

City of Mill Valley “Soft Story” Ordinance: Frequently Asked Questions

April 3, 2023

The following information is based on a draft ordinance prepared at the direction of the Mill Valley City Council. The final language and requirements will be determined through the Council’s normal legislative process. The information below is written in plain language; the actual legislative language, which will become part of the Mill Valley Municipal Code, will be phrased differently, and will likely include additional details on some topics.

Please note - The websites and cost information are provided for general reference purposes only. Your actual costs to retrofit your structure, including costs related to compensation of tenants, may be substantially different, and the city is not responsible for any variation in an owner’s actual retrofit costs. All information provided herein, including website links and addresses, is subject to change without notice.

BACKGROUND: “SOFT STORY” BUILDINGS

1. Why is Mill Valley concerned about “soft story” buildings?

Multi-unit residential buildings with wood-frame target stories – often called “soft story” buildings – are well-known earthquake collapse risks. Many such buildings collapsed, or were damaged beyond repair, in San Francisco during the 1989 Loma Prieta and in Los Angeles during the 1994 Northridge earthquake, as shown here:



Near-collapse, San Francisco, 1989 Loma Prieta earthquake



Collapsed 4-story building, San Francisco, 1989 Loma Prieta earthquake



Collapsed and near-collapse 3-story buildings, Los Angeles, 1994 Northridge earthquake (photo: Gary D. Avey)



Collapsed 3-story building, Los Angeles, 1994 Northridge earthquake (photo: Boris Yaro, Los Angeles Times)

When these buildings collapse, they threaten the lives of residents and can start fires that spread to neighboring buildings. Even if they do not collapse but need to be demolished, they cause financial loss to owners and tenants, force tenant relocations, and delay the City's recovery.

2. How big is the problem in Mill Valley?

Mill Valley has between 50 and 90 "soft story" apartment buildings with three or more units built before 1978. These buildings contain 250 to 500 rental units, representing between 6 and 12 percent of the City's overall housing stock, and between 20 and 40 percent of its multi-unit housing stock. These figures are comparable to the percentages found in other Bay Area cities with "soft story" mitigation programs. More details and background can be found in the inventory report available on the [City's Soft Story Retrofit Program website](#).

ABOUT THE PROPOSED ORDINANCE

3. Why is Mill Valley proposing this ordinance?

- The ordinance recognizes that Mill Valley has residential buildings known to be vulnerable to collapse in earthquakes. In Mill Valley, these buildings (sometimes called "soft story" buildings) represent a large portion of the City's multiunit housing stock, especially its rental housing.
- The purpose of the ordinance is to reduce the likelihood of earthquake-related deaths, injuries, property loss, and housing disruption. By targeting the building's most vulnerable to collapse, the program will also reduce the likelihood of post-earthquake fires and will facilitate emergency response and recovery.
- The ordinance is consistent with the City's existing hazard mitigation plan and its housing plan. It is also consistent with similar programs underway throughout California, including in San Francisco, Oakland, and Berkeley.

4. What does the proposed ordinance require?

For certain collapse-prone multiunit rental properties, the ordinance requires the owner to either retrofit the building or show that it already meets collapse-resistant seismic performance criteria. Deadlines to complete the retrofit are expected to vary from three to six years, depending on each building's details.

5. Which buildings are included? Which are exempt?

Any residential building with three or more rental units is subject to the retrofit requirement if it was built before 1978 and has a "wood-frame target story," sometimes called a "soft story." A licensed architect or civil engineer will confirm the presence (or absence) of a wood-frame target story during the program's screening phase. In general, a wood-frame target story is recognizable as the ground story, or foundation crawl space, where that story or crawl space has:

- Wood-frame walls and partitions, and
- Substantially fewer walls and partitions than the story above.

Any building that does not meet *all* of the age, number of rental units, and wood-frame target story criteria above is exempt from the program.

6. If the ordinance is approved, when will it go into effect?

Planning and Building staff will bring the ordinance to Council for their consideration in upcoming months. All regular City ordinances require consideration and approval at two regular Council meetings. Once adopted, the program will become effective about five months later, at which time the Building Department will send official notices to building owners.

BUILDING OWNERS' FAQ

7. Where can I learn more about the proposed program?

Planning and Building staff will post program materials, including links to the ordinance language, an official compliance schedule, and other tools to assist owners, on the [City's Soft Story Retrofit Program website](#).

