,000 (600 hours at \$125 per/hr. average) in contract consultant services is necessary in the first year only to start the implementation of the Ordinance.

Additionally, the adoption of the Seismic Retrofit Ordinance will increase the workload for the Housing Division. Forms, application, review process and enforcement measures such as the Tenant Impact Mitigation Plan will need to be developed to ensure compliance with the recently adopted Tenants Protections Ordinance and the Rent Control Ordinance. Staff estimates that an additional \$75,000 in augment staffing per year is needed to meet this demand. The City can recover this cost and other associated costs with the implementation of new fees for services via a new fee study currently being coordinated with the Finance Department.

Upon the adoption of the Soft-Story Seismic Retrofit Ordinance, Staff will return to Council with a budget amendment request totaling \$1,750,000 for additional program cost and new positions as outlined herein.

6. Financial assistance and Pass-thru cost sharing - The City Council directed staff to further

research cost sharing, state funding or financial assistance and review criteria for cost sharing to manage cost impacts as part of the Rent Control Ordinance. Council also asked that staff examine related workflow in the Housing Division including management of back rent payoff, not just pass-thru of costs and the possibility of varying the pass thru based upon the value of the tenant lease(s).

- **Cost sharing** - Cost sharing is permitted under the Rent Control Ordinance (RCO) for up to 50% of the capital cost. The criteria for cost sharing noted under the RCO under CCMC Section 15.09.225 which allows pass thru cost for owners of up to 50% of the eligible capital improvement project, passed thru to the tenant and amortized over the useful life of the improvement, with an aggregate cap of the pass thru costs not to exceed 3% of the tenant's rents.

Staff researched what other cities with rent stabilization ordinances have done with the cost sharing aspect of the mandatory seismic retrofit requirements. Below are summaries of various cities' policies based on online searches and review of a study by Keyser Marston Associates for the City of West Hollywood.

- The City of Los Angeles limits pass-through costs to 50% of the retrofit costs, with a maximum increase of \$38 a month for a period of no more than 10 years.
- The City of San Francisco has a similar program that allows a building owner to pass through 100% of the retrofit costs over 20 years, with a limit set at 10% of the monthly rent or a maximum of \$30.
- In Berkeley, the seismic retrofitting ordinance prohibits property owners from passing-through any retrofitting costs to tenants. However, property owners may apply for permission from the Rent Control Board to pass-through costs for projects where the majority of tenants have resided in the project since before 1999.
- The Beverly Hills Municipal Code (BHMC) rent stabilization provisions currently allow property owners to recover all or a portion of a permanent improvement made to the building. For Chapter 5 tenants (less than 3%), the Code allows a capital expenditure surcharge to be added to the apartment unit rent in accordance to the provisions found in BHMC section 4-5-305. For Chapter 6 tenants, the BHMC allows a greater maximum annual rent increase limit as compared to a Chapter 5 tenant. The maximum permissible rent increase is ten percent (10%), with only one (1) rent increase permissible within any twelve (12) month period according to the provisions of BHMC section 4-6-3. Chapter 5 (for tenancies that started at \$600 or below) and Chapter 6 (all the rest of the multifamily rental units in properties of two or more units). About 97% of households that rent multifamily housing fall under Chapter 6 and the remaining 3% fall under Chapter 5
- The City of West Hollywood currently does not allow pass through for rent stabilized properties. However, property owners may file a request for a rent increase if the property owner believes costs of completing the retrofit will

exceed the net operating income for their property.

- In Santa Monica, when seismic retrofitting ordinance was adopted in 1994, property owners were allowed to pass-through 100% of the costs to the tenants. In 1995, it limited the pass-through to 50% of the costs. In 2014 the pass-through provision was eliminated, but owners can petition the Rent control Board for rent increase based on the principle of fair return to property owners. Fair return is defined by Santa Monica Rent Control as a net operating income (NOI) in a 12-month period that is not below the NOI for the property in 1978 adjusted for inflation. There have not been many petitions to raise rents based on the owner not making a fair return based upon NOI.

A majority of the buildings identified as vulnerable contain six or fewer dwelling units, the cost of retrofit is disproportionately borne by this type of building and may present some degree of financial difficulty for smaller (“Mom and Pop”) rental income properties based on the typical rental revenue stream associated with small rental properties, particularly those which are subject to the City’s recent rent cap. As a result, if the City Council determines to move forward with considering the implementation of a soft-story retrofit program, it may want to also consider whether to allow property owners to pass through a larger portion of the retrofit costs to tenants over some amortized period. Such a modification to the allowable pass-through for retrofit costs would require an amendment to the Rent Control Ordinance.

- **Financial Assistance** - At City Council’s direction, Staff researched the possible funding options to assist property owners with the retrofit of their buildings. After contacting other cities that are developing seismic retrofit programs and reviewing a report from the City of Los Angeles, it was concluded that there are very limited resources available at this time on both the state and federal level with regard to financing seismic upgrades.

Currently the City of San Francisco, Berkeley, City of Los Angeles, and Santa Monica have opted into Property Assessed Clean Energy (PACE) programs which provide seismic retrofit financing to property owners. Most recently, in August of 2016, the City of West Hollywood made PACE financing available. PACE financing allows a participating property owner to repay the cost of retrofit improvements through an assessment levied against their properties which is payable on property tax bills. A lien is filed against the property as security until the assessment is repaid. The assessment remains with the property until the assessment is repaid. As a participant in the JPA (Joint Power Authority), the city would not be obligated to repay the bonds issued by the Authority or collect or pay the assessments levied on the participating properties. For Culver City property owners to participate in the PACE program, the City would need to pass a resolution joining the JPA and authorizing the PACE program to take place in the City Culver.

