

## ORDINANCE NO. 708

### AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF CALISTOGA ADDING CHAPTER 15.46, SEISMIC RETROFIT REQUIREMENTS, TO THE CALISTOGA MUNICIPAL CODE (MCA 2015-2)

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**WHEREAS**, the State of California requires cities and counties to identify all buildings that could be potentially hazardous during and after a seismic event, and the Calistoga Building Official has determined that a number of unreinforced masonry buildings exist within the city of Calistoga; and

**WHEREAS**, the State of California therefore requires the City to adopt policies and procedures to reduce or eliminate potentially-hazardous conditions; and

**WHEREAS**, the provisions of Chapter 15.46 are the minimum standards for structural seismic resistance established primarily to reduce the risk of life loss or injury on both subject and adjacent properties and will not necessarily prevent loss of life or injury or prevent earthquake damage to an existing building that complies with these standards; and

**WHEREAS**, it is desirable to provide property owners with a reasonable timeframe for compliance in order to minimize adverse economic impacts on their businesses; and

**WHEREAS**, the Building Standards and Appeals Board reviewed the proposed Chapter at a public meeting on January 22, 2015, and after considering the public record, including the staff report and findings, adopted BSAAB Resolution 2015-1 forwarding a recommendation that the City Council approve CMC Chapter 15.46, Seismic Retrofit Requirements; and

**WHEREAS**, the City Council of the City of Calistoga reviewed and considered this ordinance at a public hearing on February 17, 2015, noticed in accordance with state and local law, and which included the written and oral staff report, and comments received from the general public and interested parties.

**NOW, THEREFORE, THE CALISTOGA CITY COUNCIL DOES HEREBY ORDAIN AS FOLLOWS:**

#### **SECTION ONE**

Findings. The above recitals are incorporated herein as if set forth herein in full and each is relied upon independently by the City Council for its adoption of this ordinance.

#### **SECTION TWO**

Title 15, Building Standards Codes, is hereby amended to add Chapter 15.46, Seismic Retrofit Regulations, as follows:

## **Chapter 15.46**

### **SEISMIC RETROFIT REQUIREMENTS**

**Sections:**

- 15.46.010 Purpose, scope and application.
- 15.46.020 Definitions.
- 15.46.030 Notice of determination to property owner.
- 15.46.040 Seismic upgrade plans.
- 15.46.050 Additional upgrading requirements.
- 15.46.060 Abatement of unreinforced masonry buildings.
- 15.46.070 Implementation schedule and time extensions.
- 15.46.080 Notification to tenants.

**15.46.010 Purpose, scope and application.**

- A. Purpose. Calistoga has experienced and will continue to experience moderate to great earthquakes due to its proximity to numerous active and potentially-active faults. Many commercial buildings are a serious threat to the life and safety of people who live and work in the community in the event of an earthquake. The primary goal of this Chapter is to reduce the risk of death and injury resulting from damage to existing unreinforced masonry buildings from earthquakes in an economically-feasible manner.

This Chapter provides procedures for the systematic review and upgrading of unreinforced masonry and concrete buildings within the city to reduce the risk of death and injury in the event of an earthquake.

- B. Scope. The provisions of this Chapter shall apply to all buildings with unreinforced masonry walls designed under building codes in effect prior to the effective date of this Chapter.

Any such buildings with seismic strengthening in place prior to the effective date of this ordinance shall be within the scope of this Chapter and shall, therefore, be evaluated according to the provisions of this Chapter and modified to comply with this Chapter if deficient.

The provisions of this Chapter are minimum standards for structural seismic resistance established primarily to reduce the risk of life loss or injury on both subject and adjacent properties and will not necessarily prevent loss of life or injury or prevent earthquake damage to an existing building that complies with these standards. The requirement for compliance with these standards does not preclude the utilization, at the building owner's option, of more extensive strengthening method that might further prevent or limit loss of life or injury or building damage.