8. If I own one of these buildings, what do I need to do, and what are the deadlines?

After adoption, the City will send notifications to the owners of buildings expected to be subject to the program. For each building, there will be three main steps, with deadlines varying based on which "Tier" the building is in. The three main steps are:

- **Screening.** In most cases, the owner must hire a licensed architect or civil engineer to conduct a site visit and complete a form to be submitted to the City. Screening confirms whether the building is subject to the program or exempt, and for buildings subject to the program, it serves to assign the Compliance Tier that sets the remaining deadlines.
- **Retrofit Permit.** If the building is not exempt, the owner must hire a licensed architect or civil engineer to design a retrofit based on the program's engineering criteria, submit plans and calculations for approval by the Building Department, and obtain a permit for construction. Usually, this stage also involves selecting a contractor (builder) to construct the retrofit, and often it is the contractor who applies for the permit on the owner's behalf.
- **Retrofit Construction.** This step involves completing the retrofit construction based on the approved retrofit plans and the permit, and completing all inspections required by the City.

The deadlines for each step are as shown in the following table, relative to the ordinance's effective date. (The actual dates will be set once the ordinance is adopted and a specific effective date is established.) Buildings in Tiers 2 and 3 are allowed more time because the retrofit can be more complicated for a building with tenants in the ground story or a site with landslide risk.

Compliance Tier	Screening	Retrofit Permit	Retrofit Construction
Tier 1. Any building not eligible for Tier 2 or Tier 3	1 year	2 years	3 years
Tier 2. Any building not eligible for Tier 3, where the site poses a high risk of landslide.	1 year	4 years	5 years
Tier 3. Any building with an occupied space (business or residential) in the ground story.	1 year	5 years	6 years

9. How does the City determine that my building has a "soft story"?

The City will not make that determination itself. Rather, the City intends to notify the owners of all buildings built before 1978 that have at least three rental units, according to City records. One purpose of the Screening phase is to confirm whether the building has a "soft story" condition subject to the ordinance, or if it is exempt. To do that, each owner must use a licensed architect or civil engineer of their choice.

Once notices are sent out, the compliance status of each subject building will be public, just like building permit records. When the City posts this information, it will be a listing of the buildings subject to the program (or found exempt by the Screening process), not a list of seismically deficient buildings.

10. How do I know if my building needs to be retrofitted?

A building is required to be retrofitted (or shown to be compliant already) only if it meets all three of the following criteria, which are checked during the program's Screening process:

- **Built before 1978.** California building codes changed in the late 1970s to ensure that buildings would not have a wood-frame target story or “soft story” condition. Therefore, newer buildings are exempt from the program.
- **Has three or more rental housing units.** The program applies to multiunit housing only, with an emphasis on rental housing. Therefore, single-family houses and duplexes are exempt, as are most owner-occupied townhouse buildings. Mixed use buildings (for example, apartments over ground-floor retail) are exempt unless the building has at least three rental housing units.
- **Has a “wood-frame target story.”** This is the collapse-prone structural deficiency of interest, sometimes known as a “soft story.” A licensed architect or civil engineer is required to determine whether the building has a wood-frame target story (based on the definition provided in the ordinance).

Any building that does not meet all three criteria is exempt from retrofit.

11. If my building is “exempt,” does that mean it’s earthquake-safe?

Not necessarily. Many buildings pose seismic risks that are not considered by this program. Being exempt from this program means only that the building does not have all three of the conditions that bring it within the program scope. To learn more about possible seismic risks in residential buildings, see [the Association of Bay Area Governments Earthquake Home Safety Quiz](#).

12. If I don’t get a notice, must I still comply?

Yes. The City will send notices to the owner’s address on file, for any building expected to be within the program scope based on City records regarding building age and number of units. But the owner of any building subject to the ordinance must comply even if the City has incorrect information or if the owner fails to receive a notice.

13. How do I find a qualified architect, engineer, or contractor?

The City cannot recommend or endorse any specific architect, engineer, or contractor (builder). While it is each owner’s responsibility to select qualified professionals, the City provides the following resources:

- The City will compile the contact information for design or construction professionals who request it and will make that list available to building owners.
- The Structural Engineers Association of Northern California also provides a [referral list you may access here](#).
- As with any design or construction project, checking references and licenses is advised. Because San Francisco, Oakland, and Berkeley have already implemented similar programs, many Bay Area professionals are familiar with this type of project, and many cite similar projects in their marketing materials.

14. How much will this cost?

Because the buildings in the program vary significantly, it is impossible to give a reliable estimate that covers every building. Owners in other Bay Area cities with similar programs, however, have largely found the projects feasible.

