



CITY OF OAKLAND

TO: Honorable City Council

FROM: Mayor Libby Schaaf;
Councilmember Dan Kalb;
and President Pro Tempore
Sheng Thao

SUBJECT: Construction Innovation and Expanded
Housing Options Ordinance

DATE: October 15, 2021

RECOMMENDATION

We respectfully request that the City Council adopt of the following:

**Ordinance To Promote Cost-Efficient Construction Innovation And Expanded Housing Options
By:**

(1) Amending The Oakland Planning Code (Oakland Municipal Code (OMC) Title 17) To (A) Allow Residential Occupancy Of Recreational Vehicles (RVs), Mobile Homes, And Manufactured Homes In All Zoning Districts Where Residential Uses Are Permitted, (B) Establish Density And Open Space Regulations For Efficiency Dwelling Units, And (C) Establish Height Regulations For Modular Construction;

(2) Amending The Oakland Building Construction Code (OMC Chapter 15.04) To Adopt Voluntary Appendix R to the California Residential Code (Light Straw-Clay Construction);

(3) Making Conforming Amendments To The Blight Ordinance (OMC Chapter 8.24), Building Maintenance Code (OMC Chapter 15.08), Affordable Housing Impact Fees Ordinance (OMC Chapter 15.72), And Transportation And Capital Improvements Impact Fees Ordinance (OMC Chapter 15.74);

(4) Staying Enforcement Of OMC Sections 8.24.020(F)(2) And 8.24.020(G) For 120 days; And

(5) Exempting RV Parks Owned, Operated, and Maintained By Non-Profit Organizations For Permanent, Temporary, Or Emergency Use, Subject To The Planning Code Standards, From The Special Occupancy Parks Act (Health And Safety Code Section 18200 Et Seq) Pursuant To Health And Safety Code Section 18865.4;

And Making California Environmental Quality Act Findings

Item: _____
CED Committee
October 26, 2021

EXECUTIVE SUMMARY

Oakland faces a housing affordability crisis. Housing is unaffordable for many Oaklanders, and one reason housing is expensive is because it is extremely expensive to build. We are proposing an ordinance to amend the Oakland Planning Code and various related City codes to support construction innovation and expand the types of cost-effective housing options available to residents with the goal of reducing the cost of housing in the city.

Specifically, the ordinance would:

1. Amend the Oakland Planning Code to (a) allow residential occupancy of recreational vehicles (RVs), mobile homes, and manufactured homes in all zoning districts where residential uses are allowed, (b) establish density and open space regulations for efficiency dwelling units, and (c) establish height regulations for modular construction;
2. Amend the Oakland Building Construction Code to adopt voluntary Appendix R to the California Residential Code (Light Straw-Clay Construction);
3. Make conforming amendments to the Blight Ordinance, Building Maintenance Code, Affordable Housing Impact Fee Ordinance, and Transportation and Capital Improvements Impact Fees Ordinance;
4. Stay enforcement of provisions of the Blight Ordinance prohibiting residential occupancy of RVs for 120 days to allow property owners with existing citations time to apply for approval under the new regulations; and
5. Exempt RV parks owned, operated, and maintained by non-profit organizations for permanent, temporary, or emergency use from the State Special Occupancy Parks Act.

BACKGROUND / LEGISLATIVE HISTORY

Housing Costs

Since 2011, apartment rents in the city have increased 72 percent while median incomes have remained relatively unchanged.¹ High construction costs contribute to the high cost of housing in the Bay Area. Construction costs in the Bay Area have risen 119 percent in the past decade.² Innovative and alternative forms of housing construction have the potential to reduce construction costs so that housing can be provided at a lower cost.

¹ Bay Area Equity Atlas. <https://bayareaequityatlas.org/>

² Terner Center for Housing Innovation, UC Berkeley. The Hard Costs of Construction: Recent Trends in Labor and Materials Costs for Apartment Buildings in California (March 2020). <https://ternercenter.berkeley.edu/hard-construction-costs-apartments-california>

Relevant City Policies

In 2014, the City Council adopted the 2015-2023 Housing Element of the Oakland General Plan which contained strategies to improve housing affordability including supporting manufactured and factory-built housing.

In 2016, the Oakland Housing Cabinet, a task force comprised of the Mayor, City Councilmembers, affordable and market-rate housing developers, housing policy experts, community advocacy organizations, and City staff, released the report Oakland At Home. The report contained recommended strategies to improve housing affordability including promoting innovative forms of cost-saving construction.

In 2018, the City Council passed Resolution No. 87129 C.M.S. to encourage development of expanded housing options such as tiny homes, shipping container homes, manufactured housing, recreational vehicles, and trailers.

In 2020, the City Council adopted Ordinance No. 13611 C.M.S. to create the RV Pilot Program to allow residential occupancy of one RV on vacant land.

On June 1, 2021, the City Council adopted Resolution No. 88675 C.M.S. which, among other things, directed staff to report back to City Council with action to regulate and permit RV parks in Oakland, with specific requirements.

Research

In 2018, the City received technical assistance from the Metropolitan Transportation Commission (MTC) and Association of Bay Area Governments (ABAG) to promote the use of innovative forms of cost-saving construction. The work, led by consultant Urban Planning Partners, resulted in a research report issued in March 2020 that identified barriers and solutions to utilizing innovative construction. The report recommended, among other things, that the City update its zoning and building regulations to increase flexibility and encourage innovative and alternative forms of construction. The research won an Award of Excellence from the Northern California Chapter of the American Planning Association and informed the proposed ordinance.

