

New and Retroactive Seismic Improvement Requirements Affecting Older San Francisco Buildings: How Property Purchases and Refinancings May Be Affected



by *M. Brett Gladstone*

The San Francisco Building Code now has new requirements for regular facade inspections and maintenance of facades of certain kinds of older buildings. Although signed into law by Mayor Lee earlier this year, this new law (entitled "Building Facade Inspection and Maintenance – Retroactive Provisions") has received little public attention even though the City believes that a little over three thousand buildings are affected.

The purpose of Ordinance is reducing the risk of injury or death caused by failing building facades in an earthquake. While the Building Code already has requirements that regulate the construction, alteration, repair, and maintenance of buildings in order to reduce hazards from existing buildings in an earthquake, the new ordinance goes further.

The Ordinance applies to buildings that are five or more stories and that are Construction Types I, II, III, and IV. Scheduling of the initial inspections are based on the date the building was constructed as determined by the date of the Certificate of Final Completion. For example, buildings that were constructed prior to 1910 must have an inspection before December 31, 2021. For a building completed in 1922, there must be an initial inspection of all facades by December 31, 2023. For this purpose, the City has created four different "tiers" with different inspection deadlines, each of which represents a range of dates during which the building was completed.

The City will be posting the addresses of all buildings that are affected by the Ordinance. As a result, prospective building purchasers should consider reviewing such list before purchasing a building and upon finding a building's listing, should make inquiries with the owner as to whether repairs have been made. It is expected that after a certain time, lenders will become aware of this list and will review it prior to refinancing or prior to making acquisition loans, thus making compliance with the Ordinance something of enormous importance to all owners whether or not they may not be trying to sell a property.

This initial inspection is to be followed by periodic inspections, maintenance, and repair of the facades. Upon request, the Building Official of the Department of Building Inspection ("DBI") may waive the initial inspection for buildings that underwent a

significant facade inspection and maintenance, restoration, or replacement in the ten years preceding the date of the required initial inspection. *As a result, any building owner considering rehabilitation of facades between now and the time the deadlines to do so are reached should try to hire the kind of professionals (and undertake the improvement methodologies) that would be required under the new law.*

The definition of "facade" includes "all areas on the exterior of the building including all exterior walls and exterior wall coverings, windows, balconies, cornices, parapets, architectural trim and embellishments and appurtenances, and all elements listed in Section 1604E.3." It also includes interior walls and appurtenances "where such area has been converted from an exterior area by enclosing the area under a roof, skylight, or other covering."

The Ordinance refers to a list of typical (but not necessarily exclusive) exterior building elements to be inspected (taken from ASTM E2270: The Standard Practices for Periodic Inspection of Building Facades for Unsafe Conditions):

1. attached equipment such as communications equipment, pipes and ductwork;
2. decorative elements such as urns, friezes, balustrades, and attached artwork;
3. signs;
4. fire escapes;
5. flagpoles;
6. vertical extensions such as vents;
7. lights and other fixtures;
8. hanging air conditioners and other devices; and
9. other elements that could pose a safety hazard if dislodged.

The Ordinance also refers to certain elements that are excluded from inspections:

1. walls within 36 inches of parallel facing walls on the same or adjoining properties unless the space between the walls is accessible by means of a door;
2. walls and appurtenances within exterior courts and yards enclosed by walls on all sides and where the bottom of the court is on grade, unless there is direct access to the court by means of a door;
3. other elements, as approved by the Director of the Department of Building Inspection, that do not contribute to a safety hazard or that do not require regular maintenance.

Additional facade inspections will be required 10 years after the initial inspection report date. As mentioned above, an initial inspection is not required for a building for which comprehensive facade inspection, maintenance, restoration or replacement has been performed during the 10 years preceding the date of the required initial inspection. The City may issue a waiver in this circumstance. However, even these buildings must begin periodic inspections (at a frequency of 10 years) either 30 years from the initial construction date or 20 years from the date of waiver of the initial inspection, whichever shall apply. In addition to regular inspections, damages resulting over time or from an earthquake can cause the City to require an inspection of a building facade notwithstanding the date of earlier inspections.

Once the required inspection report is filed with DBI, DBI will notify the owner of the kinds of changes that the owner must make.

DBI may separately provide notices to property owners of a required inspection of their facade elements when those facades exhibit "significant damage or failure" during the normal passage of time, or due to a seismic event or other event. The property owner will then have 60 days from the notice to obtain an

inspection of the damaged or failed elements.

There are certain qualifications that an architect or engineer must have to do the inspections, and they are stated in the ASTM E2270 and in ASTM E2841. After such an architect or engineer makes the inspection, he or she must immediately prepare a report that identifies any unsafe conditions. Within 60 days of DBI's receipt of the inspection report, the DBI will issue a statement of what the repair requirements will be.

Where a building is an "historic resource", these professionals must be qualified as to both structural inspection and maintenance of historic resources. To determine if a building qualifies as a "historic resource", one should check with the Planning Department by contacting Planning Department Preservation Program staff at the Planning Information Center (PIC) at 1660 Mission Street, 1st Floor, San Francisco, 415-558-6377, or pic@sfgov.org.

If a building is qualified as a "historic resource," special requirements apply:

1. Assessment and recommendations related to facades of historic resources must be performed in conformance with the Secretary of the Interior's Standards for the Treatment of Historic Properties.
2. Inspection methods for historic resources must use the least intrusive or invasive means feasible to effectively assess hidden conditions.
3. When practical, building materials removed to allow for detailed inspection must be salvaged and reinstalled, or stored by the property owner for future reinstallation.
4. Qualified historic resources may be evaluated using the provisions in the California Historical Building Code regarding strength, performance, utilization, and other properties of archaic materials. This means that where certain features of a building are more than 45 years old and original to the building, those features may be made stronger by alternative constructions means or materials (not typically allowed) when one can show that such alternatives would result in acceptable performance and may be required in order to preserve the historic feature.

During the creation of the Ordinance, there has been a Facade Inspection and Maintenance Working Group made up of building owners, building managers, design professionals, City staff and interested citizens that periodically met to discuss changes to the Ordinance. It is unknown as to whether or not that Working Group will continue. More information can be found at <http://www.sfgov.org/esip/facade-maintenance-program>.

For more information, please contact:

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