

1 [Seismic strengthening of soft-story, wood-frame buildings.]

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3 **Ordinance finding a compelling public policy basis for expediting the processing and**
4 **review of permits for voluntary seismic retrofit upgrades of soft-story, wood-frame**
5 **buildings and amending the Planning Code, Building Code, Fire Code, and Public**
6 **Works Code to waive permit processing fees for the proportionate share of work**
7 **related to such seismic retrofit upgrades; making environmental findings and findings**
8 **of consistency with the City's General Plan and Planning Code Section 101.1.**

9 Note: Additions are *single-underline italics Times New Roman*;
10 deletions are *strikethrough italics Times New Roman*.
11 Board amendment additions are double underlined.
Board amendment deletions are ~~strikethrough normal~~.

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

13 Section 1. City Policy Concerning Seismic Retrofit Upgrades for Soft-story, wood-
14 frame Construction.

15 (a) Findings. (1) Soft-story, wood-frame buildings are structures where the first story
16 is substantially weaker and more flexible than the stories above due to lack of walls or
17 moment-resisting frames at the first floor and a significant number of walls in the floors above.
18 Typically, these are apartments and condominiums that have parking or open commercial
19 space – for businesses such as restaurants or grocery stores – on the first floor, which makes
20 the first story “soft” and likely to lean or collapse in earthquakes. As a consequence, such
21 buildings are highly vulnerable during seismic events, as the City witnessed during the Loma
22 Prieta earthquake in 1989.

23 (2) The San Francisco Department of Building Inspection (DBI) is responsible for
24 enforcing the San Francisco Building Code and serves the City and County, and the general
25 public, by ensuring that life and property within the City is safeguarded. DBI fulfills its

1 responsibilities through plan check review of construction documents; the issuance of permits;
2 the inspection of construction as stipulated by permits; and through code enforcement
3 procedures that compel property owner compliance and that may include prosecution of code
4 violations. DBI and its governing body, the Building Inspection Commission, also provide a
5 public forum for community involvement in permit review, approval and enforcement
6 processes.

7 (3) DBI has initiated the Community Action Plan for Seismic Safety (CAPSS) initiative
8 to better understand the types of buildings in San Francisco that are most vulnerable to
9 seismic events and recommend measures, including legislation to retrofit and improve the
10 public safety related to soft-story, wood-frame buildings. The CAPSS recently completed
11 identification of one type of soft-story wood-frame buildings in San Francisco and their
12 location; evaluated a range of vulnerability factors; and designing retrofit options and costs, all
13 while engaging and alerting the public to make property owners and tenants aware of
14 potential seismic vulnerabilities. The CAPSS initiative completed its seismic soft-story report
15 in February 2009 and recommended to the Mayor elements to include in a seismic
16 strengthening ordinance for vulnerable soft-story wood-frame buildings.

17 (4) In furtherance of this effort and other City actions to ensure and enhance public
18 protection during seismic events, Mayor Newsom, on July 7, 2008, issued Executive Directive
19 No. 08-07 concerning seismic strengthening of soft-story, wood-frame buildings. Said
20 Directive is on file with the Clerk of the Board of Supervisors in File No. _____ and
21 is incorporated herein by reference.

22 (5) The public and media outlets share in the concern of the City's elected and
23 appointed officials that City government do all that it can to significantly expand and
24 accelerate ongoing efforts to ensure the safety of life and property in the City and County of
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1 San Francisco. Such concern is demonstrated in articles such as those of the New York
2 Times dated February 21, 2009 and San Francisco Chronicle, dated February 13, 2009,
3 January 22, 2009, and June 29, 2008, and other media coverage promoting voluntary retrofits
4 as an immediate action. Said articles are on file with the Clerk of the Board of Supervisors in
5 File No. _____ and are incorporated herein by reference.