Planning Commission Action

On June 2, 2021, the City Planning Commission conducted a public hearing on the proposed amendments to the Planning Code and voted unanimously to recommend that the City Council approve the proposed amendments and find that the proposed ordinance is exempt from further review under the California Environmental Quality Act. In addition, the Planning Commission also recommended the following:

- More information be provided on utility connections for RVs authorized for residential use and that the new regulations should promote utility connection flexibility while maintaining public and environmental health and safety; and
- More information be provided on how the City's various tenant protection laws apply to RVs being used for residential purposes.

More information on utility connections and tenant protection laws is provided in this report.

PROPOSAL

The elements of the proposed ordinance are described below.


Amendments to the Oakland Planning Code


Residential Occupancy of RVs: Vehicular Residential Facilities

Residential facilities built on a vehicle chassis, such as RVs and tiny homes on wheels, can be a lower-cost housing option because they tend to be smaller than other forms of housing and are often built in factories. The zoning regulations of the Planning Code currently require all residential facilities to be installed on a permanent foundation. Structures on a vehicle chassis are currently prohibited for residential purposes unless they are on property owned or leased by the City for emergency housing for the homeless or comply with the RV Pilot Program created by the City in 2020 to allow no more than one RV on vacant land.

The ordinance would amend the Planning Code to allow residential occupancy of RVs and tiny homes on wheels on private property. This would be accomplished by creating a new facility type in the zoning regulations called “Vehicular Residential Facilities.” A new section pertaining to Vehicular Residential Facilities would be added to the Planning Code (Section 17.103.085) accompanied by various amendments throughout the Planning Code.

Tables 1 and 2 below provide more information on the proposal for Vehicular Residential Facilities.

Table 1: Summary of Proposed Regulations Pertaining to Vehicular Residential Facilities	
Topic	Proposal
Overview	Allow residential occupancy of one or more recreational vehicles or tiny homes on wheels on vacant or developed private property. Residential use of structures on a vehicle chassis is currently prohibited. Residential occupancy of recreational vehicles and tiny homes on wheels would be allowed similar to the existing allowance for residential use of non-traditional structures on permanent foundations (e.g., tiny houses, shipping containers, factory-built housing).
Zoning category	Create a new facility type in the zoning regulations for “Vehicular Residential Facilities.”
Types of structures included	Recreational vehicles: motorhomes and trailers (representative photos) 

	<p>Tiny homes on wheels (representative photo)</p> 
<p>Definition</p>	<p>Vehicular Residential Facilities would be defined as recreational vehicles under State law. Recreational vehicles are defined in California Health and Safety Code Section 18010.</p>
<p>Where allowed</p>	<p>Vehicular Residential Facilities would be allowed in all zoning districts where residential facilities are currently allowed.</p>
<p>Density</p>	<p>Each Vehicular Residential Facility would be considered one residential unit for density purposes and would be subject to the same density restrictions of the underlying zone.</p>
<p>Relationship to Accessory Dwelling Units (ADUs)</p>	<p>Vehicular Residential Facilities would not be subject to the State Accessory Dwelling Unit (ADU) laws because State law does not consider them ADUs. However, a Vehicular Residential Facility could be considered an ADU under Oakland’s ADU rules.</p> <p>Vehicular Residential Facilities would be exempt from the City’s ADU development standards because they would be subject to special development standards for Vehicular Residential Facilities (as described in this table), except Vehicular Residential Facilities considered ADUs would need to comply with ADU regulations pertaining to density and restrictions on ADUs in certain locations for life safety reasons.</p> <p>Oakland’s ADU rules prohibit Category 2 ADUs (i.e., stand-alone ADUs) in the S-9 Combining Zone (Very High Fire Hazard Severity Zone in the Oakland Hills) for life safety reasons so in situations where a Vehicular Residential Facility is considered an ADU, it would not be allowed in the S-9 Combining Zone.</p>
<p>Minimum required setbacks</p>	<p>No requirement for front, side, or rear setback. Vehicular Residential Facilities located within the normally required front yard setback must be located on an existing driveway and not extend over the property line or adjacent sidewalk. (See also separation and site design requirements below.)</p>
<p>Minimum required separation</p>	<p>6 feet minimum required between one Vehicular Residential Facility and another Vehicular Residential Facility or a building on the same lot or adjacent lot.</p>
<p>Site design requirements</p>	<p>Site plan review would be required.</p> <p>In residential zones, no special site design standards would apply, except the setback and separation requirements described above would apply.</p> <p>In commercial zones and special districts, Vehicular Residential Facilities must be set back 30 feet from the street or located behind a building, in addition to the separation requirement described above.</p>