The following project costs (including investigation, design, and construction) can be estimated based on early reported values from other Bay Area programs:

- For a 2-story, 3- or 4-unit building, between \$35,000 and \$70,000.
- For a larger building, between \$40,000 and \$130,000.
- Higher costs can be expected where new steel elements and concrete foundations are needed, for example along a wall line with extensive garage door openings that cannot be blocked by a solid wood wall.
- Additional costs are likely for investigation and documentation if original plans are not available.

- Additional costs for design and construction are likely where the site requires geohazard mitigation (for example, where signs of an ongoing earth movement are present), or where extensive tenant coordination is needed.

Your actual costs may vary from these ranges due to physical conditions of your structure and property, material and labor costs, and/or other factors specific to your structure and property.

15. Is there funding available?

Available funding might include:

- **State of California grants:** In 2022, the State Legislature created a program to fund “soft story” retrofits throughout the state. However, funding for the program needs to be confirmed through the budget process now underway. The status of the grant program should be clearer by June 2023. If the program is funded, it is meant to focus on affordable housing and to assist primarily disadvantaged owners and tenants. The State has not yet established specific eligibility rules.
- **Marin County loans:** Marin Housing offers a [Rehabilitation Loan Program](#) that might be used for “soft story” retrofit of relatively small, owner-occupied buildings.
- **Private loans:** Many local banks offer loans to finance capital improvements, and most are familiar with the Bay Area’s “soft story” programs. Banks that participate in Property Assessed Clean Energy (PACE) programs can also offer those loans for seismic improvements. See the information on [PACE financing here](#).

16. May I raise rents to recoup some or all of my costs?

Maybe, depending on the terms of your rental agreement. Mill Valley does not impose any limits on rent increases related to capital improvements like seismic retrofit. However, current state law limits the annual rent increase for qualified rental housing to five percent (5%) plus a cost of living adjustment, capped at ten percent (10%). See the [County of Marin Renter and Landlord Resources website](#).

17. Do I need to compensate tenants for loss of services during construction?

It depends on the scope of construction and on the details of your lease.

The City advises landlords to communicate with tenants during the design phase and well in advance of the retrofit construction in order to understand and plan for any disruptions or special needs to facilitate the work.

18. If the retrofit increases my property value, will my property taxes go up?

No. State law (*Revenue and Taxation Code* Section 74.5) exempts seismic retrofit costs from being assessed as building improvements. The County Assessor provides a form (“[Claim for Seismic Safety Exclusion from Assessment](#),” Form BOE-64).

19. If I received a notice from the City, does that make me liable to tenants for earthquake losses? Does my liability go away if I retrofit?

The City advises owners to consult with their own attorneys on these questions. In general, however, California courts have found that a building owner’s liability for earthquake-related losses is independent of its status with respect to a city’s seismic mitigation program. In other words, to the extent that an owner has liability, that liability does not necessarily begin when an ordinance is adopted, when the owner receives an official notice, or when an owner misses a program deadline. (See [Myrick v. Mastagni](#))

TENANTS' FAQ

20. Is my building earthquake-safe?

By notifying owners, the City is not making a judgment about the earthquake safety of any building. Rather, the City has identified buildings (by age and number of units) that might be subject to the ordinance. Your landlord's selected architect or engineer will assess the actual risk as part of the program.

In general, many older buildings pose seismic risks that are not considered by this program. To learn more about possible seismic risks in residential buildings, see [the Association of Bay Area Governments Earthquake Home Safety Quiz](#).

21. Will the retrofit cost lead to an increase in my rent?

Maybe, depending on the terms of your rental agreement. Mill Valley does not impose any limits on rent increases related to capital improvements like seismic retrofit. Should your landlord elect to increase rents to recover the costs of the retrofit, current state law limits the annual rent increase for qualified rental housing to five percent (5%) plus a cost of living adjustment, capped at ten percent (10%). See the [County of Marin Renter and Landlord Resources website](#).

Additional resources for [working with your landlord are available here](#).

22. What kind of disruption should I expect during the retrofit?

This retrofit program requires work within the "wood-frame target story" only – typically the ground story or a crawlspace below the first floor. Tenants in upper stories should be able to remain in place during the work, though there might be some noise, dust, and planned service shut-offs during the work, as in any construction project.

For tenants in the ground story, the retrofit work might include construction within the occupied unit. Usually this can be avoided by design, but where necessary, affected tenants might need to provide access or relocate temporarily to allow the work to be done safely.

The City advises tenants to communicate with landlords during the design phase and well in advance of the retrofit construction in order to understand and plan for any disruptions or special needs to facilitate the work.

23. Will I receive compensation for inconvenience or loss of services during construction?

Possibly, it depends on the scope of construction and the details of your lease. Additional resources for [working with your landlord are available here](#).