6 (6) On January 21, 2009, at a duly noticed public hearing, the Building Inspection
7 Commission reviewed, approved, and recommended to Mayor Newsom, the CAPSS report
8 entitled, Here Today – Here Tomorrow: Earthquake Safety for Soft-Story Buildings. Said
9 report is on file with the Clerk of the Board of Supervisors in File No. _____ and is
10 incorporated herein by reference. The Department finalized said report, which included
11 various recommendations for City actions to address soft-story buildings, and delivered it to
12 the Mayor on February 20, 2009.

13 (7) As a consequence of this public concern on the vulnerability of soft-story buildings
14 to seismic events, during the pendency of the abovementioned CAPSS process and the City's
15 ability to implement one or more of the recommendations of the CAPSS report on soft-story
16 buildings , and in response to Mayor Newsom's Executive Directive No. 08-07, the City should
17 encourage residents and property owners to voluntarily perform seismic retrofit upgrades for
18 soft-story, wood-frame buildings.

19 (8) The intent of this legislation is to provide such encouragement through specified
20 permit fee waivers and permit expediting in the near term, while the City develops and
21 implements long-range strategies, including legislation, to address this issue.

22 (9) The City further declares, as a matter of public policy, that if properties owners take
23 advantage of this voluntary program and complete the seismic retrofit upgrade within the
24 permitted time frame, such projects would be exempt for 15 years from compliance with any
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1 subsequent CAPSS-related legislation that imposes mandatory seismic retrofit upgrades for
2 soft-story, wood frame buildings.

3 (b) (1) In accordance with San Francisco Campaign and Governmental Conduct Code
4 Section 3.400(b), the City hereby finds there is a compelling public policy basis to expedite the
5 review and permitting process for projects where the scope of work includes voluntary seismic
6 retrofit upgrades to a soft-story, wood-frame buildings, as defined by the Director of the DBI
7 (the "Building Official"). The Ethics Commission, Building Official, Director of Planning, Fire
8 Marshal, Director of Public Works, and directors of other affected departments are urged to
9 amend their respective codes of conduct for permit processing to reflect this City policy.

10 (2) To assist the public and City departments in ascertaining what types of structures
11 can take advantage of this voluntary program and the seismic retrofit necessary to qualify, the
12 Department of Building Inspection will issue an Administrative Bulletin on the definition of soft-
13 story and the design criteria for seismic upgrades. A draft of said Bulletin is on file with the
14 Clerk of the Board of Supervisors in File No. _____ and is incorporated herein by
15 reference. The Building Inspection Commission, at a duly notice public hearing on
16 _____, 2009, reviewed and approved said Bulletin.

17 (3) On _____, 2009, the Building Inspection Commission held a duly noticed
18 public hearing on this legislation and recommended its approval to the Board of Supervisors.

19 Section 2. Environmental findings and findings of consistency with the City's General
20 Plan.

21 (a) Pursuant to Planning Code Section 302, this Board of Supervisors finds that this
22 Ordinance will serve the public necessity, convenience and welfare for the reasons set forth in
23 Planning Commission Resolution No. _____, and incorporates those reasons
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1 herein by reference. A copy of said Planning Commission Resolution is on file with the Clerk
2 of the Board of Supervisors in File No. _____.

3 (b) The Board of Supervisors finds that this ordinance is, on balance, consistent with
4 the General Plan and the Priority Policies of Planning Code Section 101.1(b) for the reasons
5 set forth in Planning Commission Resolution No. _____, and
6 incorporates those reasons herein by reference.

7 (c) The Planning Department has completed environmental review of this ordinance
8 pursuant to the California Environmental Quality Act ("CEQA"), the CEQA Guidelines, and
9 Chapter 31 of the San Francisco Administrative Code. Documentation of that review is on file
10 with the Clerk of the Board of Supervisors in File No. _____ and is
11 incorporated herein by reference.