Ground surface	All-weather surface required (e.g., asphalt, concrete, pavers, decomposed granite, gravel) under each Vehicular Residential Facility and pedestrian pathways.
Off-Street Parking	Self-propelled Vehicular Residential Facilities (e.g., motorhome): No requirement Other Vehicular Residential Facilities (e.g., trailer, tiny home on wheels): Same requirement as ADUs (not required within ½-mile of a transit stop)
Habitability	Vehicular Residential Facilities must comply with State and local habitability and tenantability standards related to dwelling units including California Civil Code Section 1941.1. Among other things, the facilities must be structurally sound, protect occupants against the weather, include permanent provisions for living and sleeping, include heating and lighting, and provide occupants with 24-hour on-site access to potable water, a kitchen, and clean, lighted, code-compliant toilet, bathing facilities, and lavatory sink under the occupants' control. For Vehicular Residential Facilities subject to the State RV park rules (see below), potable water, kitchens, toilets, bathing facilities, and lavatory sinks must be provided within each unit. For Vehicular Residential Facilities not subject to the State RV park rules that do not contain in-unit toilets, bathing facilities, or lavatory sinks, a minimum of 1 toilet, 1 bathing facility, and 1 lavatory sink would be required for every 5 Vehicular Residential Facilities.
Utility connections	<i>See Utility Connections table.</i>
Health and safety certification	Vehicular Residential Facilities must comply with State-required health and safety certification standards. The structure can be built in a certified factory or certified by a third-party inspector and must bear a label or insignia indicating compliance with American National Standards Institute (ANSI) A119.2 or A119.5 standards or National Fire Protection Association (NFPA) 1192 standards.
Fire safety	In addition to the above health and safety standards, Vehicular Residential Facilities would be subject to fire safety requirements related to heating systems and propane storage and require smoke detectors and street numbers visible from the street to identify the property address.
Refuse and trash	Properties containing Vehicular Residential Facilities would be subject to all applicable laws regarding blight, odors, and trash. Refuse collection service would be required.
Zoning approval process	1-4 Vehicular Residential Units: Design review exemption – no public notice, over-the-counter staff approval (similar to an ADU) 5+ Vehicular Residential Units: Regular Design Review – discretionary review, public notice, staff approval, appealable to the Planning Commission (similar to a new house)
Building permit	Vehicular Residential Facilities are considered vehicles, not buildings, and are not regulated under the Building Code. No building permit would be required.
Utility permits	Electrical and plumbing permits would be required for utility connections.

<p>Inspections</p>	<p>All Vehicular Residential Facilities would require an initial installation inspection by the Zoning Inspection Unit of the Building Bureau in the Planning and Building Department. Vehicular Residential Facilities with utility connections would also require an inspection under the utility permits.</p> <p>On an annual basis, the City would inspect a subset of previously installed Vehicular Residential facilities to verify ongoing compliance with operation and maintenance requirements. The fee to cover the first operation and maintenance inspection would be paid at the time of initial approval.</p>
<p>Approximate City approval/permitting fees</p>	<p>1-4 Vehicular Residential Facility without utility connections: \$294 zoning approval (design review exemption) \$324 installation inspection \$324 operation and maintenance inspection <u>\$56 address fee</u> \$998 approximate total</p> <p>1-4 Vehicular Residential Facility with utility connections: \$294 zoning approval (design review exemption) \$217 plumbing permit \$217 electrical permit \$324 installation inspection \$324 operation and maintenance inspection <u>\$56 address fee</u> \$1,432 approximate total</p> <p>5+ Vehicular Residential Facilities (utility connections required): \$3,549 zoning approval (regular design review) \$(varies) plumbing permit (depends on number of connections) \$(varies) electrical permit (depends on number of connections) \$465 installation inspection \$465 installation inspection <u>\$56 address fee</u> \$4,535 approximate total + plumbing & electrical permits</p> <p><i>Note: Additional City permits/fees may apply depending on the site and project. The fees above do not include fees that may be charged by other agencies.</i></p>
<p>Recreational vehicle parks & State law</p>	<p>Two or more Vehicular Residential Facilities on a site would be considered a “Special Occupancy Park” under State law and would need to comply with the State RV park rules contained in the Special Occupancy Parks Act and the Special Occupancy Park Regulations. New parks would be required to obtain a permit from the State to construct and operate after obtaining zoning approval</p>

	<p>from the City of Oakland. Sites with only one Vehicular Residential Facility, and sites with two or more Vehicular Residential Facilities where no rent is paid to occupy the space or the unit, are not subject to the state requirements for parks. Pursuant to California Health and Safety Code Section 18865.4, the proposed ordinance would also exempt RV parks owned, operated, and maintained by nonprofit entities from the State requirements for parks. More information about State RV park rules can be found at: https://www.hcd.ca.gov/manufactured-mobile-home/mobile-home-parks/laws-and-regulations.shtml. For RV parks that are exempt from State RV park rules, the applicant would be required to record a notice of limitation with the Alameda County Recorder stating that State law requirements will apply in the event rent is later charged or the park is no longer owned, operated, and maintained by a non-profit entity.</p>
Blight, nuisance, and maintenance standards	<p>The Oakland blight, nuisance, and maintenance standards would apply. The blight standards would change to allow residential occupancy of a recreational vehicle (which is currently prohibited). The maintenance standards would be amended to clarify they apply to Vehicular Residential Facilities and that room dimension standards do not apply to Vehicular Residential Facilities.</p>
Development impact fees	<p>Vehicular Residential Facilities would not be subject to the Affordable Housing Impact Fee, Transportation Impact Fee, or Capital Improvements Impact Fee.</p>
Tenant protections	<p>A separate ordinance is proposed to amend the City’s Rent Adjustment Ordinance so that it applies to Vehicular Residential Facilities, including newly installed Vehicular Residential Facilities. Both the rental of an RV to a tenant and the rental of the land upon which an RV is located would be covered. The City’s Just Cause for Eviction Ordinance and Tenant Protection Ordinance would also apply to Vehicular Residential Facilities.</p>
Existing RV Pilot Program	<p>The existing RV Pilot Program, created in 2020, allows 1 recreational vehicle on a vacant lot with an annual permit. The proposal is intended to replace the Pilot Program so a separate ordinance is proposed to end the Pilot Program.</p>
Existing emergency housing standards	<p>Vehicular Residential Facilities are currently allowed for emergency housing for the homeless on City-owned or leased property pursuant to the City’s shelter crisis declaration under State law. In those cases, Emergency Housing Standards apply. Those standards would remain in effect.</p>
Relationship to streets and the public right-of-way	<p>The proposed amendments only address Vehicular Residential Facilities on parcels of land; they would not alter any laws or regulations regarding recreational vehicles located on the street or public right-of-way.</p>
Three-year review	<p>The proposed ordinance would direct City staff to conduct a review of the implementation of the ordinance within three years and report back to City Council with information concerning the number, type, and compliance related to Vehicular Residential Facilities in the city and any recommended changes to the regulations.</p>

