



# Petition for Change of Compliance Tier – Instructions

## Oakland Municipal Code Section 15.27.050

These instructions accompany the Petition for Change of Compliance Tier available at the program website:  
<https://www.oaklandca.gov/topics/ssretrofit>.

### About the Petition for Change of Compliance Tier

Submitting a Petition for Change of Compliance Tier is optional. The purpose of the Petition for Change of Compliance Tier is to allow an owner to show that the building in question is eligible for the later deadlines of a different Compliance Tier per Oakland Municipal Code (OMC) Chapter 15.27. OMC Section 15.27.070 (see the referenced code sections below) defines the three Compliance Tiers and gives their various deadlines. A change of Compliance Tier merely allows later deadlines; it does not affect the required scope or criteria.

### Related materials

Related materials are available at the program website (see link above). These include:

- Frequently Asked Questions
- Petition for Exemption, with instructions. If you intend to petition for complete exemption from Chapter 15.27, do not submit this Petition for Change of Compliance Tier form.

### Preparing to complete the form

To complete the form, you will need to gather information about the building. In some cases you will also need to engage a licensed design professional and arrange a site visit for your design professional.

#### \_\_\_ Information about the building

- As shown in Part 2 of the form, the Compliance Tier is based on the building's status with respect to Oakland's 2009 Mandatory Screening Ordinance, the number of dwelling units in the building, and the location and use of any Wood Frame Target Story (see OMC Section 25.17.150, excerpted below).
- In most cases, the Bureau of Building will require appropriate documentation, or a determination by your design professional, in order to approve a change of Compliance Tier.

#### \_\_\_ Licensed design professional

- if you are petitioning for a change to Tier 1-LB or Tier 2, you do NOT need to engage a design professional. See the instructions below for PART 2: Conclusion.
- If you are petitioning for a change to Tier 3, you will need to engage a California-licensed design professional – an architect, civil engineer, or structural engineer – to complete the form.
- The City cannot recommend specific design professionals, but local associations offer referral lists:
  - [SEAONC Structural Engineer Referral List \(https://www.seaonc.org/page/referrallist\)](https://www.seaonc.org/page/referrallist)
  - [AIA SF Search \(https://www.iasf.org/page/FindanArchitect\)](https://www.iasf.org/page/FindanArchitect)

#### \_\_\_ Site visit

- If you are petitioning for a change to Tier 3 based on the occupancy of a Wood Frame Target Story, your design professional will, in most cases, need to conduct a site visit.
- You will need to provide access to the building, especially any potential Wood Frame Target Stories. It is best to provide access to all areas in the ground floor and/or basement, including storage areas, common areas, boiler rooms, parking areas, etc.
- Where required, it is your responsibility to provide advance notice to your tenants.

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#### Submitting the completed form

There is no fee to submit the form. The deadline for submitting the form is February 21, 2020. If you discover after the deadline that your building is eligible for a later Compliance Tier, you may still submit a completed form after the deadline, but if your petition is not approved, other program deadlines will still apply.

You may submit the form, properly signed, in any of three ways:

- By email
  - As a pdf attachment, to [MandatorySoftStoryRetrofit@oaklandca.gov](mailto:MandatorySoftStoryRetrofit@oaklandca.gov)
  - Put “Petition form submittal” in the email subject line
- By U.S. mail, to:
  - Mandatory Soft Story Retrofit Program
  - 250 Frank H. Ogawa Plaza, Suite 2340
  - Oakland, CA 94612
- In person, to the mailing address above.

#### Review and approval of the form

For forms submitted by email or by U.S. mail, the Bureau of Building will, within five business days of receipt, acknowledge receipt by email to the owner or authorized agent and to the email address submitting the form.

- If the form is incomplete, the acknowledgement email will identify what is missing. You will then be responsible for submitting a revised or completed form.
- If the form is complete, the Bureau will review the information submitted and, separate from the acknowledgement, will reply by email with a statement confirming that the Compliance Tier will remain as assigned (that is, unchanged) or that the Compliance Tier will be changed as proposed.
- The Bureau is authorized to request and review additional supporting information from the owner, authorized agent, and/or design professional before reaching a conclusion. In rare cases, the Bureau may need to conduct a site visit with City staff or consultants before reaching a conclusion.

### INSTRUCTIONS and NOTES

#### Parcel Number

The parcel number refers to the Assessor’s Parcel Number shown at the top of your “Notice of Mandatory Seismic Retrofit” letter. If you did not receive such a letter, you can find the parcel number by entering the address at the Alameda County Assessor’s website:

<http://www.acgov.org/assessor/resources/assessment-information.htm>

- If there are multiple parcel numbers for a single building, see the instructions at the bottom of Petition for Change of Compliance Tier page 1 regarding Condominium Owners.

