**CITY OF ALBANY**
**CITY COUNCIL AGENDA**
**STAFF REPORT**

Agenda Date: July 17, 2023
Reviewed by: NA

**SUBJECT**: Seismic Retrofit Soft Story Retrofit Ordinance 2023-04, adding Section 12-15 to the Albany Municipal Code to require seismic retrofit of certain residential buildings – Second Reading, Pass-to-Print

**REPORT BY:** Michelle Plouse, Community Development Analyst
Jeff Bond, Community Development Director

---

## SUMMARY

The City Council will review and consider adopting an ordinance to require seismic retrofit of certain residential buildings.

## STAFF RECOMMENDATION

That the Council adopt Ordinance No. 2023-04, adding Section 12-15 to the Albany Municipal Code to require seismic retrofit of certain residential buildings – Second Reading, Pass to Print.

## BACKGROUND

There is a 70% chance that the Bay Area will experience a major earthquake in the next 20 years. For many, it is nearly certain that the Bay Area will experience one in our lifetimes. Albany is in a vulnerable area, only about a mile from the Hayward Fault. Vulnerable buildings can damage surrounding structures, start fires, and cause displacement with rippling impacts throughout the community. Securing Albany's most vulnerable buildings is important for the resilience of the entire community.

There are a variety of building types in Albany that are at risk during an earthquake, but wood frame target story (WFTS) or "soft story" multifamily buildings are of particular concern. These wood frame buildings have inadequate strength or stiffness in the ground story, making them more vulnerable to damage or collapse.

In Albany, soft story buildings are typically 2 or 3 story apartment buildings along or near San Pablo Avenue and Solano Avenue corridors. (Some mixed-use buildings with residential units over ground floor commercial space also have soft story characteristics.). Based on a Google Maps "Street-View" visual survey, approximately 150 wood frame multi-family residential buildings with a total of approximately 800 units appear to have soft story characteristics. See Attachment 1 for more detailed data and analysis of soft story buildings in Albany.

## DISCUSSION

On February 21st, 2023, Council held a study session to discuss a proposal for a mandatory soft story retrofit program. A detailed discussion of prior work and the proposed program can be found in Attachment 2, the Staff Report from this meeting. Council approved of the proposal and directed staff to prepare a draft ordinance for consideration.

On June 20th, 2023, the ordinance was introduced for a first reading. The ordinance was waived for first reading with the direction to move the definition section to the beginning, to define the term building official, extend the effective date to 90 days after passage. Council also directed staff to investigate more detailed policy regarding tenant relocation, in particular the policy in the City of Los Angeles, and to determine state law in the case that a tenant refuses to temporarily relocate.

As requested by Council, the updated ordinance (Attachment 4) has been edited so that the definitions are at the beginning of the code language, the term building official is defined, and the effective date is 90 days after passage and posting of the ordinance. No changes have been made to Section 12-15.2(l) Eviction Protections.

The City's Housing Element, adopted by Council on February 21st, contains several goals and planned programs, including Program 5.D Tenant Protection. This will include a thorough evaluation of potential measures to improve housing security and tenant protections. Staff will be bringing a more detailed discussion of this Program in September and will plan on beginning the analysis this Fall. Staff recommends keeping the tenant protections in the soft story ordinance relatively simple and providing more detailed and wholistic tenant protections as included in the Housing Element within Program 5.D.

At the June 20th meeting, Council also requested clarification regarding the state law in a situation where a tenant refuses to temporarily vacate their building for necessary repair or retrofit work. Staff was not able to find any information in the law specific to this scenario. However, legal counsel confirmed that the language of the ordinance is clear that the only additional protection afforded by the ordinance is that temporary relocation for over 30 days due to work required by the ordinance is not considered a just cause for eviction. All other scenarios, potential issues or causes for eviction, including a tenant's refusal to temporarily relocate, are covered by the California Civil Code.

## SUSTAINABILITY/SOCIAL EQUITY CONSIDERATIONS

SUSTAINABILITY: Community resilience and sustainability are closely linked. Damaged buildings result in a large amount of building material debris, which is often handled as hazardous due to exposure of asbestos and lead paint. In addition, a great deal of energy goes into the construction process, including production and shipping of materials. Developing a soft story retrofit ordinance is action 4.2.3 of the Climate Action and Adaptation Plan.

SOCIAL EQUITY: Soft story buildings are generally older multifamily buildings, where low- and moderate- income populations are more likely to live, typically as renters. A mandatory retrofit program would ensure that everyone is able to live in a safe building regardless of income and reduce the chances of displacement in the event of a major earthquake. The proposed ordinance also prevents evictions due to retrofit work. However, the costs of retrofits are significant and may lead to increased rents in some of the buildings that are currently less expensive.

Disadvantaged populations are also the most likely to suffer from the indirect effects of a building failure, such as increased rents throughout the City, displacement, or reduced business activity and job loss.

## CITY COUNCIL STRATEGIC PLAN INITIATIVE

This issue is addressed in the Strategic Plan, Goal 6, Objective 4: Adopt mandatory seismic retrofit ordinance.

## FINANCIAL CONSIDERATIONS

Staff continues to actively seek State and Federal funding to cover a portion of the costs of seismic retrofits. It should be noted that chances of receiving a grant through the competitive application process is unpredictable. Resolution No. 2023-52 will help the City advocate for statewide funding for soft story retrofits.