Table 2: Proposed Utility Connection Requirements for Vehicular Residential Facilities (VRFs)		
<p>Habitability standards: Each VRF must have adequate heating and lighting within the unit and occupants must have access to potable water, a kitchen, and a bathroom either within the unit or elsewhere on the property. For VRFs subject to the State RV park rules, potable water, a kitchen, and a bathroom must be provided within each unit. For VRFs not subject to the State RV park rules, potable water, a kitchen, and a bathroom may be provided elsewhere on the property (not required to be provided within the unit) but any plumbing facilities within the unit must be connected to the public water and sewer systems.</p> <p>✓ = Utility connection meets minimum standards X = Utility connection does not meet minimum standards</p>		
	VRFs exempt from State RV Park Rules	VRFs covered by State RV Park Rules
	<ul style="list-style-type: none"> • 1 VRF • 2+ VRFs operated by non-profits or public agencies • 2+ VRFs where no rent is charged 	<ul style="list-style-type: none"> • 2+ VRFs
Potable Water		
VRF connected to public water system	✓	✓
Water provided in separate on-site building (e.g., house, stand-alone kitchen, restroom building) connected to public water system	✓	X
Water provided via outdoor faucet connected to public water system	✓	X
Water delivered from off-site and stored on-site	X	X
Wastewater Disposal		
VRF connected to public sewer system	✓	✓
Plumbing in separate on-site building (e.g., house, stand-alone kitchen, restroom building) connected to public sewer system	✓	X
VRF wastewater tank serviced on-site (e.g., pumping service)	X	X
Plumbing in separate on-site building (e.g., house, stand-alone kitchen, restroom building) connected to on-site wastewater containment unit (e.g., underground vault) and emptied by a pumping service	X	X
VRF connected to on-site wastewater containment unit (e.g.,	X	X

underground vault) and emptied on-site by a pumping service		
On-site wastewater disposal and treatment systems (e.g., septic systems)	X	X
Temporary portable toilets and wash stations	X	X
VRF sewage tank emptied off-site at dump station	X	X
Graywater discharged as landscape irrigation pursuant to State and City codes (bathtubs, showers, bathroom sinks, and clothes washing machines, but not toilets, kitchen sinks or dishwashers)	✓	✓
<i>Power Supply</i>		
VRF connected to electrical and/or gas grid system	✓	✓
VRF connected to on-site wind power with battery storage	✓	✓
VRF connected to on-site solar power with battery storage	✓	✓
VRF connected to on-site propane tank	✓	✓
VRF connected to fuel-powered generator	X	X

Mobile homes and manufactured homes

Mobile homes (built prior to 1976) and manufactured homes (built since 1976) can be a lower-cost housing option because they are constructed in factories. There is an existing facility classification in the Planning Code for Mobile Home Residential Facilities, but this classification is prohibited in all zoning districts. Most contemporary manufactured homes are installed on permanent foundations and treated as One-Family Dwelling Residential Facilities under the Planning Code so the existing prohibition on Mobile Home Residential Facilities is confusing and out-of-date and should be updated to reflect modern practices.

The ordinance would update the Planning Code to clarify that mobile homes and manufactured homes are allowed in all zoning districts where residential uses are allowed. Specifically, the definition of One-Family Dwelling Residential Facilities in Section 17.10.640 would be modified to explicitly include manufactured homes and mobile homes as defined under State law. They would be treated the same as single-family homes and be subject to the same zoning and design standards as other single-family homes.

Density and open space regulations for efficiency dwelling units

The zoning regulations of the Planning Code currently distinguish different types of living units, e.g., regular dwelling units (standard units with a kitchen), efficiency dwelling units (studio units with a kitchen and under 500 square feet in area), and rooming units (units without kitchens, such as those found in a single-room occupancy [SRO] hotel). Smaller units, including efficiency dwelling units, typically cost less to build and are more likely to be provided at a lower cost. The Planning Code sets limits on the allowable residential density by zoning district, but only contains regulations for regular dwelling units and rooming units; there are no density or open space standards for efficiency dwelling units, which discourages their use.

The proposed ordinance would amend the Oakland Planning Code to establish density and open space standards for efficiency dwelling units. The amendments would be located throughout the Planning Code in the various applicable zoning chapters. The standard would vary by zoning district and be equal to the existing density and open space standard for rooming units. The maximum size of efficiency dwelling units would be reduced from 500 square feet to 400 square feet to align them with the smaller sizes of rooming units.

