



Memorandum

TO: HONORABLE MAYOR AND
CITY COUNCIL

FROM: Councilmember Pam Foley
Councilmember Dev Davis
Councilmember Domingo Candelas

SUBJECT: Soft Story Seismic Retrofit Ordinance

DATE: September 20, 2024

Approved

Date September 20, 2024

RECOMMENDATION

Approve staff recommendation with the following modifications:

1. Direct staff to return to the Community and Economic Development (CED) Committee 9 months after the ordinance effective date with an evaluation of the screening timeline.
2. Adjust the construction compliance timeline for each group as follows:
 - a. Group 1: Five years after ordinance effective date
 - b. Group 2: Six years after ordinance effective date
 - c. Group 3: Seven years after ordinance effective date
3. Direct staff to develop multilingual template notification documents to be used by building owners to fulfill requirements established by the Tenant Coordination Plans.
4. All building owners subject to the Apartment Rent Ordinance (ARO) with buildings between three to twenty units may qualify for a rebate up to 50% of the total cost of the required retrofit regardless of if they participate in the Retrofit Financing Program.
 - a. Prohibit all rebate recipients subject to the ARO from any capital pass through, similar to building owners participating in the Retrofit Financing Program.
5. Direct staff to investigate alternate sources of funding for the Retrofit Financing Program.

DISUCSSION

We greatly appreciate all the work City staff have done to advance a soft story seismic retrofit ordinance. Many buildings in San Jose were built prior to seismically informed building codes and these older buildings represent some of the few naturally affordable housing stock that the City has. Protecting this housing stock and, more importantly, the safety of residents who live in soft story buildings is essential.

The success of the Soft Story Retrofit Ordinance is dependent on a measured implementation plan that acknowledges the capacity of the building owners covered by this ordinance. Many of these building owners are small operations with limited financial resources and operational capacity. Establishing reasonable requirements under the ordinance while not comprising on key objectives will ensure the smooth implementation the Soft Story Retrofit Ordinance.

Retrofitting all soft story buildings in the City of San José is a large undertaking that will require significant investment, time, and labor capacity. For example, structural engineers may be necessary to provide an engineer's certification for certain buildings during the screening period. To ensure there is sufficient time for this work to be completed, we recommend that staff report to the CED Committee at 9 months from the ordinance effective date with an analysis on availability of engineers to conduct screening work for buildings. Additionally, to accommodate potential delays in the screening process, the timeline for construction compliance should be extended, adding 12 months to each construction compliance group.

With the objective of effective and equitable tenant outreach while also acknowledging the limited resources building owners may have for translation services, we recommend direction to staff to prepare multilingual outreach materials to be utilized by building owners when conducting required tenant outreach under the proposed ordinance. Such materials should be simple templates that building owners can "plug-in" relevant information such as dates and then distribute to tenants.

The proposed 50% rebate and Retrofit Financing Program will ensure significant costs associated with the Soft Story Retrofit Ordinance are not passed on to tenants while also assisting building owners with required upgrades. However, building owners who may opt for alternative financing or to pay for the upgrades in cash ought to qualify for the 50% rebate as well. We recommend extending the rebate program to all building owners of buildings between three to twenty units regardless of their participation in the Retrofit Financing Program with additional guardrails to ensure all rebate recipients are not eligible for additional capital pass through to tenants. This provides greater flexibility for building owners while also protecting tenants from large rent increases.