#### Property Address

Enter the address of the building for which you are petitioning for a Change of Compliance Tier.

- If the address in your “Notice of Mandatory Seismic Retrofit” letter was incorrect, use the Petition for Change of Compliance Tier form to correct it, and add “CORRECTED:” in the Property Address line.
- If the parcel has multiple buildings, use the Property Address line to identify the building (or buildings) for which you are petitioning. You may identify the building by:
  - House number, if the buildings on the parcel have different addresses.
  - Building name or number, for example “Building A,” if that is how the buildings are labeled at the site.
  - Unit numbers, if that is how the buildings are identified at the site.
  - Other clear distinguishing features, such as “Building facing street” or “North building.”
- If you are petitioning for a later Compliance Tier for more than one building, you may use the same Petition for Change of Compliance Tier form only if the buildings are essentially identical in their age, size, use, and design. Otherwise, use separate forms for each set of similar buildings.

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**Owner(s)**

Enter the name of the owner or owners of the building for which you are petitioning.

- If the name shown on your “Notice of Mandatory Seismic Retrofit” letter was incorrect, use the Petition form to correct it, and add “CORRECTED:” in the Property Address line.

**PART 1 – CONTACT INFORMATION**

**Owner contact information**

This information will be used only for correspondence regarding the Soft Story program. If the owner prefers that the City correspond with an individual who is not an owner (such as a relative or property manager), leave the Owner section blank, and complete the Authorized Agent section only. Otherwise, enter the telephone, email, and mailing address information for the owner identified at the top of the form.

- If the building has more than one owner, enter the contact information for one individual owner only.
- If the owner is not an individual (for example, a trust, LLC, or HOA), leave the Owner section blank, and complete the “Authorized Agent” section only.

**Authorized agent contact information**

If the Owner section is left blank, enter the name and contact information for an individual authorized by the owner to correspond with the City on the owner’s behalf. This information will be used only for correspondence regarding the Soft Story program.

- If there is no Authorized Agent, leave this section blank.
- The Bureau will presume that the Authorized Agent is authorized by the owner to make decisions regarding the building with respect to the Soft Story program.
- Typically, the Authorized Agent section is a property manager already engaged by the owner, or another owner-designated individual with knowledge of and access to the building.
- Your design professional is not typically designated as an Authorized Agent.

**PART 2 – WORKSHEET**

**Current Compliance Tier**

Check the box corresponding to the Compliance Tier shown at the top of your “Notice of Mandatory Seismic Retrofit” letter.

- If you did not receive a Notice, leave all the boxes blank. For completeness, you may write “None” on the form.
- The Petition form and the Notice sent to owners have two subcategories of Tier 1 not defined in OMC Section 15.27.070: Tier 1-NR (Non-Responsive) for buildings assigned to Tier 1 because the owner did not comply with a previous ordinance, and Tier 1-LB (Large Building) for buildings assigned to Tier 1 because of the number of dwelling units. These subcategories were created merely to simplify the assignment and tracking of Compliance Tiers. Otherwise buildings assigned to Tier 1-NR and Tier 1-LB have identical deadlines and other requirements.

**Number of Dwelling Units**

Check the box corresponding to the number of dwelling units in the building. The break at 20 units reflects one of the distinctions between Tier 1-LB and Tier 2.

- A building with fewer than five dwelling units is exempt from OMC Chapter 15.27. Use the Petition for Exemption form, available at the program website, to claim the exemption.
- If the building was initially assigned to Tier 1-LB and you are petitioning for a later Compliance Tier based on the number of dwelling units, the Bureau will likely ask for documentation. You are not required to submit the documentation with the form, but it is recommended that you add a brief explanation of the basis for your answer on the form under this item or under Question 4.
- Note that both vacant and unapproved residential units count as dwelling units.

**Question 1. Tier 1-NR**

Any building that did not comply with the City’s 2009 Mandatory Screening program has been initially assigned to Compliance Tier 1-NR based on City records.

- If the building was initially assigned to Tier 1-NR and you are petitioning for a later Compliance Tier, the Bureau will require documentation of compliance with the 2009 Mandatory Screening program. Submit that documentation together with the Petition for Change of Compliance Tier.

### **Question 2. Business or Mercantile Occupancy in the Wood Frame Target Story**

The intent of Question 2 is to allow more time for the retrofit of buildings with occupied commercial space by assigning them to Compliance Tier 3. To answer this question, the design professional will need to confirm which stories are Wood Frame Target Stories based on the definitions in OMC Section 15.27.150 (see the referenced code sections below).