12 Section 3. The San Francisco Planning Code is hereby amended by amending Section
13 355, to read as follows:

14 SEC. 355. PERMIT APPLICATIONS.

15 (a) Building permit applications for a change in use or alteration of an existing
16 building, to be collected by Central Permit Bureau; provided, however, that the fees charged
17 for Planning Department approval over-the-counter for the replacement of windows, roofs,
18 siding, and doors shall be reduced to 1/2 the fee set forth below.

19 TABLE INSET:

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Estimated Construction Cost	Initial Fee
\$0.00 to \$9,999.00	\$305.00

1	\$10,000.00 to	\$306.00 plus 3.196% of cost over \$10,000.00
2	\$49,999.00	
3	\$50,000.00 to	\$1,585.00 plus 2.136% of cost over \$50,000.00 plus
4		
5	\$99,999.00	Categorical Exemption Stamp Fee
6	\$100,000.00 to	\$2,654.00 plus 2.337% of cost over \$100,000.00 plus
7		
8	\$499,999.00	Categorical Exemption Stamp Fee
9	\$500,000.00 to	\$12,003.00 plus 0.591% of cost over \$500,000.00 plus
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11	\$999,999.00	Categorical Exemption Stamp Fee
12	\$1,000,000.00 to	\$14,959.00 plus 0.232% of cost over \$1,000,000.00 plus
13		
14	\$4,999,999.00	Categorical Exemption Stamp Fee
15	\$5,000,000.00 to	\$24,240.00 plus 0.004% of cost over \$5,000,000.00 plus
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17	\$99,999,999.00	Categorical Exemption Stamp Fee
18	\$100,000,000.00 or	\$28,041.00 plus \$81.00 Discretionary Review Surcharge
19		
20	more	

21 (1) Applications with Verified Violations of this Code: The Planning Department shall
22 charge time and materials as set forth in Section 350(c).

23 (2) Back-Check Fee for Permit Revisions: \$191.00 for the initial fee, plus time and
24 materials as set forth in Section 350(c), to be collected at time of permit issuance.

1 (3) Shadow Impact Fee for New Construction or Alteration Exceeding 40 Feet in
2 Height (Section 295): Additional \$438.00 plus time and materials as set forth in Section
3 350(c).

4 (4) Public Notification Fee for Projects Requiring Public Notice Pursuant to Section
5 311: \$45.00, plus \$3.03 per envelope (subject to increase based on envelope and postage
6 costs). The City's reprographics department will print and mail public notices.

7 (5) Public Notification Fee for Projects Requiring Public Notice Pursuant to Section
8 312: \$45.00, plus \$0.89 per envelope (subject to increase based on envelope and postage
9 costs). The City's reprographics department will print and mail public notices.

10 (6) For projects with a construction cost of \$100,000,000.00 or more, the applicant
11 shall be charged the permit fee for a project with a \$100,000,000.00 construction cost.

12 (7) Permits for solar panels and over-the-counter permits for solar equipment
13 installation shall be \$129.00 per permit.

14 (8) Permit review fees shall be waived for seismic upgrade work on soft-story buildings, as
15 defined by the Department of Building Inspection in its Administrative Bulletin. These fees will be
16 waived only if a proposal to retrofit a building triggers Planning Department review. The fee waiver
17 shall not apply to other components of work that may be included in the application.

18 (b) Building Permit Applications for a New Building:

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Estimated Construction Cost	Initial Fee
\$0.00 to \$99,999.00	\$1,734.00, plus \$81.00 Discretionary Review Surcharge and \$267.00 Categorical Exemption Stamp Fee