The impact on the Albany community in the event of a loss of rental housing would be significant. In addition to the obvious life safety risk and loss of personal property, there are long term risks to the community as people are forced to suddenly relocate, including loss of customer base for local businesses and loss of residents that contribute in many different ways to the social fabric of the community. For local government agencies, damaged buildings reduce the property tax base and loss of residents reduce sales tax revenues. In addition, residents with school-age children may need to relocate to other school districts, impacting the school district.

## Attachments

1. Breakdown of Housing Stock by Building Size and Soft Story Estimate
2. February 21, 2023 City Council Staff Report
3. June 20, 2023 City Council Staff Report
4. Ordinance No. 2023-04

Memorandum

To: Michelle Plouse, City of Albany
From: David Bonowitz
Date: May 14, 2021 (replacing the April 6 version)
Subject: Task 2: Draft breakdown of housing stock by building size and "soft story" estimate

This memo summarizes my analysis of the Albany housing stock with attention to buildings expected to have wood frame target stories (WFTS), also commonly referred to as "soft story" buildings. It replaces an earlier version (dated April 6) with new summaries and new data for Belmont Village, University Village, buildings with masonry walls in the target story, and buildings with 3 or 4 units.

## Housing stock breakdown

Table 1 shows the basic breakdown of the Albany housing stock by building size and WFTS status. Representative buildings of various sizes, with and without WFTS conditions, are shown in Figure 1. For details about the tabulated data, see the section below on "Producing the database." The estimates of WFTS status are based on my observations of publicly available online imagery. In Table 1, the difference between the minimum and maximum estimates is due to unclear online images.

**Table 1. Breakdown of Albany's residential buildings by size and expected WFTS status**

| Building Size (Units) | All Residential Buildings | | Residential Buildings w/ Wood Frame Target Story | | | |
|---|---|---|---|---|---|---|
| | | | Minimum estimate | | Maximum estimate | |
| | Buildings | Units | Buildings | Units | Buildings | Units |
| 1 | 3636 | 3636 | Not reviewed in detail | | Not reviewed in detail | |
| 2 | 331 | 662 | | | | |
| 3 | 61 | 183 | 46 | 138 | 51 | 153 |
| 4 | 82 | 328 | 53 | 212 | 60 | 240 |
| 5 | 14 | 70 | 12 | 60 | 13 | 65 |
| 6 | 14 | 84 | 3 | 18 | 5 | 30 |
| 7 | 8 | 56 | 2 | 14 | 2 | 14 |
| 8 | 35 | 280 | 4 | 32 | 11 | 88 |
| 9 | 2 | 18 | 1 | 9 | 1 | 9 |
| 10 | 4 [a] | 40 [a] | 1 | 10 | 2 [a] | 20 [a] |
| 11 | 3 | 33 | 1 | 11 | 3 | 33 |
| 12 | 16 | 192 | 5 | 60 | 7 | 84 |
| 13 – 20 | 76 [b] | 1158 [b] | 4 | 59 | 6 | 93 |
| 21 – 44 | 11 | 277 | 2 | 46 | 3 | 68 |
| 45 – 320 | 9 [c] | 989 [c] | 0 | 0 | 0 | 0 |
| **All** | **4302** [a,b,c] | **8006** [a,b,c] | See text for discussion of 1- and 2-unit dwellings | | | |
| % of All | 100% | 100% | | | | |
| **3+ Units** | **335** [a,b,c] | **3708** [a,b,c] | **134** | **669** | **164** | **897** |
| % of All | 7.8% | 46% | 3.1% | 8.4% | 3.8% | 11% |
| % of 3+ | 100% | 100% | 40% | 18% | 49% | 24% |
| **5+ Units** | **192** [a,b,c] | **3197** [a,b,c] | **35** | **319** | **53** | **504** |
| % of All | 4.5% | 40% | 0.8% | 4.0% | 1.2% | 6.3% |
| % of 5+ | 100% | 100% | 18% | 10% | 28% | 16% |

[a] Includes 10 "units" in one group home facility believed to house 10 to 15 residents.
[b] Includes 974 units in roughly 65 buildings at University Village, which were not in the city's data.
[c] Includes 175 units in one building at Belmont Village, which were not in the city's data.

Notes on Table 1:

- Table 1 now details all the multi-family buildings in Albany (with approximate numbers for the roughly 65 building in University Village). I discuss the one- and two-family dwellings below.
- Table 1 no longer counts as WFTS certain buildings suspected of having concrete masonry unit (CMU) walls in the critical first story. Previously, the maximum estimate included 33 such buildings; city staff have now confirmed by field observation that essentially all of them do have CMU walls. While not necessarily "earthquake safe," these buildings are expected to be less collapse-prone than many of the WFTS buildings; if retrofitted, they would require different structural systems and design criteria.

Albany's WFTS buildings with five or more units comprise between 4.0% and 6.3% of the city's total housing stock (see the yellow-highlighted cells in the table). If the 3- and 4-unit buildings are included, the WFTS cohort represents between 8.4% and 11% of the city's housing. Overall, these numbers are not high compared with other Bay Area cities, though they are on par with nearby Berkeley, as shown in Table 2.

**Table 2. WFTS portion of total housing stock in Bay Area cities**

| City | Portion represented by WFTS buildings with 3+ units | Portion represented by WFTS buildings with 5+ units |
|---|---|---|
| Albany | 8.4% to 11% | 4.0% to 6.3% |
| Berkeley | not reported | 6% |
| Palo Alto | not reported | 10% |
| Mountain View | 16% | 14% |
| San Francisco | not reported | 14% |
| Oakland | not reported | 15% |

Further comparison with Mountain View offers additional context, as shown in Table 3. Mountain View has about four times the population (and housing stock) of Albany but has more than seven times the developed area, so Albany is more densely populated.