More recently, the CalCAP/Seismic Safety Capital Access Loan Program became available. This program helps California small businesses and residential building owners with financing seismic retrofits by offering loss reserve protections to lenders that underwrite the costs of property improvements. CalCAP is administered through the State of California Pollution Control Financing Authority. Property owners can

secure finance through this program independent of City assistance.

Another potential financial assistance option is the federal funding for hazard mitigation through FEMA and Cal OES. FEMA has grant opportunities that Cities can apply, but the application process is lengthy, a year to two to complete. Currently FEMA's priority in California is for Fire Hazards and the City is required to participate in the share cost of typically 25%. Funds may be applied to city administration/implementation costs and/or property owners, but they do not apply retroactively. As it is a specialize undertaking, the City would need consultants to apply and administer if awarded. Staff will continue to explore this and other potential finance options at Council direction.

7. Building Permit/Plan Check fee waivers - Council majority requested additional study, outlined below.

Some community members have requested that the city assists in some of the cost by waiving the plan check and permitting fees. The purpose of plan check and permit fees is for the city to recover the cost of providing the service of ensuring the design and the construction of the retrofit comply with the Ordinance. Staff estimates plan check and permitting fees to be approximately five to ten percent of the declared construction valuation cost. On the low end, the total fees for reviewing plans and inspecting the retrofit of 393 soft-story buildings is therefore estimated to be \$1.5 million dollars. Based on staff's research, most neighboring cities require the payment of plan check and permitting fees to recover the cost for providing timely plan reviews and inspections.

Given the amount of work, it is anticipated that plan review work and inspections will be performed by contract consultants, or additional in-house staff will be significant. Therefore, staff is recommending that plan check and permitting fees not be waived to mitigate the impact on the General fund. Although identified as a "fee waiver", the waiver is actually a shifting of costs. Staff time expended in the review of plans for the retrofit of a privately-owned building and subsequent staff time attributed to inspection of the seismic retrofit work, costs the City in salary, benefits and overhead, which are paid for by the General Fund. While staff expends time providing these services to private owners, the benefited private owners do not reimburse the General Fund with commensurate permit fees if those fees are waived or reduced.

The City of Santa Monica originally implemented a fee waiver program to promote seismic retrofit compliance, however, in 2014, it eliminated the program, citing that it had not been an effective incentive. However, some cities do have some reductions in fees to help with the costs of plan check and permitting as well serving as an incentive for timely compliance.

Below are summaries of some of the fee strategy employ by various cities:

- As an incentive for owners to complete the retrofit earlier, the City of Beverly Hills would refund the permit fees of 100% and 50% for those who completed their required retrofit by with 18 and 24 months, respectively of receiving the Notice to Comply.

- A 25% reduction in permit fee is allowed for seismic retrofit work in the City of West Hollywood.
- The City of Fremont has similar incentive by waiving plan check and permit fees for properties that completed their retrofit within the mandated timeframe.
- The Cities of San Francisco, Berkeley and Alameda offer flat or waived plan check fees for owners who retrofit their buildings.
- The City of Palo Alto allows owners of impacted properties to expand the building's floor area if seismic upgrades are performed. The city also exempts these projects from onsite parking requirements and fees for the provision of off-site parking.

The proposed Ordinance is being considered at the September 13, 2021 City Council meeting for introduction. If the proposed Ordinance is introduced, the Ordinance will be brought back for adoption, along with a Resolution of Local Findings, as required by state law.

## **FISCAL ANALYSIS**

The introduction of the proposed Ordinance does not create a fiscal impact. However, if adopted, there will be City overhead costs for implementing the Soft Story Ordinance that may be offset through the plan check and permit process.

1. Implementation - \$75,000 - consultants services to assist with outreach, implementation, permitting systems GIS updates, and technical inquiries
2. Staff for 5 years - one (1) plan check engineer (\$143,340) and one (1) building inspector (\$116,500) per year.
3. Impact on CDD/Housing Division - \$75,000 per year. Forms, application, review process and enforcement measures such as the Tenant Impact Mitigation Plan will need to be developed to ensure compliance with the recently adopted Tenants Protections Ordinance and the Rent Control Ordinance. This annual expense can be offset with the implementation of new fees for the review and enforcement of these Ordinances

There are also cost impacts for impacted property owners that may be mitigated with some of the measures discussed above. Should the City Council decide to reduce or waive plan review and permit fees, the impact to the General fund will be proportional to the percentage of the \$1.5M estimated fee.

Upon the adoption of the Soft-Story Seismic Retrofit Ordinance, Staff will return to the City Council with a budget amendment request for additional program cost and new positions as outlined herein, if required.

## **ATTACHMENTS**

1. 2021-09-13\_ATT\_Degenkolb Survey and Findings

2. 2021-09-13\_ATT\_ Proposed Soft Story Seismic Retrofit SWOF Ordinance
3. 2021-09-13\_ATT\_Proof of Publication of Notice

## **MOTIONS**

That the City Council:

1. Introduce an Ordinance amending Chapter 15.02 of the Culver City Municipal Code by adding Subchapter 15.02.500 "Mandatory Seismic Strengthening Provisions for Existing Wood-Frame Buildings with Soft, Weak or Open-Front Walls (Soft Story Seismic Retrofit);
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