1 2 3	\$100,000.00 to \$499,999.00	\$1,735.00 plus 2.337% of cost over \$100,000.00 plus \$81.00 Discretionary Review Surcharge and \$267.00 Categorical Exemption Stamp Fee
4 5 6	\$500,000.00 to \$9,999,999.00	\$11,084.00 plus 0.746% of cost over \$500,000.00 plus \$81.00 Discretionary Review Surcharge and \$267.00 Categorical Exemption Stamp Fee
7 8 9	\$1,000,000.00 to \$4,999,999.00	\$14,815.00 plus 0.287% of cost over \$1,000,000.00 plus \$81.00 Discretionary Review Surcharge and \$267.00 Categorical Exemption Stamp Fee
10 11 12	\$5,000,000.00 to \$99,999,999.00	\$26,296.00 plus 0.005% of cost of \$5,000,000.00 plus \$81.00 Discretionary Review Surcharge and \$267.00 Categorical Stamp Fee
13 14 15	\$100,000,000.00 or more	\$31,047.00 plus \$81.00 Discretionary Review Surcharge and \$267.00 Categorical Exemption Stamp Fee

16 (c) Demolition Applications, to be collected by Central Permit Bureau: \$1,351.00.

17 (d) Fire, Police, Entertainment Commission, State Alcohol and Beverage Control and
18 Health Department Permit Applications Referral Review: \$114.00 initial fee collected by the
19 other Departments in conjunction with current fee collections, plus time and materials as set
20 forth in Section 350(c).

21 (e) Sign Permit Applications, to be collected by Central Permit Bureau: \$119.00.

22 Section 4. The San Francisco Building Code is hereby amended by amending Section
23 107A.3, to read as follows:

1 Sec. 107A.3. Plan Review Fees. (a) When submittal documents are required by
2 Section 106A.3.2, a plan review fee shall be paid at the time of filing an application for a
3 permit for which plans are required pursuant to Section 106A.3.2. Said plan review fee shall
4 be based on the valuation determined by Section 107A.1. See Section 110A, Table 1A-A –
5 Building Permit Fees – for applicable fee.

6 The plan review fees specified in this section are separate fees from the permit
7 issuance fees specified in Section 107A.2 and are in addition to the permit fees.

8 When submittal documents are incomplete or changed so as to require additional plan
9 review or when the project involves deferred submittal items as defined in Section 106A.3.4.2,
10 an additional plan review fee shall be charged as shown in Section 110A, Table 1A-B – Other
11 Building Permit and Plan Review Fees.

12 (b) If a project involves voluntary seismic retrofit upgrades to soft-story, wood-frame buildings,
13 as defined by the Building Official, the applicant for said project shall be exempt from the
14 proportionate share of plan review fees specified under this Chapter that is related to such retrofit
15 work, provided all permit conditions and timelines are met.

16 Section 5. The San Francisco Fire Code is hereby amended by adding Section 112.21
17 of Appendix Chapter 1, to read as follows:

18 Sec. 112.21. Notwithstanding the fees established herein, if a project involves voluntary
19 seismic retrofit upgrades to soft-story, wood-frame buildings, as defined by the Director of the
20 Department of Building Inspection, such project applicant shall be exempt from the proportionate
21 share of plan review fees specified herein that is related to such retrofit work.

22 Section 6. The San Francisco Public Works Code is hereby amended by amending
23 Section 723.2, to read as follows:

24 Sec. 723.2. MINOR SIDEWALK ENCROACHMENTS.
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1 (a) The Director of Public Works may grant permission, revocable at his or her will, to
2 an owner of property abutting any court, alley or street to install and maintain minor
3 encroachments such as fences, retaining walls, steps or stairways and other minor structures
4 in the sidewalk fronting such property where such encroachments are desirable or convenient
5 in conjunction with the owner's use and enjoyment of the property, or required for the safety,
6 convenience and comfort of the public using the sidewalk.

7 (b) Such encroachments shall not occupy more than 10 percent of the area of the
8 sidewalk fronting the property nor more than 25 percent of the width of the sidewalk, unless
9 the Director of Public Works determines that such restrictions are not applicable due to the
10 nature of the encroachment. The Director may require further restrictions or modifications and
11 impose such conditions as he or she deems necessary. No advertisement shall be permitted
12 on the encroachments.