C. Application

1. This Chapter shall apply to:
  - a. Buildings or portions of buildings having at least one unreinforced masonry wall;
  - b. Buildings with brick veneer greater than 10 feet above grade located in a high pedestrian traffic corridor; and
  - c. Buildings with an unreinforced parapet that exceeds a one and one-half (1½) height/depth ratio or extends 24 inches or more above the roof surface, and is located on a street in a high pedestrian traffic corridor.
2. The requirements of this Chapter shall not apply to:
  - a. Residential buildings containing five (5) or fewer dwellings;
  - b. Warehouses and similar structures not used for human habitation, except those housing emergency services, equipment or supplies;
  - c. Buildings that are not subject to City building regulations.

**15.46.020 Definitions.**

For the purposes of this Chapter, certain terms, phrases, words and their derivatives shall be construed as specified in this section or as otherwise specified in the California Building Code, the California Existing Building Code, the California Historical Building Code, where applicable and as adopted by reference in this code. Where terms are not defined, they shall have their ordinary accepted meanings within the context with which they are used.

- A. "Designated historical building" means a building included on or eligible for a national, state or local historical register or an official inventory of historical- or architecturally-significant sites, places, historic districts or landmarks.
- B. "Upgrading" means all work necessary to comply with the requirements of this Chapter.
- C. "Unreinforced masonry wall" is a masonry wall or poured-in-place concrete that relies on the tensile strength of masonry units, mortar and grout in resisting design loads, and in which the area of reinforcement is less than 25 percent of the minimum ratio required by the most recent version of the building code adopted by the City for new buildings.

**15.46.030 Notice of determination to property owner.**

- A. Within 30 days of determining that a building is within the scope of this Chapter, the Building Official shall prepare and deliver by mail a notice to the property owner. The notice shall include the following:
1. A statement to the effect that the building has been reviewed and appears to include at least one unreinforced masonry wall
  2. A determination of noncompliance with the requirements of CMC 15.46.060
  3. Where applicable, the findings on which the determination that the building does not comply is based
  4. A statement that a seismic upgrade plan as provided in CMC 15.46.040 shall be submitted by the property owner within the time frame provided in CMC 15.46.070
  5. A statement that the property owner shall post and maintain in a conspicuous place at the entrance of the building, on a sign not less than 8" × 10" the following statement, with the first two words printed in 50-point bold type and the remaining words in at least 30-point type:  

"Earthquake Warning. This is an unreinforced masonry building. You may not be safe inside or near unreinforced masonry buildings during an earthquake."

The owner shall also be advised that if they fail to comply with this sign requirement within 15 days after notification, they may be subject to an administrative fine of two hundred fifty dollars (\$250), and within thirty (30) days of the first administrative fine, the owner may be subject to an additional administrative fine of one thousand dollars (\$1,000) for failure to comply.
  6. A statement that the owner is required to provide a copy of the notice to correct deficiencies to the tenant or tenants of the building in accordance with CMC 15.46.080
  7. A description of the appeal process for the Building Official's determination.
- B. Appeal of determination.
1. The property owner may appeal the Building Official's determination that their building is within the scope of this Chapter to the Building Standards Advisory and Appeals Board within thirty (30) days of the service date of the notice described in CMC 15.46.030(A). If no appeal is filed within thirty (30) days of the service of the compliance order, the building shall be considered to be within the scope of this Chapter.

2. Such appeal shall be made in writing, and the grounds thereof shall be stated clearly and concisely.
3. Any materials that the appellant wishes considered by the Board shall be submitted to the Board at least 14 calendar days before the hearing.
4. An appeal shall be accompanied by any filing fee adopted by the City Council.

C. Recordation.

1. After expiration of the 30-day appeal period, the Building Official may record with the Napa County Recorder a certificate stating that the subject building is within the scope of this Chapter. The certificate shall state that the owner thereof has been ordered to review, analyze and upgrade the building in accordance with this Chapter.
2. If such a certificate is recorded, upon completion of all required seismic upgrade work, the Building Official shall file a certificate of seismic upgrade completion with the Napa County Recorder.