**Table 3. WFTS portion of total housing stock by building size in Albany and Mountain View**

| Building size | Albany | Mountain View |
|---|---|---|
| Total housing units | 8006 | 32,849 |
| WFTS: 1-2 units | 19% (about 1500 units; see below) | 13% (3% mobile home, 4% cripple wall, 2-10% room-over-garage) |
| WFTS: 3-4 units | 4.4% to 4.9% | 1.7% |
| WFTS: 5+ units | 4.0% to 6.3% | 14% |

Though not shown in Table 1, the large majority of Albany buildings with 5 or more units (both with and without WFTS) appear to have been built in the mid-twentieth century, roughly between 1950 and 1980. This is not unexpected. Berkeley and Mountain View have similar development histories. San Francisco and Oakland, by contrast, have many more buildings from the 1920s boom. The younger building stock can be advantageous to a retrofit program, as the buildings are more likely to have documentation and lack certain features that increase risk or complicate retrofit, such as heavy plaster finishes or deteriorated framing and foundations.

### Use & ownership subtypes

Albany's residential buildings include some subtypes based on usage and ownership that might be of interest as earthquake risk reduction policy is considered. For example, while the WFTS buildings contain at most 11 percent of the overall housing stock, they contain as much as 24 percent of the multi-family

stock, which tends to be rental housing. (As shown in Table 1, multi-family buildings make up 46 percent of Albany's housing stock.)

Table 4 shows some subsets of the city's multi-family buildings, with the maximum estimate (see Table 1) of the WFTS cohort.

**Table 4. Housing units in residential building subtypes, with maximum WFTS estimates**

| Subtype | All buildings with 3+ units | WFTS maximum estimate 3-4 units | WFTS maximum estimate 5+ units |
|---|---|---|---|
| All buildings | 3708 | 393 (11%) | 504 (14%) |
| Condominiums | 1076 | 51 (4.7%) | 77 (7.2%) |
| Senior housing | 185 | 0 | 10 (5%) |
| Supportive housing | unknown | unknown | unknown |
| Affordable housing | unknown | unknown | unknown |
| University Village | 974 | 0 | 0 |
| Hotels or motels | 0 | 0 | 0 |
| Mixed use | 223 | 33 (15%) | 126 (57%) |

- Condominium buildings, which are more likely to be owner-occupied, present fewer landlord-tenant issues that need to be addressed by thoughtful retrofit programs. Of the 1076 condominium units (in 41 buildings), 817 are in nine buildings in three complexes on Pierce Street, none of which appear to present a WFTS condition. The 128 WFTS units are in 24 other buildings, the largest of which has 12 units. Thus, the multi-family rental properties in Albany appear to present a higher risk than the condominium subset, both in absolute and relative terms.

- Senior housing, especially if it involves medical care or other assistive services, might be considered a higher retrofit priority because the tenants are more vulnerable, have special needs, and would be harder to relocate if a property is damaged. I identified only three such facilities in Albany:
    - Belmont Village on San Pablo Avenue accounts for 175 of the 185 units shown in Table 4. This facility was not included in the data received from the city.
    - The Raksha Care Home on Cornell Avenue is classified by the city's data as a "residential retirement home," but no unit count was provided. As noted at Table 1, I have tracked it as 10 units based on the number of residents only, though it is actually a converted single family dwelling and the number of distinct units within the building is unknown. This facility, and its 10 units, are included in the maximum estimate WFTS cohort because it is unclear from online images if the 1-story building has an unbraced cripple wall.
    - Another Raksha facility, on Stannage Avenue, is included in the database as a 1-unit building because the city classifies it as a single-family residence.

- Supportive and affordable (or below market-rate) housing are included in Table 4 because, like senior housing, satisfactory alternatives are not easily found should the tenants need to relocate because of earthquake damage. Also, developing – and preserving – affordable housing is a priority in many cities' general plans. So far, however, the Albany database does not have information for these subtypes.

- With 974 units, University Village represents about comprise about one eighth of Albany's total housing stock. Aside from its size, the neighborhood is shown in Table 4 because of its unique features relative to other Albany housing in terms of ownership and tenant profile. As noted at Table 1, the neighborhood comprises roughly 65 buildings owned and managed by the University

of California for family student housing. Built between 1999 and 2006, the buildings appear to have no WFTS conditions.

- The data received from the city does not include hotels, motels, or other transient housing.

- The city's multi-family housing includes 223 units in 25 mixed-use buildings (not including the senior housing facilities described above). Typically, these buildings contain residential units in the upper stories and retail spaces (mercantile occupancy) in the ground story. Over 70 percent of the units are in buildings that appear to have WFTS conditions, typically due to an open storefront.

Configuration & WFTS subtypes

Most WFTS mitigation programs are premised on a large cohort of similar buildings that are all eligible for a certain retrofit solution. Similarity within the cohort clarifies and focuses policy development, simplifies implementation for building officials, and benefits building owners by creating a market of knowledgeable engineers and builders who can move efficiently from project to project. As such, it is useful to look at the prevalence of certain subtypes within Albany's WFTS buildings, shown in Table 5.