13 (c) In considering the issuance of permits under the provisions of this Section, the
14 Director of Public Works shall give due regard to the location, neighborhood pattern,
15 anticipated pedestrian traffic, access requirements of the Fire Department, and to the
16 convenience and necessities of the owners, occupants or tenants of offices, stores or shops in
17 the vicinity.

18 (d) The owner of the real property or the owner's authorized agent applying for a
19 permit under the provisions of this Section shall agree to hold harmless the City and County of
20 San Francisco, its officers, agents, and employees, from any damage or injury caused by
21 reason of the installation or maintenance of the encroachment in the sidewalk, and the owner
22 or owners or subsequent owner or owners of the respective real property shall be solely liable
23 for any damage or loss occasioned by any act or neglect in respect to the installation or
24 maintenance of the encroachments in the sidewalk.

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1 (e) Each permit issued under the provisions of this Section shall not become effective
2 until the permit has been signed by the owner or the owner's authorized agent and a copy
3 thereof has been recorded in the office of the Recorder of the City and County of San
4 Francisco; provided, however, that within 15 days following the approval, denial or revocation
5 of a permit by the Director, any person may file a notice of appeal with the Board of Appeals.
6 In the alternative, when the encroachment is related to building construction, rehabilitation or
7 maintenance, any person may appeal the encroachment permit decision to the Building
8 Inspection Commission. A person waives his or her right to appeal to the Building Inspection
9 Commission encroachment permit decisions relating to building construction, rehabilitation or
10 maintenance by instead filing the appeal with the Board of Appeals. No encroachment permit
11 decision may be appealed to both bodies.

12 (f) For purposes of this Section, an encroachment permit is related to building
13 construction, rehabilitation or maintenance when the object of the encroachment permit
14 affects the applicant's ability to construct, repair or maintain the building.

15 (g) Pending decision by the Board of Appeals or the Building Inspection Commission,
16 the permit decision by the Director shall be suspended.

17 (h) Before issuance of the permit, the applicant shall be required to pay to the
18 Department of Public Works a fee as set forth in Section 2.1.1 et seq. and a public right-of-
19 way occupancy assessment fee as set forth in subsection (k).

20 (i) Nothing in this Section shall be construed as authorizing the Director of Public
21 Works to grant permit for any encroachment which he or she determines to be inimical to the
22 health, welfare, safety and best interest of the general public, or in violation of the Charter or
23 laws of the City and County of San Francisco or laws of the State of California.

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1 (j) The Board of Appeals or the Building Inspection Commission may affirm, reverse
2 or modify any permit decision made by the Director of Public Works under the provisions of
3 this Section. The decision by the Board of Appeals or the Building Inspection Commission is
4 final.

5 (k) The Board of Supervisors reserves the right to exact a public right-of-way
6 occupancy assessment fee for the use of the sidewalk or other public right-of-way space
7 permitted under the provisions of this Section.

8 (1) In accordance with Subsection (k) the public right-of-way occupancy assessment
9 fee for minor sidewalk encroachments, whether permitted or unpermitted and as specified in
10 Subsection (k)(2), shall be an annual fee of \$3.00 per square foot of occupancy of the
11 sidewalk or other public right-of-way space. For purposes of calculating the assessment fee,
12 the Department shall charge no less than \$100.00 per year even though the calculated square
13 footage charge for the encroachment may result in a smaller assessment fee.

14 (2) The following categories of minor sidewalk encroachments are subject to the
15 public right-of-way occupancy assessment fee:

16 (a) Encroachments in, on, above, or below the public right-of-way that are
17 affixed or appurtenant to any building whose owner obtained a site permit for new
18 construction on or after August 29, 2005. This Subsection (k)(2)(a) also shall apply to any
19 commercial, industrial, or mixed-use building whose owner obtained a site permit for new
20 construction prior to August 29, 2005; provided, however, that such building is not located in
21 any Neighborhood Commercial District as designated in Planning Code Article 7 and that the
22 encroachment associated with such building was installed or encroachment permit obtained
23 prior to August 29, 2005. This Subsection shall specifically include, but not be limited to, doors
24 that open over the public right-of-way and subsidewalk basements; provided, however, that
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1 this Subsection shall exclude encroachments for shoring and tiebacks. This Subsection shall
2 not apply to a building that has been converted from a commercial, industrial, or mixed-use
3 building into building containing only residential use.