**15.46.040 Seismic upgrade plans.**

- A. Upon notice by the Building Official to the property owner to correct deficiencies pursuant to this Chapter, the property owner shall engage the services of a professional to prepare a seismic upgrade plan for the subject building within the time limits set forth in CMC 15.46.070. Such plans shall be designed by a California-licensed architect, structural engineer or civil engineer specializing in structural work in accordance with the provisions of the California Existing Building Code or, if applicable, the California Historical Building Code as adopted by the City.
- B. The seismic upgrade plan shall be submitted to the Building Official for review and approval and shall include, but not be limited to, the following information. Exceptions and/or alternatives to specific items required by this subsection may be authorized by the Building Official upon review of a written request from the engineer or architect. Exceptions and/or alternatives may only be granted when it can be demonstrated that the item(s) are unnecessary to provide information available by other equivalent means.
  1. Location by street address and assessor's parcel number;
  2. Type of occupancy, use of the building and dimensions;
  3. Type of construction, type of foundation, and material used in construction;

4. Field and laboratory tests as determined necessary by the Building Official, the architect or the engineer, which shall include, but not be limited to, the drilling of inspection holes, the determination of the strength and quality of materials, and a general description of how these materials are integrated within the building;
  5. Comprehensive review of conditions, maintenance and foundation performance;
  6. Complete vertical load resume, analysis or estimate based on typical bays and details of all critical areas;
  7. Investigation, review and analysis of building elements including, but not limited to, mortar, masonry, walls, parapets, diaphragms, shear walls, bracing, attachments and ornamentation, ceilings, lights, stairs, type and resistance of interior partitions, presence and adequacy of diaphragm chords, and ties;
  8. Such plans or sketches, as necessary, to describe building strengths and deficiencies;
  9. Such other information or testing as required by the Building Official;
  10. Calculations, plans and specifications to show compliance with the requirements of this Chapter; and
  11. Cultural resources report and recommendations when determined necessary by the Planning and Building Director due to proposed significant excavations on known or possible sites of historic significance.
- C. Application to designated historical buildings. The design and upgrading provisions of this Chapter may be used in conjunction with the California Historical Building Code as a method of complying with the minimum requirements of this Chapter.

**15.46.050 Additional upgrading requirements.**

In addition to meeting the seismic upgrade requirements of CMC 15.46.040, seismic retrofit work subject to this Chapter shall also comply with the following.

- A. Compliance is required with the fire and life safety requirements of Chapter 34 of the California Building Code, the California Fire Code and, where applicable, the California Historical Building Code as amended and adopted by the city. Requirements concerning egress, corridors, enclosed stairways, fire sprinkler systems, fire separations, fire protection and panic hardware shall be addressed insofar as they are related to the seismic retrofit work. Alternative methods of fire protection including, but not limited to, fire sprinkler systems and

smoke detection systems, may be required by the fire marshal and the Building Official.

- B. Existing electrical, plumbing, mechanical and other nonstructural portions of the building that are found to be dangerous to the extent that the life, health, property or safety of the public or its occupants are endangered and that are related to the seismic retrofit work shall be upgraded in accordance with the City's Building Standards Codes.

**15.46.060 Abatement of unreinforced masonry buildings.**

- A. Buildings subject to the requirements of this Chapter that do not meet the requirements of this Chapter shall be abated by seismic upgrading in accordance with the provisions of this Chapter or by demolition.
- B. A demolition permit shall be obtained from the City prior to the demolition of a building. The demolition permit application for a designated historical building shall be reviewed by the Planning and Building Department for compliance with the guidelines of the California Environmental Quality Act.
- C. Substandard buildings, hazards and dangerous conditions which are not abated within the time limits set forth in CMC 15.46.070 shall be considered a public nuisance and shall be vacated and/or abated in accordance with CMC Chapter 15.52, Violations.
- D. In addition to any other remedy provided herein, the City Council may cause any building not abated within the time limits set forth in CMC 15.46.070 to be vacated, strengthened, repaired, rehabilitated, remodeled, demolished or upgraded in accordance with the provisions of this Chapter and place a lien on the property for all costs incurred in accordance with the provisions of CMC Chapter 15.52, Violations.