**Table 5. Subtypes of the WFTS cohort**

| | WFTS maximum estimate 3-4 units | | WFTS maximum estimate 5+ units | |
|---|---|---|---|---|
| Building or WFTS subtype | Buildings | Units | Buildings | Units |
| All WFTS buildings | 111 | 393 | 53 | 504 |
| Buildings w/ unit(s) in WFTS | 67 | 229 | 26 | 215 |
| 4-story buildings | 10 | 34 | 8 | 98 |
| 3-story buildings | 23 | 84 | 20 | 204 |
| 2-story buildings | 72 | 257 | 23 | 187 |
| 1-story over cripple wall | 6 | 18 | 1 | 5 |
| 2+ stories over cripple wall | 19 | 75 | 5 | 26 |
| Hillside crawl space | 16 | 54 | 7 | 57 |
| End bay parking | 25 | 84 | 7 | 52 |

- For buildings with an equal probability of collapse, those with an occupied first story pose higher safety risks than those whose first story contains only parking and other incidental uses (lobby, storage, laundry). A mitigation program might choose to prioritize these higher-risk buildings. In Albany, more than half of the WFTS buildings appear to have at least one residential unit in the critical first story. Similarly, as shown in Table 4, about 70 percent of the city's mixed use buildings have a commercial space in the critical story.

- For buildings of the same footprint, taller buildings have more mass and therefore generally pose a higher risk (in addition to having more units at risk), but the retrofit solution is often nearly the same for buildings of 2, 3, or 4 stories. Therefore, the cost per residential unit is less, and the benefit greater, for the taller buildings. Nevertheless, Berkeley, which has a significant number of 2-story buildings, includes them in its retrofit mandate. Oakland does as well, but San Francisco's program is limited to 3-story and taller buildings. In Albany, 2-story buildings contain half of all the city's WFTS units, with the bulk of those being in 3- or 4-unit buildings.

- Most WFTS conditions involve the first full story above grade in a building on a relatively flat site, and all of the Bay Area's "soft story" mitigation programs use engineering criteria developed primarily for this condition. Albany's WFTS cohort includes 54 buildings with other WFTS conditions: unbraced "cripple walls" around a short crawl space, or the unfinished space at the

downhill end of a hillside building. While these conditions can be included in a WFTS program, they do present a different set of issues and might therefore need separate criteria.

- Cripple walls on relatively flat sites are highly vulnerable (especially in taller, heavier buildings) but are less likely to threaten loss of life than a full-height "soft" story. Of the city's 164 WFTS buildings, 31 present only cripple wall deficiencies, 24 of those are at least two stories tall. Cripple wall retrofits often present complications related to construction access and quality control in semi-confined spaces.
- Deficient hillside buildings are especially vulnerable; even though the critical area is typically an unoccupied crawl space, the nature of the site means that collapse is life-threatening for the entire structure. The WFTS cohort appears to include 23 such buildings, essentially all of them located on a few streets along the east edge of Albany Hill Park. Hillside retrofits often reveal foundation deficiencies that expand the scope of retrofit.

- Tuck-under parking at one end of a long building, which I call "end bay parking" can look like a vulnerable WFTS from the street but is often less risky. Some analysis of typical cases might show that at least some of these buildings can be exempted from a retrofit program, or at least eligible for a simpler retrofit. In Albany, 32 of the 164 WFTS buildings appear to have only end bay parking, with 25 of those having only 3-4 units. In addition, of those 25, 24 are 2-story buildings, so the 2-story, 3-4 unit building with end bay parking is among the most common building types within Albany's WFTS cohort.

- A mitigation program will have to account for previous voluntary retrofits. The data received from the city does not list past projects, but three buildings (containing a total of 12 units) do show outward signs of past retrofits.

Figure 1 shows a selection of the building conditions described above. As noted in Table 5, most of the 3-4 unit WFTS buildings are 2-story structures. If Albany has a characteristic building among those with 5 or more units, it is probably the 8-unit (typically 3-story) or 12-unit (3- or 4-story) building on a narrow lot with four units per floor and ground floor parking. Also shown in Figure 1 is an example of similar buildings with CMU walls in the first story, which are them less risky than WFTS buildings.

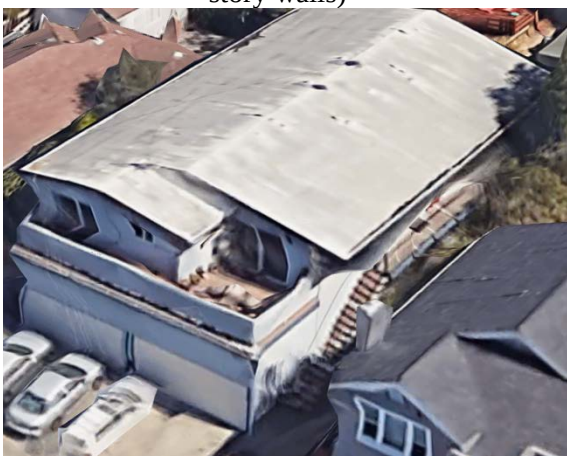
**Figure 1. Representative multi-unit residential buildings in Albany (5 or more units per building)**
(Image source: Google maps.)

1a. 3-story, 8-unit. WFTS due to end bay parking at the rear (not visible)

1b. 2-story, 8-unit. No WFTS (surface parking outside the building footprint)

1c. 3-story, 8-unit. No WFTS (CMU first story walls)

1d. 3-story, 12-unit. WFTS due to multiple wall lines open for tuckunder parking



1e. 2-story, 4-unit. WFTS due to end bay parking

1f. 2-story, 4-unit. WFTS due to cripple wall

### One- and two-unit dwellings

As noted in Table 1, I have not made a detailed review of Albany's nearly 4000 one- or two-unit dwellings. These single-family residences and duplexes represent over 90 percent of the city's residential buildings, but only a little more than half of the total housing units.