Height regulations for modular construction

The zoning regulations of the Planning Code set the height limits for new construction by zoning district. These limits are based on typical floor-to-floor height measurements of conventional buildings constructed on-site. Volumetric modular housing constructed off-site in a factory typically contains stacked six-sided modules resulting in a greater floor-to-floor measurement compared to conventional on-site construction, but is subject to the same height limits as conventional buildings.

The ordinance would amend the Planning Code to increase the height limit for volumetric modular buildings by one foot per story. Specifically, Subsection 17.108.020(B) would be added to the Planning Code.

Amendments to the Oakland Building Construction Code

Appendix R to the California Residential Code (Light Straw-Clay Construction)

The California Building Standards Code contains the construction codes and standards for the State of California and applies to all jurisdictions in the state, which adopt the State code locally. Oakland adopted the State code locally as the Oakland Building Construction Code. The State code contains various appendices – some are mandatory for local jurisdictions and some are voluntary. Some of these appendices contain standards to enable innovative construction and expanded housing options, however, they have not been adopted locally by the City. The City adopted mandatory California Residential Code Appendix Q (Tiny Houses) and Appendix S (Strawbale Construction). However, it has not yet adopted voluntary Appendix R (Light Straw-Clay Construction).

The ordinance would amend the Oakland Building Construction Code to adopt voluntary Appendix R (Light Straw-Clay Construction) from the California Residential Code which provides standards for light straw-clay construction. This type of construction incorporates natural building materials (similar to adobe construction) and can be a cost-effective option.

Miscellaneous conforming amendments to the Oakland Municipal Code

Blight Ordinance

The City's Blight Ordinance (Oakland Municipal Code Chapter 8.24) prohibits the use of RVs for residential purposes. The ordinance would remove this prohibition to enable RVs for residential use pursuant to the proposed new provisions in the Planning Code.

Building Maintenance Code

The Oakland Building Maintenance Code (Oakland Municipal Code Chapter 15.08) contains maintenance standards for residential and non-residential buildings. The ordinance would amend these regulations to clarify that the standards apply to Vehicular Residential Facilities except that the sanitation requirements and minimum room dimension standards would not apply to Vehicular Residential Facilities that are approved pursuant to the new standards in the Planning Code.

Affordable Housing Impact Fee Ordinance and Transportation and Capital Improvements Impact Fees Ordinance

The City's Affordable Housing Impact Fee, Transportation Impact Fee, and Capital Improvements Impact Fee apply to new residential construction. The ordinance would exempt Vehicular Residential Facilities from these impact fees to be consistent with the exemption for Accessory Dwelling Units. Due to their small size, Vehicular Residential Facilities are anticipated to be provided at relatively lower costs compared to other, larger forms of housing. It is in the interest of the City to promote such cost-effective housing options; charging impact fees would reduce their affordability.

Stay of enforcement of Blight Ordinance

There are a number of existing code enforcement cases against properties with people living in RVs in violation of the Blight Ordinance. It is hoped that many of these situations will be brought into conformance with the new regulations. The ordinance would provide property owners with existing citations a 120-day stay on enforcement to allow time to apply for approval under the new regulations as long as City approvals are obtained and implemented within one year and imminent hazards are corrected immediately. The applicant must demonstrate, at the time of application and to the satisfaction of the Director of the Planning and Building Department, that there will be adequate disposal of wastewater throughout the application process (e.g., evidence of prepaid service contracts). This 120-day compliance period and one-year deadline would only apply to existing code enforcement cases, not future code enforcement cases. If existing citations are not abated by receiving City approvals to allow such activities, the ordinance directs City staff to provide to existing RV occupants information on available resources and services for relocation in order to minimize the incidences of relocations resulting in increased homelessness or occupied RVs parked on city streets.

Exemption from State RV park law for non-profit organizations

In certain circumstances, two or more Vehicular Residential Facilities on a site would be considered a "Special Occupancy Park" under State law and would need to comply with the State RV park rules contained in the Special Occupancy Parks Act and the Special Occupancy Park Regulations. New parks would be required to obtain a permit from the State to construct and operate after obtaining zoning approval from the City. Sites with only one Vehicular Residential Facility, and sites with two or more Vehicular Residential Facilities where no rent is paid to occupy the space, are not subject to the state requirements for parks.

Obtaining approval from multiple jurisdictions – in this case the City and State – can be cumbersome. Pursuant to California Health and Safety Code Section 18865.4, the proposed ordinance would also exempt RV parks owned, operated, and maintained by nonprofit entities from the State requirements for parks.

Existing RV Pilot Program

Last year, the City Council created the RV Pilot Program to allow one RV on a vacant lot with an annual permit. That program was only intended to be a temporary pilot program. The proposed ordinance is a broader and more comprehensive program designed to replace the pilot program. A separate ordinance is proposed to end the Pilot Program.

ZONING ANALYSIS

Recreational Vehicles / Vehicular Residential Facilities (VRFs)

The proposed code amendments would allow the new land use facility type proposed for recreational vehicles – Vehicular Residential Facilities – in all zoning districts where residential facilities are currently permitted. Each Vehicular Residential Facility would be considered one residential unit for density purposes so the proposed amendments are consistent with the existing density regulations for each zone. In certain commercial and special district zones, Vehicular Residential Facilities would have to comply with special site design standards requiring Vehicular Residential Facilities to be located 30 feet from the street or behind a building to be consistent with the commercial nature or special use intent of the zone. Vehicular Residential Facilities would not be allowed in zoning districts where residential facilities are currently prohibited. The list below indicates how Vehicular Residential Facilities would be regulated as a land use facility type in each zoning district.