4 (b) Encroachments associated with a commercial, industrial, or mixed-use
5 building that change the vertical or horizontal plane of an existing sidewalk and modify the
6 existing sidewalk slope pattern in order to provide access necessary to comply with the
7 Americans with Disabilities Act; provided, however, that the building obtained a site permit for
8 new construction on or after August 29, 2005.

9 (c) Any enclosure of the public right-of-way that is used exclusively for private
10 benefit and was installed on or after August 29, 2005. This Subsection (k)(2)(c) also shall
11 apply to any enclosure installed prior to August 29, 2005 that is associated with a commercial,
12 industrial, or mixed-use building; provided, however, that the building is not located in any
13 Neighborhood Commercial District as designated in Planning Code Article 7,

14 (d) Underground storage tanks.

15 (3) For purposes of Subsection (k)(2), the term "site permit" also shall mean "building
16 permit."

17 (4) Notwithstanding Subsection (k)(2), no public right-of-way occupancy assessment
18 fee shall be charged against the owner of an historic or architecturally significant building who
19 has installed or seeks a permit to install a minor sidewalk encroachment in order to conform
20 with an applicable Municipal Code; provided, however that this exception shall not apply if the
21 encroachment is a subsidewalk basement. For purposes of this Subsection, an historic or
22 architecturally significant building shall be a building so designated pursuant to Planning Code
23 Article 10 or specifically identified as an architecturally significant building on the Planning
24 Department's database or on a list maintained by the Planning Department.

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1 (5) The public right-of-way occupancy assessment fee shall be subject to the review
2 and adjustment procedures as forth in Sections 2.1.1 et seq.

3 (6) The public right-of-way occupancy assessment fee shall not be charged to any
4 federal, state, or local governmental agencies, commissions, or departments.

5 (7) Notwithstanding this Subsection (m), the public right-of-way assessment fee for
6 underground vaults shall be as specified in Section 2.1.1 et seq.

7 (l) Notwithstanding the fees specified herein, if a project involves voluntary seismic retrofit
8 upgrades to soft-story, wood-frame buildings, as defined by the Director of the Department of Building
9 Inspection, such project applicant shall be exempt from the proportionate share of fees specified under
10 this Section and Sections 2.1.1 et seq. that is related to such retrofit work.

11 Section 7. This Section is uncodified. (a) In order to facilitate administration of this
12 voluntary seismic retrofit program for soft-story wood-frame buildings, all permit issuing
13 departments may treat the seismic retrofit portion of the project application as a separate
14 permit so long as other related permits for the subject property receive the expedited permit
15 review specified in Section (b)(1) of this Ordinance.

16 (b) Reporting requirement. After the effective date of this Ordinance, the Department
17 of Building Inspection shall submit annual reports to the Building Inspection Commission,
18 Board of Supervisors, and Mayor concerning the effectiveness of the voluntary seismic retrofit
19 program for soft-story wood-frame buildings. The report specifically shall include information
20 on the number of permittees who have taken advantage of the program, the number of
21 retrofits completed, and the permittees' costs for the retrofits. This reporting requirement shall
22 be in effect for 5 years or until the City adopts an alternate program to address seismic retrofit
23 of soft-story wood-frame buildings, whichever first occurs.

1 APPROVED AS TO FORM:
2 DENNIS J. HERRERA, City Attorney

3 By: _____
4 John D. Malamut
5 Deputy City Attorney
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