These smaller buildings can present WFTS risks due to unbraced cripple walls, "room over garage" (ROG) conditions, or hillside conditions. The first two types are less likely to pose safety risks, but the damage can still be severe enough to render the dwelling uninhabitable, posing an economic and recovery risk. Vulnerable hillside dwellings can pose risk in all three categories. Even so, 1- and 2-unit dwellings are typically excluded from WFTS mitigation programs, mostly because of the lower safety risk, but sometimes because they are assumed to be owner-occupied, with the owner assumed to be more capable of a voluntary retrofit without policy intervention. Both of these assumptions can be false, however: an ABAG study indicated that 20 percent of single-family homes in Albany are likely rentals, there is no guarantee that homeowners are motivated to retrofit, and the aggregate effects of damage to small buildings can still be large in terms of community resilience.

Albany might be interested in studying any or all of those issues. For now, we are interested in these dwellings mostly to provide a broader context for understanding the WFTS risk posed by the larger buildings.

As shown in Table 1, Albany has 3967 1- and 2-unit residential buildings. This figure is different from the raw data received from the city because review of the multi-family parcels found several cases where the parcel comprises two or more buildings, at least one of which is a house or a duplex. Of these 3967 buildings:

- At least 16, containing 26 units, appear to be apartments over ground floor retail, in pre-1980 buildings on Solano Avenue or San Pablo Avenue, meaning they likely have a WFTS condition related to an open storefront.
- 413 buildings, with 455 units, were built before the 1920s building boom, so they almost certainly have unbraced woodframe cripple walls.
- 537 buildings, with 616 units, are multi-story structures built between 1920 and 1980, meaning they are likely to have ROG conditions. Another 1160, with 1229 units, are listed in the city's data as "1.5 stories," suggesting they could have ROG or split-level deficiencies.
- 1710 buildings, with 1834 units, are listed as 1-story structures built between 1920 and 1980. Some portion of these certainly have cripple wall, hillside, or other seismic deficiencies.

Overall, then, perhaps 1500 of these dwellings, containing at least 1500 units, can be expected to have well-known seismic vulnerabilities, not counting nonstructural risks posed by masonry chimneys, unbraced water heaters, etc.

### Producing the database

Essentially all of the building and unit counts discussed in this memo come from three property lists in two files provided by the city:

- Albany_Res Data, received February 22, which contains condominium and non-condominium records on separate pages.
- Mixed Use, received March 18, which contains records of parcels (or buildings) that have both residential and commercial uses.

From those lists, I produced a new database of 4236 records with one record per parcel, 4224 of which are believed to have at least one residential unit; these are the bulk of the buildings summarized in Table 1.

Producing this data involved the following main steps:

- Combine the condominium records to produce one record per building, each record containing the total number of units, building area, and lot area, approximated in some cases. This step involved reviewing online imagery to assign the units to structurally distinct buildings.
- Add the condominium building records to the records in the other two lists.
- After combining the three lists, each record included data in the following fields, which have various degrees of completeness and reliability:
    - ID (a unique identifier provided with the raw data)
    - House number
    - Street name
    - Residential units
    - Use type, which distinguishes between single-family, multi-family, and "res-retail."
    - Building area
    - Lot area. Unreliable for condominium buildings but not used.
    - Parking type. Generally incomplete and not used.
    - Stories. Often inaccurate, inconsistently including or excluding stories without residential units.
    - County use code
    - Year built
- For each parcel reported to have 3 or more units, review online imagery (using www.google.com/maps and www.bing.com/maps) to estimate properties of the building(s) and enter data into the following additional fields created for this project. This step also involved splitting records that covered multiple buildings, to yield a database with one record per structurally distinct building.
    - Age estimate, to bin the provided "year built" data into groups.
    - Stories above grade, as a confirmation or correction of the provided story numbers.
    - Basement type, including hillside, crawl spaces, and other foundation conditions.
    - Ground floor use(s)
    - Upper floor uses(s)
    - Structure type, meaning the assumed structural material of the building's seismic force-resisting system.
    - WFTS?, taking entries of Y, N, Y?, and U(nknown)
    - Target type, to distinguish different types of WFTS
    - Slope, to indicate the site grading as Flat, Sloped, Hillside, or Graded
    - Plan shape
    - Vertical irregularities in upper stories.

This data was then supplemented with two known developments not included in the files received from the city:

- One record for Belmont Village: 175 units in one building
- One record for University Village: 974 units in roughly 65 buildings
- Entry of a residential unit count of 10 for the residential retirement home on Cornell Avenue.

Database cells are color coded:

- Gray for records that were split or combined relative to the raw data provided
- Yellow for approximated data (typically for the age estimate or number of units, especially where no data was provided)
- Orange for provided data that appears incorrect but which I have not corrected.

**ORDINANCE NO. 2023-04**

**AN ORDINANCE OF THE ALBANY CITY COUNCIL ADDING SECTION 12-15 TO THE ALBANY MUNICIPAL CODE TO REQUIRE SEISMIC RETROFIT OF CERTAIN RESIDENTIAL BUILDINGS**

**WHEREAS,** the City of Albany (the City) is acknowledged to be subject to severe earthquakes in the foreseeable future, with a roughly 70 percent chance of a Northridge-sized earthquake (M6.7) in the next 30 years; and

**WHEREAS,** older multi-unit residential wood frame buildings with soft, weak, open, or otherwise vulnerable lower stories, sometimes known as "soft story" buildings, are acknowledged to be among the most earthquake collapse-prone structures in the City; and