Zones where residential facilities are currently allowed; VRFs would be allowed:

- Hillside Residential Zones: RH-1; RH-2; RH-3; RH-4 (only one primary dwelling unit allowed per lot)
- Detached Unit Residential Zones: RD-1; RD-2
- Mixed Housing Type Residential Zones: RM-1; RM-2; RM-3; RM-4
- Urban Residential Zones: RU-1; RU-2; RU-3; RU-4; RU-5
- High-Rise Residential Zone: R-80
- Housing and Business Mix Zones: HBX-1; HBX-2; HBX-3; HBX-4 (HBX-4: Residential facilities and VRFs would require a Conditional Use Permit)
- Wood Street District Zones: D-WS-1; D-WS-2; D-WS-3; D-WS-4; D-WS-5; D-WS-6; D-WS-7; D-WS-8; D-WS-9 (Facilities currently not separately regulated in D-WS zones. VRFs would be treated the same as residential facilities.)
- Kaiser Permanente Oakland Medical Center District Zones: D-KP-1; D-KP-2; D-KP-3 (Development must conform to Kaiser Master Plan.)
- Oak to Ninth District Zone: D-OTN (Facilities currently not separately regulated in the D-OTN zone. Development must conform to the development standards of the master plan.)
- Central Estuary District Zone: D-CE-3
- Coliseum Area District Zones: D-CO-1; D-CO-2; D-CO-4 (D-CO-4: Residential facilities and VRFs would require a Conditional Use Permit)
- Oak Knoll District Zones: D-OK-; D-OK-2; D-OK-3

Commercial and special district zones where residential facilities are currently allowed, some with special restrictions; special site design requirements would require VRFs to be set back 30 feet from the street or behind a building:

- Neighborhood Center Commercial Zones: CN-1; CN-2; CN-3; CN-4
- Community Commercial Zones: CC-1; CC-2
- Central Business District Zones: CBD-R; CBD-P; CBD-C; CBD-X
- Community Thoroughfare Commercial Zone: C-40
- Community Shopping Commercial Zone: C-45
- Medical Center Zone: S-1
- Civic Center Zone: S-2
- Transit-Oriented Development Zones: S-15; S-15W
- Broadway Valdez District Zones: D-BV-1; D-BV-2; D-BV-3; D-BV-4 (Residential facilities and VRFs would require a Conditional Use Permit in certain circumstances)
- Lake Merritt Station Area District Zones: D-LM-1; D-LM-2; D-LM-3; D-LM-4; D-LM-5

Zones where residential facilities are currently prohibited; VRFs would not be allowed:

- Community Commercial Zone: CC-3
- Regional Commercial Zone: CR-1
- Manufacturing Zones: M-20; M-30; M-40
- Industrial Zones: CIX-1A; CIX-1B; CIX-1C; CIX-1D; CIX-1; CIX-2; IG; IO
- Research Center Zone: S-3
- Central Estuary District Zones: D-CE-1; D-CE-2; D-CE-4; D-CE-5; D-CE-6
- Gateway District Zone: D-GI
- Coliseum Area District Zones: D-CO-3; D-CO-5; D-CO-6
- Oak Knoll District Zones: D-OK-4; D-OK-5; D-OK-6; D-OK-7

Mobile homes and manufactured homes

The proposed code amendments would clarify that mobile homes and manufactured homes are treated the same as One-Family Dwellings. They would be regulated in the Planning Code the same as single-family homes and be subject to the same development and design standards as single-family homes. Therefore, the proposed amendments are consistent with existing density regulations for each zone.

Efficiency dwelling units

Efficiency dwelling units are currently defined as a separate unit type in the Planning Code but there are no applicable density or open space standards in each zone. The proposed code amendments would establish density and open space standards for efficiency dwelling units. These new standards would only apply in zones with existing density and open space standards for rooming units, which are smaller units like efficiency dwelling units (but without kitchens), and the standards for efficiency dwelling units would match the standards for rooming units. In that way, the proposed amendments are consistent with existing density regulations for each zone.

Height limit for modular construction

The proposed code amendments would increase the height limit for volumetric modular buildings by one foot per story. This change would apply in all zones. The Planning Code currently has special exceptions from the applicable height limit for a variety of special circumstances. Therefore, the proposed amendments are largely consistent with the intent of the existing code.

PLAN AND POLICY ANALYSIS

The proposed code amendments are consistent with the Oakland General Plan, area plans, specific plans, and other City plans and policies. The amendments would promote construction innovation in Oakland and expand the types of cost-effective housing options available thereby facilitating housing construction, encouraging a mixture of different housing types, promoting flexible standards, supporting small-format, energy-efficient, compact homes, improving housing affordability, and reducing displacement. The code amendments are consistent with the density and height standards of the zoning regulations, General Plan and area/specific plans, and would be consistent with the intent of commercial districts and special zones due to special site design restrictions on Vehicular Residential Facilities to promote compatibility. The amendments are consistent with the following City plans and policies:

General Plan – Land Use and Transportation Element

- Consistent with the land use plan and objectives.
- Consistent with the following specific policies:
 - Policy N3.1 – Facilitating Housing Construction
 - Policy N3.2 – Encouraging Infill Development
 - Policy N3.3 – Facilitating Development of Second Units
 - Policy N3.4 – Constructing Housing on Orphan Lots
 - Policy N3.5 – Encouraging Housing Development
 - Policy N6.1 – Mixing Housing Types

General Plan – Housing Element

- Consistent with efforts to meet housing needs and provide more affordable housing.
- Consistent with the following specific policies:
 - Policy 1.4 – Secondary Units
 - Policy 1.5 – Manufactured Housing
 - Policy 3.2 – Flexible Zoning Standards
 - Policy 7.2 – Minimize Energy and Water Consumption
 - Policy 7.3 – Encourage Development That Reduces Carbon Emissions
 - Policy 7.4 – Minimize Environmental Impacts from New Housing

Estuary Policy Plan

- Consistent with the land use plan and objectives.

Coliseum Area Specific Plan

- Consistent with the land use plan and objectives.

Broadway Valdez Specific Plan

- Consistent with the land use plan and objectives.
- Consistent with the following specific policies:

- Policy LU-5.2 – Encourage housing that addresses the needs of a diverse population, including age, household composition, and income.
- Policy LU-5.4 – Encourage the provision of new housing affordable to low- and moderate-income households within the Plan Area through a menu of creative options.

West Oakland Specific Plan

- Consistent with the land use plan and objectives.
- Consistent with the following specific policies:
 - Policy AH-1 – Prepare to accommodate existing residents in the West Oakland Specific Plan.
 - Policy AH-3 – In addition to providing market-rate new units, expand, stabilize, and improve affordable housing opportunities for extremely low to moderate income renters and homebuyers.
 - Policy AH-5 – Expand opportunities for affordable homeownership and rentals, while balancing the needs for both additional market rate and affordable housing.
 - Policy AH-6 – Ensure continued availability of safe and affordable housing options for lower income and moderate income households.

Central Estuary Area Plan

- Consistent with the land use plan and objectives.

Lake Merritt Station Area Plan

- LU-2 – High intensity development potential
- LU-3 – Ground floor commercial uses
- LU-4 – Active ground floor uses
- LU-5 – Flexibility in active ground floor uses
- LU-7 – Diverse housing types

PUBLIC OUTREACH / INTEREST / KEY ISSUES

A broad range of community stakeholders was engaged during the development of this proposal. A summary of the proposal was sent to a large mailing list of community organizations and individuals and multiple meetings were held with interested parties. Some of the key issues identified by community members pertain to density, habitability and utility connections, fees, and tenant protections, as they relate to Vehicular Residential Facilities. Each of these issues are discussed below.

Vehicular Residential Facilities – Density

The proposal would consider each Vehicular Residential Facility to equal one dwelling unit for the purpose of calculating density. The density standards of each underlying zoning district would apply.

Some community members recommend that Vehicular Residential Facilities be exempt from density regulations in order to encourage more housing. More analysis would be needed before pursuing such a strategy to better understand the potential effects and impacts. Housing densities in the city will be studied by the Planning and Building Department as part of the update to the Housing Element of the General Plan which must be adopted by January 2023.

Vehicular Residential Facility projects restricted to affordable housing may be able to take advantage of State and local density bonuses for affordable housing to exceed the density limit in the zoning regulations.

Vehicular Residential Facilities – Habitability and Utility Connections

At a minimum, as residential units, Vehicular Residential Facilities must comply with State and local habitability and tenantability standards related to dwellings, such as being structurally sound, protecting occupants against the weather, providing permanent provisions for living and sleeping, including heating and lighting, and providing occupants with 24-hour on-site access to potable water, a kitchen, and clean, lighted, code-compliant toilet, bathing facilities, and a sink under the occupants’ control that can be secured from the inside.

For sites exempt from State RV park rules – sites with one Vehicular Residential Facility and sites with two or more Vehicular Residential Facility operated by non-profits or public agencies or where no rent is charged – the proposal would allow potable water, kitchens, and bathrooms to be provided either within the unit or elsewhere on the site. This flexibility would enable more cost-effective housing options, such as sharing a kitchen and bathroom located in an existing building on the property or creating a shared community kitchen and bathhouse for a village of multiple recreational vehicles. For sites subject to State RV park rules, potable water, kitchens, and bathrooms must be provided within each unit.

How these habitability features should be connected to utility systems for potable water, wastewater/sewage disposal, and power service is one of the key issues surrounding this proposal and a hotly debated subject among community stakeholders. The original proposal for the ordinance that was reviewed by the Planning Commission required all Vehicular Residential Facilities to be connected to municipal utility systems, except sites with only one Vehicular Residential Facility could instead be serviced by on-site alternatives such as solar and wind power and kitchens and bathrooms located in a separate building on the property that were connected to the municipal water and sewer system.

In response to feedback from community members and the Planning Commission, which recommended maximum flexibility for utility connections while maintaining proper public and environmental health and safety, the proposal was modified. The revised proposal for utility connections – detailed in Table 2 above – provides additional flexibility. Sites exempt from State RV park rules – sites with one Vehicular Residential Facility and sites with two or more Vehicular Residential Facility operated by non-profits or public agencies or where no rent is charged – could meet the wastewater disposal standard by (a) connecting each Vehicular Residential Facility unit to the municipal sewer system, or by (b) providing occupants access to a separate on-site building (e.g., house, stand-alone kitchen, restroom building) connected to the municipal sewer system. Although sites exempt from State RV park rules would not be required to provide plumbing facilities within each unit, Vehicular Residential Facilities that do include in-unit plumbing facilities must have those facilities connected to the municipal water and sewer systems.