- Determination of the Wood Frame Target Story involves two questions: First, is any story a Target Story, and second, does that Target Story rely on wood frame walls for its strength or stiffness, making it a Wood Frame Target Story.
- A building with no Wood Frame Target Story is exempt from OMC Chapter 15.27. Use the Petition for Exemption form, available at the program website, to claim the exemption.
- A building with a prior retrofit might be eligible for exemption based on the lack of a Wood Frame Target Story. See the Petition for Exemption Instructions.

### **Target Story**

- This definition (see below) is not meant to require a thorough or quantitative structural evaluation. Rather, it is meant to rely on the judgment of the design professional, subject also to the judgment of the Bureau, as to whether the wall configuration of a given story is “substantially more vulnerable to earthquake damage” than that of the story above.
- Wall configuration may be measured by length, location, orientation, and openings. The strength of each wall line is also important, so the design professional should consider differences between unfinished spaces (with exposed wall studs) and finished spaces in which the studs are sheathed or finished on both sides. Wall configuration is often related to occupancy, as the layout and openings of a non-residential lower story are usually different from those of a residential story above.
- In practice, if most lengths of exterior walls and/or interior partitions in either direction do not align from story to story, or door and window openings change substantially from story to story, the lower story might be deemed “substantially more vulnerable.”
- Steel pipe columns or wood posts, which are common along the storefront side of a commercial space, should not be considered to provide any story strength or stiffness for purposes of assessing whether a Target Story exists. If such elements were specifically designed to provide story strength or stiffness, the Bureau may waive this restriction but will likely ask to review original documentation.
- An “underfloor area” can be a crawl space or cripple story, finished or not. However, an underfloor area in which the wood walls are solid-blocked and do not exceed 14 inches in height need not be considered a target story; this is consistent with 2016 CBC Table 2308.2.1, Section 2308.5.6, and Section 2308.6.6.2.
- A building can have more than one Target Story. Buildings on sloped sites often have conditions that involve more than one Target Story.

### **Wood Frame Target Story**

- This definition (see below) also requires judgment by the design professional and the Bureau, as to whether “a significant portion” of the Target Story strength or stiffness is provided by wood frame walls. The intent of the definition is to allow the design professional to ignore truly nominal or incidental lengths of wood frame walls.
- If, in the judgment of the design professional and the Bureau, *all* of the existing wood frame walls in both directions could be removed from the Target Story with essentially no change in the expected performance, then the wood frame walls might be ignored for purposes of assessing whether a Target Story is also a Wood Frame Target Story.
- Most buildings will not raise questions about whether a Target Story is also a Wood Frame Target Story. The question is most likely to arise in buildings where the Target Story is partly below grade or where the grade varies around the building perimeter. In these cases, Target Story walls are more likely to include some combination of wood frame walls and concrete or masonry walls acting as retaining walls or foundation stem walls.
- A story can be a Target Story even if all of its walls are masonry or concrete. In this case, the building has a Target Story, but it does not have a Wood Frame Target Story.

**Business or Mercantile Occupancy**

- Occupancy groups are defined in Chapter 3 of the Oakland Building Code, which references the California Building Code. Generally, any commercial space will be categorized as either Group B (Business) or Group M (Mercantile) occupancy.
- A building with B or M occupancy is eligible for Compliance Tier 3 only if the space used for B or M occupancy is within a Wood Frame Target Story. However, the B or M space can be anywhere within that story and need not be located along an open front or where retrofit elements will be installed.
- If a B or M occupancy is *not* within a Wood Frame Target Story, but storage, mechanical, or other space used by that occupancy is within a Wood Frame Target Story, eligibility for Compliance Tier 3 will be determined by the Bureau on a case-by-case basis. Generally, storage used by the commercial space that cannot be relocated during retrofit construction will make the building eligible for Compliance Tier 3, while customer or staff parking in the Wood Frame Target Story will not. Space within the Wood Frame Target Story used by home-based businesses elsewhere in the building generally will not make the building eligible for Compliance Tier 3 because the disruption would be no greater than for any residential tenant.

**Date observed**

- Enter the date on which the status of the commercial space was observed by the design professional.
- The Compliance Tier definitions (below) allow most buildings with commercial spaces to be assigned to Compliance Tier 3, but only if they have been non-vacant for at least a month as of January 22, 2020. The Bureau will confirm the status on this date separately. This date entered on the Petition for Change of Compliance Tier form is not used for that determination; it is used only to record the status as of when your Petition for Change of Compliance Tier is submitted so that owners, agents, and design professionals signing the form are not held to a condition they did not observe.
- For the same reason, the instructions following Question 2 refer to “tentative” assignment to Compliance Tier 3, pending status confirmation on January 22, 2020.