**WHEREAS,** the number of "soft story" buildings in the City is estimated as 150 buildings containing 800 housing units, or as much as 11 percent of the city's total housing stock and 24 percent of its multi-family housing stock; and

**WHEREAS,** the Albany Municipal Code and the California Existing Building Code require seismic retrofit only in exceptionally rare cases; and

**WHEREAS,** California Health and Safety Code Section 19160(n) encourages the City "to initiate efforts to reduce the seismic risk in vulnerable soft story residential buildings;" and

**WHEREAS,** development and implementation of a "soft story" retrofit program is listed as a strategy in the City's 2018 Local Hazard Mitigation Plan and in its 2019 Strategic Plan; and

**WHEREAS,** it is acknowledged to be in the best interests of the City's building owners, commercial and residential tenants, and all residents to apply retrofit standards that balance the benefits of reduced earthquake losses with the costs and disruptions of seismic retrofit; and

**WHEREAS,** other Bay Area cities have implemented "soft story" retrofit programs and have identified cost-beneficial improvements and interpretations of existing model codes and standards.

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

**SECTION 1: FINDINGS:**

**A.** California Health and Safety Code Section 19161(a) authorizes the City to assess its earthquake hazard and to identify potentially seismically hazardous buildings.

**B.** California Health and Safety Code Section 19161(b) requires such identification to be made by a licensed architect or civil engineer or by the staff of a local building department when supervised by a licensed architect or civil engineer.

**C.** With reference to California Health and Safety Code Section 19162(b)(1), the California Building Standards Commission has published, but has not adopted, Chapter A4 of the *California Existing Building Code*, titled "Earthquake Risk Reduction in Wood-Frame Residential Buildings with Soft, Weak or Open Front Walls." As such, the City is free to adopt, modify, interpret, and apply Chapter A4.

**D.** With reference to California Health and Safety Code Section 19162(b)(1), the California Building Standards Commission has adopted Section 317 of the *California Existing Building Code*, which allows a local jurisdiction to adopt standards for earthquake evaluation and retrofit based on the national standard known as ASCE 41, titled *Seismic Evaluation and Retrofit of Existing Buildings*.

**E.** FEMA has published a procedure known as FEMA P-807, titled, *Seismic Evaluation and Retrofit of Multi-Unit Wood-Frame Buildings With Weak First Stories*, with model code provisions in its Appendix B. With reference to California Health and Safety Code Section 19163(b), the City may adopt these provisions with an appropriate performance objective as "substantially equivalent standards" relative to CEBC Chapter A4 or ASCE 41.

**F.** California Health and Safety Code Section 19161(a)(2) identifies the buildings that are the subject of this ordinance as "potentially hazardous buildings." *California Building Code* Section 1.1.8.1 states that local ordinances and mitigation programs for such buildings are exempt from making express findings otherwise required by California *Health and Safety Code* Section 19163(b) citing Section 17958.5 and Section 17958.7.

**G.** This ordinance creates a program requiring work in certain privately owned buildings throughout the City. Implementation of the program will require tracking of compliance for potentially subject buildings, and the compliance status of each potentially subject building will be made readily accessible to the public. In developing this ordinance, City staff has compiled information, including estimates and approximations, regarding privately owned buildings that might or might not become subject buildings. Council recognizes that public disclosure of this preliminary information prior to the effective date of the ordinance and prior to confirmation through program procedures could create conflicts for building owners or between owners and tenants. Therefore, with reference to Government Code Section 6254, the Council finds and declares that building information for specific parcels or addresses compiled prior to the effective date of the ordinance may be held in confidence, and that the public interest in nondisclosure of such information clearly outweighs the public interest in disclosure.

**H.** Section 12-5.2 (l) of this ordinance, entitled "Eviction Protection", is more protective than the provisions of CA Civil Code section 1946.2. Namely, this ordinance further limits the reasons for termination of residential tenancy by determining that the need to vacate any unit of a subject building in order to comply with this Chapter shall not be considered a just cause for eviction of

a tenant. Moreover, this ordinance provides for certain temporary relocation assistance where tenants are required to temporarily vacate their residential units.

The recitals above are each incorporated by reference and adopted as findings by the City Council.

**SECTION 2: CHAPTER 12 OF THE ALBANY MUNICIPAL CODE, SECTION 12-15 TITLED "MANDATORY SEISMIC RETROFIT OF CERTAIN RESIDENTIAL BULIDNGS" IS HEREBY CREATED AND ADDED**

**SECTION 12-15. MANDATORY SEISMIC RETROFIT OF CERTAIN RESIDENTIAL BUILDINGS**

**SECTION 12-15.1. DEFINITIONS**

**a. Supplemental definitions.** In addition to or in place of definitions given elsewhere in this code, the following definitions shall apply for purposes of this section.

**Building Official.** The designated staff person authorized and responsible for implementing the California Building Code.

**Dwelling unit.** A single unit providing complete, independent living facilities for one or more persons, including permanent provisions for living, sleeping, eating, cooking, and sanitation; or any individual residential unit in a building with R-1 or R-2 occupancy, including short-term rental units; or any guestroom, with or without a kitchen, in either a tourist or residential hotel or motel. Any unit occupied as a dwelling unit, whether approved or not approved for such use, shall be counted as a dwelling unit.

**Owner.** The owner of record as shown on the last equalized assessment roll of the county. For purposes of providing notice to an owner of any action or proceeding under this section, the term owner includes the actual owner of record, or part owner, or such owner's agent, employee or other legal representative.