Sites subject to State RV park rules could meet State wastewater disposal standards by connecting each Vehicular Residential Facility unit to the municipal sewer system. State RV park rules state that parks with RVs parked for more than three months must provide sewer drain connections at the unit. Since Vehicular Residential Facilities could be occupied for temporary or permanent use, it is assumed they will be required to meet the three-month standard.

Vehicular Residential Facilities – Fees

The proposal is designed to be cost-covering to minimize the fiscal impact to the City. Staff costs associated with administering the regulations would be covered by fees paid by applicants. Table 1 above provides some rough estimates for potential City fees for different scenarios involving Vehicular Residential Facilities.

Some community members have expressed concern that the fees are too high, especially for Vehicular Residential Facilities intended to be occupied by extremely-low income or homeless residents. In these cases, the City after adoption of the ordinance would have the option, as it does with other forms of affordable housing, to subsidize installation of these facilities to reduce cost and improve accessibility for lower-income residents. Such an action would require a separate budget authorization.

Vehicular Residential Facilities – Tenant Protections

A separate ordinance is proposed to amend the City’s Rent Adjustment Ordinance so that it applies to Vehicular Residential Facilities, including newly installed Vehicular Residential Facilities. Both the rental of an RV to a tenant and the rental of the land upon which an RV is located would be covered. The City’s Just Cause for Eviction Ordinance and Tenant Protection Ordinance would also apply to Vehicular Residential Facilities. For more information on the proposed amendment to the Rent Adjustment Ordinance, please see the proposed ordinance and accompanying agenda report (published separately).

Vehicular Residential Facilities – Three-Year Review

Authorizing residential occupancy of RVs as an allowed land use in the Planning Code is a new concept with many complexities, as illustrated in this report. As such, the proposed ordinance includes a provision to direct City staff to review the implementation of the new regulations within three years and report back to City Council with information concerning the number, type, and compliance related to Vehicular Residential Facilities and any recommended changes to the regulations. This would enable the City Council, for example, to consider expanding the types of utility connections allowed and increasing or reducing the number of inspections to verify ongoing compliance.

COORDINATION

This proposal was developed by the offices of Mayor Schaaf and Councilmembers Kalb and Thao in consultation with the City Administrator’s Office, the Office of the City Attorney, the Planning and Building Department, the Fire Department, the Housing and Community Development Department, the Human Services Department, and Oakland Public Works.

FISCAL IMPACT

As mentioned above, this proposal is designed to be cost-covering. Staff costs associated with administering this new program would be covered through existing permit and inspection fees in the Master Fee Schedule.

SUSTAINABLE OPPORTUNITIES

Economic: This proposal supports expanded housing options in the city which will create jobs for the construction industry and reduce housing costs for residents and workers.

Environmental: This proposal supports the development of small-format, energy-efficient, compact homes thereby reducing the city's environmental impact.

Race & Equity: This proposal will improve housing affordability thereby reducing residential displacement which disproportionately impacts Oakland's residents of color.

CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA)

The proposed amendments to the Planning Code rely on the previously certified Final Environmental Impact Reports for the Coliseum Area Specific Plan (2105); Broadway Valdez Specific Plan (2014); West Oakland Specific Plan (2014); Central Estuary Area Plan EIR (2013); Land Use and Transportation Element of the General Plan (1998); the Oakland Estuary Policy Plan (1998); the West Oakland, Central City East, Coliseum, and Oakland Army Base Redevelopment Areas; the 1998 Amendment to the Historic Preservation Element of the General Plan; the 2007-2014 Housing Element Final EIR (2010); and various Redevelopment Plan Final EIRs (collectively, "Previous CEQA Documents").

The proposed amendments would not result in any significant effect that has not already been analyzed in the Previous CEQA Documents, and there will be no significant environmental effects caused by the change that have not already been analyzed in the Previous CEQA Documents. As a result, none of the circumstances necessitating preparation of additional environmental review, as specified in CEQA and the CEQA Guidelines, including, without limitation, Public Resources Code Section 21166 and CEQA Guidelines Sections 15162 or 15163 are present in that: (1) there are no substantial changes proposed in the project or the circumstances under which the project is undertaken that would require major revisions of the Previous CEQA Documents due to the involvement of new significant environmental effects or a substantial increase in the severity of previously identified significant effects; and (2) there is no "new information of substantial importance," as defined in CEQA Guidelines Section 15162(a)(3). Therefore, no further environmental review is required under CEQA Guidelines Sections 15162 and 15163.

Moreover, as a separate and independent basis, this proposal is also exempt from CEQA pursuant to CEQA Guidelines Sections 15183 (projects consistent with General Plan and Zoning) and 15303 (new construction or conversion of small structures).

ACTION REQUESTED OF THE CITY COUNCIL

We respectfully request that the City Council adopt the proposed ordinance to support construction innovation in Oakland and expand the types of cost-effective housing options available to city residents.

For questions regarding this report, please contact Darin Ranelletti, Policy Director for Housing Security, Office of the Mayor, at (510) 238-3460 or dranelletti@oaklandca.gov.

Respectfully submitted,



LIBBY SCHAAF
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