**15.46.070 Implementation schedule and time extensions.**

- A. Implementation schedule
  - 1. A building permit application accompanied by a seismic upgrade plan prepared in accordance with CMC 15.46.040 and 15.46.050 shall be submitted to the Building Official for approval within eight (8) months of the date of the notice to owner to correct deficiencies.
  - 2. Following the issuance of a building permit for seismic upgrade work, construction shall be commenced within twelve (12) months.
  - 3. The work included in a seismic upgrade plan shall be completed within twenty (20) months of the date of the notice to owner to correct deficiencies unless otherwise specified in a previously-recorded notice to owner to correct deficiencies.

B. Time extensions.

- 1, The Building Standards Advisory and Appeals Board may extend any of the compliance periods required by Subsection (A) above upon the receipt of a written request by the owner or their representative that stipulates the requested extension(s) and includes sufficient evidence to support the finding required by Subsection (2) below.
2. In approving an extension, the Board shall find that extenuating circumstances justify the granting of the extension, such as the existence of tenant leases entered into prior to the effective date of this ordinance, difficulty in securing required engineering and/or construction services, difficulty in obtaining financing for the retrofit work, or coordination required with adjoining property owners.

**15.46.080 Notification to tenants.**

Upon receipt of notice to correct deficiencies provided in CMC 15.46.030, within thirty (30) days the property owner shall notify in writing all current and subsequent tenants that a review of the building has been performed and that said building may be structurally hazardous in the event of an earthquake.

**SECTION THREE**

Environmental Review. This ordinance is not a project within the meaning of Section 15378 of the State CEQA (California Environmental Quality Act) Guidelines. Any physical changes in the environment resulting from the enforcement of these requirements will be subject to separate environmental review. Furthermore, Chapter 15.46 requires the submittal of a cultural resources report and recommendations when determined necessary by the Planning and Building Director due to proposed significant excavations on known or possible sites of historic significance.

**SECTION FOUR**

Severability. If any section, subsection, subdivision, paragraph, sentence, clause, or phrase in this ordinance or any part thereof is for any reason held to be unconstitutional or invalid or ineffective by any court of competent jurisdiction, such decision shall not affect the validity or effectiveness of the remaining portions of this ordinance or any part thereof. The City Council hereby declares that it would have passed each section, subsection, subdivision, paragraph, sentence, clause, or phrase thereof irrespective of the fact that any one or more subsections, subdivisions, paragraphs, sentences, clauses, or phrases be declared unconstitutional, or invalid, or ineffective.

**SECTION FIVE**

Judicial Action to Challenge this Ordinance. Any judicial action or proceeding to attack, review, set aside, void or annul this Ordinance shall be brought within 120 days of the date of adoption of this Ordinance.



**SECTION SIX**

**Effective Date.** This Ordinance shall take effect thirty (30) days after its passage and before the expiration of fifteen (15) days after its passage, shall be published in accordance with law, in a newspaper of general circulation published and circulated in the City of Calistoga.

THIS ORDINANCE was introduced with the first reading waived at the City of Calistoga City of Council meeting of the **17th day of February, 2015**, and was passed and adopted at a regular meeting of the Calistoga City Council on the **3rd day of March, 2015**, by the following vote:

**AYES:** Mayor Canning, Councilmembers Kraus, Barnes and Lopez-Ortega and Vice Mayor Dunsford  
**NOES:** None  
**ABSENT:** None  
**ABSTAIN:** None

  
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**Chris Canning, Mayor**

  
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**Kathy Flamson, City Clerk**