**Target story.** Either (1) a basement story or underfloor area that extends above grade at any point or (2) any story above grade, where the wall configuration of such basement, underfloor area, or story is substantially more vulnerable to earthquake damage than the wall configuration of the story above; except that a story is not a target story if it is the topmost story or if the difference in vulnerability is primarily due to the story above being a penthouse or an attic with a pitched roof.

**Wood frame target story.** A target story in which a significant portion of lateral or torsional story strength or story stiffness is provided by wood frame walls.

**SECTION 12-15.2. ADMINISTRATION**

**a. Title.** Section 12-15 shall be known as "Mandatory Seismic Retrofit of Certain Residential Buildings," may be cited as such, and will be referred to herein as "this section."

**b. Intent.** This section is intended to promote public safety and welfare through a program of mandatory seismic retrofit of certain residential buildings vulnerable to earthquake damage and collapse. The program is intended to do some or all of the following: reduce earthquake-related deaths and injuries, improve the durability of the existing housing stock, facilitate post-earthquake emergency response, improve community stability, minimize displacement during retrofits and after an earthquake, and reduce the economic impacts of a damaging earthquake.

**c. Subject Buildings.** This section shall apply to buildings constructed or permitted for construction before January 1, 1981 or designed based on an adopted version of the 1976 or earlier edition of the Uniform Building Code, that contain three or more dwelling units, and have a wood frame target story. This section refers to any such building as a subject building.

**d. Notification.** Within 90 days of the effective date of this section, the Building Official shall send a written notice to the owner of each known subject building informing the owner of the requirement to comply with this section. Failure of the Building Official to send or provide a written notice to unidentified owners of subject buildings or to owners of buildings not known to be subject buildings shall not relieve the owner of a subject building from the requirement to comply with this section. Failure of an owner to receive a written notice shall not relieve the owner of a subject building from the requirement to comply with this section.

**e. Exemption or extension.** The owner of a subject building may apply for an exemption from the requirements of this section or for the extension of one or more deadlines. Exemption or extension may be granted for the following conditions applies:

**1.** A significant financial hardship related to the cost of the required work that will make it infeasible to complete construction in the required time.

**2.** An extension would prevent or minimize the displacement of a tenant.

**3.** A temporary, extreme shortage of, or price increase for, construction materials or labor.

To request an exemption or extension, the owner shall submit an application to the Building Official with supporting documentation. The burden is on the building owner to show that at least one of the listed conditions applies. The Building Official shall have discretion to grant or deny an exemption or extension. The Building Official may also refer the application to the Planning and Zoning Commission. If the application is referred to the Planning and Zoning Commission, the Building Official may establish procedures and application requirements. The Commission shall review the information supplied by the owner and shall make a recommendation to the Building Official.

**f. Design Professionals.** Unless specifically noted, all work intended to comply with this section shall be performed by appropriately licensed individuals, and all documents submitted for compliance shall be sealed by a California-licensed architect or civil engineer.

**g. Submittals.** In addition to submittals required by other provisions of this code, the Building Official is authorized to develop, distribute, and require the use of certain forms, templates, and other tools as needed to facilitate compliance, review, approval, and records maintenance contemplated by this section. The Building Official is authorized to require separate submittals and permit applications for work required for compliance with this section and for voluntary work to be performed simultaneously.

**h. Technical bulletins and administrative regulations.** The Building Official is responsible for the administration of this section and is authorized to develop and require compliance with one or more technical bulletins and/or administrative regulations containing interpretations, clarifications, and commentary to facilitate implementation of the engineering criteria and other requirements set forth in this section.

**i. Retention of plans.** The Building Official shall retain an official copy of any approved target story evaluation reports and retrofit design plans submitted to comply with this section.

**j. Public record keeping.** The Building Official shall maintain a list of subject buildings and shall make the list readily accessible to the public. The Building Official shall convey the list with a summary of the compliance status of each subject building and its parcel number to the County Clerk-Recorder once every six months.

**k. Conformance Period.** No subject building for which permitted retrofit work is completed in compliance with this section shall be required by the City to undergo additional seismic retrofit of its seismic force-resisting system within a period of 15 years after the effective date of this section, except that any provisions in this code related to addition, alteration, repair, or change of occupancy shall still apply. Any such additional seismic retrofit requirements shall apply at the end of the conformance period, with schedule adjustments to be determined by the Building Official.

**l. Eviction Protection.** All provisions of California Civil Code section 1946.2 shall apply to each subject building that is required to undergo seismic retrofitting under this Chapter. However, the following additional protections shall apply as well:

1. Notwithstanding the provisions of *California Civil Code* Section 1946.2, and as permitted by *California Civil Code* Section 1946.2(g), the need to vacate any unit of a subject building in order to comply with this Chapter shall not be considered a just cause for eviction of a tenant. Moreover, if a tenant is required to temporarily vacate in order to comply with this chapter, the building owner shall either provide temporary housing to the tenant of comparable size and quality or reimburse the tenant a portion of their previously paid rent in an amount equal to the rent for the number of days that the tenant is required to vacate.

**SECTION 12-15.3. COMPLIANCE**

**a. Scope of work for each subject building.** The owner of each subject building shall, in accordance with the schedule given in Section 12-15.3.c, complete the following compliance scope.

**1. Complete the screening.** The owner shall submit a screening document following procedures to be prescribed by the Building Official. Where required, the screening document shall be sealed by a California-licensed architect or civil engineer. The document shall either show that the building is not a subject building per Section 12-15.2.c or shall confirm that the building is a subject building assigned to a certain compliance tier.