**Question 3. Dwelling Unit in the Wood Frame Target Story**

The intent of Question 3 is to allow more time for the retrofit of buildings with one or more occupied dwelling units in the retrofitted story by assigning them to Compliance Tier 3. To answer this question, the design professional will need to confirm which stories are Wood Frame Target Stories based on the definitions in OMC Section 15.27.150 (see the referenced code sections below).

- See the instructions and notes above Question 1 regarding the definition of Dwelling Unit.
- See the Question 2 instructions and notes regarding the definitions of Target Story and Wood Frame Target Story.

**Question 4. Buildings with fewer than 20 dwelling units**

Question 4 represents the default condition after other factors have been checked by Questions 1, 2, and 3.

**Conclusion**

- If the Proposed Compliance Tier is Tier 1-LB or Tier 2, you are not required to engage a design professional. If the Proposed Compliance Tier is Tier 3, you are required to engage a design professional to complete the form. The Bureau expects to revise the Petition for Exemption form to reflect this instruction.

**PART 3 – DESIGN PROFESSIONAL & OWNER AFFIDAVIT**

**Design Professional**

- If the Proposed Compliance Tier is Tier 1-LB or Tier 2, as shown in the Conclusion section of PART 2, you are not required to engage a design professional, so skip the Design Professional section of PART 3. The Bureau expects to revise the Petition for Exemption form to reflect this instruction.

**REFERENCED CODE SECTIONS and DEFINITIONS**

**15.27.070 Schedule (excerpt).**

A. Each subject building shall be assigned to a compliance tier as follows:

Tier 1: Subject buildings assigned to Tier 1 shall include:

- a. Buildings not eligible for Tier 2 or Tier 3, with twenty (20) or more dwelling units; [Note: For purposes of assigning Compliance Tiers, this subcategory is designated Tier 1-LB.]
- b. Buildings whose owners failed to comply with O.M.C. [Section 15.26.230](#) (Mandatory Screening Ordinance) on or before July 28, 2011, regardless of the number of dwelling units or nominal eligibility for Tier 2 or Tier 3. [Note: For purposes of assigning Compliance Tiers, this subcategory is designated Tier 1-NR.]

Tier 2: Subject buildings assigned to Tier 2 shall include:

- a. Buildings not eligible for Tier 3 with between five (5) and nineteen (19) dwelling units;
- b. Buildings with legally permitted business or mercantile occupancy in a wood frame target story. A building assigned to Tier 2 due to business or mercantile occupancy may be reassigned to Tier 3 upon demonstration by the owner that at least one (1) commercial unit is non-vacant on the day one (1) year from the effective date of this Chapter, and has been occupied for at least one (1) month.

Tier 3: Subject buildings assigned to Tier 3 shall include:

- a. Buildings with legally permitted residential occupancy in a wood frame target story not otherwise assigned to Tier 1 or Tier 2;
- b. Buildings otherwise assigned to Tier 3.

**Table 15.27.070 Compliance Deadlines (edited for context).**

Assigned Compliance Tier	STEP 1. Document that building is <b>not</b> a subject building	STEP 2. Document that building is eligible for a later compliance tier	STEP 3. Perform mandatory evaluation and submit initial affidavit of compliance	STEP 4. Obtain retrofit permit or submit Target Story evaluation report	STEP 5. Perform retrofit work and obtain approval on final inspection; submit final affidavit of compliance
Non-subject building	2/21/2020	NA	NA	NA	NA
Tier 1-LB or Tier 1-NR	2/21/2020	2/21/2020	2/21/2021	2/21/2022	2/21/2023
Tier 2	2/21/2020	2/21/2020	2/21/2022	2/21/2023	2/21/2024
Tier 3	2/21/2020	NA	2/21/2023	2/21/2024	2/21/2025

**15.27.150 DEFINITIONS (excerpt)**

**Dwelling Unit.** A Dwelling Unit shall include any individual residential unit in a building with R-1 or R-2 occupancy, as well as any guest room, with or without a kitchen, in either a tourist or residential hotel or motel but shall not include a housekeeping room. Any unit occupied as a Dwelling Unit, whether approved or not approved for such use, shall be counted as a Dwelling Unit.

**Target Story.** A Target Story shall mean 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 Wood Frame Target Story means a Target Story in which a significant portion of lateral or torsional story strength or story stiffness is provided by wood frame walls.