**2. Complete the structural retrofit.** The owner shall:

**2.1.** Obtain a building permit to retrofit the subject building in compliance with the criteria given in Section 12-15.4; and

**2.2.** Complete or cause to be completed all permitted construction, and obtain a certificate of completion.

Alternatively, the owner may submit to the Building Official a seismic evaluation report demonstrating compliance of each wood frame target story with the criteria given in Section 12-15.4.

**3. Submit affidavits of compliance.** The owner shall submit one or more affidavits prescribed by the Building Official confirming compliance with the required scope and with other administrative regulations.

**b. Compliance tiers.** Each subject building shall be assigned to a compliance tier as follows.

**Tier 1.** Subject buildings with 5 or more dwelling units shall be assigned to Tier 1, unless eligible for Tier 3.

**Tier 2.** Subject buildings with 3 or 4 dwelling units shall be assigned to Tier 2, unless eligible for Tier 4.

**Tier 3.** Subject buildings with 5 or more dwelling units, with at least one legally permitted dwelling unit or business, mercantile, or assembly occupancy in a wood frame target story, shall be assigned to Tier 3.

**Tier 4.** Subject buildings with 3 or 4 dwelling units, with at least one legally permitted dwelling unit or business, mercantile, or assembly occupancy in a wood frame target story, shall be assigned to Tier 4.

**c. Schedule.** The owner of a subject building shall comply with each of this section's requirements in accordance with the deadlines given in Table 12-15.3.c unless extended in accordance with Section 12-15.2.e. Failure to fully comply with any deadline or to receive approval of submitted materials shall not alter other applicable deadlines. In no case shall transfer of title cause any deadline to be extended.

**TABLE 12-15.3.c. Compliance deadlines in years after the effective date of this section**

| Compliance Tier | 1. Screening | 2.1. Retrofit Permit | 2.2. Retrofit Construction | 3. Affidavits |
|---|---|---|---|---|
| Tier 1 | 1 year | 2 years | 3 years | 3 years |
| Tier 2 | 1 year | 3 years | 4 years | 4 years |
| Tier 3 | 1 year | 4 years | 5 years | 5 years |
| Tier 4 | 1 year | 5 years | 6 years | 6 years |

## SECTION 12-15.4. STRUCTURAL ENGINEERING CRITERIA

**a. Engineering intent.** The structural criteria provided in this section have been selected as appropriate to the intent of this section. The structural retrofit criteria are expected to significantly reduce the collapse risk of subject buildings and to increase the likelihood that a subject building will be structurally safe to repair and occupy shortly after an earthquake.

The structural criteria are intended to apply to existing wood frame target stories in order to improve building performance while limiting retrofit costs and impacts. It is not the intent of this section to require mitigation of all structural deficiencies, seismic or non-seismic, that might exist within or adjacent to the building. The structural criteria might not achieve the same performance as design requirements for new buildings or any full-building retrofit objective for existing buildings.

**b. Structural seismic evaluation.** Where performed, seismic evaluation of each wood frame target story shall comply with the latest edition of *Seismic Evaluation and Retrofit of Existing Buildings* [ASCE/SEI 41] with a performance objective of Structural Life Safety with the BSE-1E hazard or Structural Collapse Prevention with the BSE-2E hazard, as interpreted by the Building Official.

**c. Structural seismic retrofit.** Seismic retrofit of each wood frame target story shall comply with one of the following criteria.

**1.** Chapter A4 of the latest edition of the *California Existing Building Code*, as interpreted by the Building Official.

**2.** The latest edition of *Seismic Evaluation and Retrofit of Existing Buildings* [ASCE/SEI 41] with a performance objective of Structural Life Safety with the BSE-1E hazard or Structural Collapse Prevention with the BSE-2E hazard, as interpreted by the Building Official.

**3.** For subject buildings qualified as historic, alternate building regulations of the 2022 *California Historical Building Code.*

**SECTION 12-15.5. APPLICATION OF OTHER PROVISIONS OF THIS CODE**

**a. Approval.** Except for unsafe conditions, work triggered by the required scope of work, or as specifically noted in this section, the Building Official shall not withhold approval of submitted materials for reasons unrelated to the required scope and the engineering criteria.

**b. Green Building Measures.** Work required by this section is exempt from compliance with Green Building Measures otherwise required by City of Albany Resolution 2022-135. This exemption applies only to work expressly required for compliance with this section.

**c. Alteration provisions.** Prior to compliance with this section, each subject building shall be considered a substandard building per *California Health and Safety Code* Section 17920.3(o). When considering the work required by this section as an alteration, the Building Official is authorized to waive any of 2022 *California Existing Building Code Sections* 503.4 through 503.12 and their successor provisions, as adopted and amended by the City of Albany.

**d. Existing building requirements.** Unless specified otherwise, work on subject buildings that is neither required by this section nor triggered by compliance with this section shall comply with all applicable provisions of this code.

**SECTION 3: SEVERABILITY:**

If any provision of this Ordinance or its application to any person or circumstances is held invalid, such invalidity has no effect on the other provisions or applications of the Ordinance that can be given effect without the invalid provision or application, and to this extent, the provisions of this Ordinance are severable. The City Council declares that it would have adopted this Ordinance irrespective of the invalidity of any portion thereof.

**SECTION 4: PUBLICATION AND EFFECTIVE DATE:**

This ordinance shall be posted at three public places within the City of Albany and shall become effective ninety days after the date of its posting.

**PASSED AND ADOPTED** by the City Council of the City of Albany at its meeting on the __ day of _____ 2023, by the following vote:

AYES:
NOES:
ABSENT:
ABSTAIN:

_____
AARON TIEDEMANN, MAYOR