



AGENDA REPORT

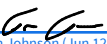
TO: Jestin D. Johnson
City Administrator

FROM: William A. Gilchrist
Planning and Building
Director

SUBJECT: 2025 Code Amendments: Accessory
Dwelling Units/Fire Zone

DATE: May 26, 2025

City Administrator Approval


Jestin Johnson (Jun 12, 2025 15:35 PDT)

Date: Jun 12, 2025

RECOMMENDATION

Staff Recommends That The City Council Conduct A Public Hearing And, Upon Conclusion, Adopt an Ordinance:

1) Amending The Oakland Planning Code (Title 17) Section 17.103.080, As Recommended By The City Planning Commission, To Update Regulations For Accessory Dwelling Units To Comply With State Law And Update The Definition Of The Very High Fire Hazard Severity Zones In The Oakland Planning Code (Title 17) Chapter 17.88 To Align With The Very High Fire Hazard Severity Zone Map Adopted By City Council; And

2) Making Appropriate California Environmental Quality Act Findings.

EXECUTIVE SUMMARY

This package of Planning Code amendments responds to new changes in state law related to Accessory Dwelling Units (ADUs) and the Very High Fire Hazard Severity Zones (VHFHSZ) within the City of Oakland (City).

Specifically, the proposed amendments to Planning Code 17.103.080 for ADUs address the following changes in enacted in Senate Bill 1211 (SB 1211):

- 1) Limit application of local development and design standards pertaining to ADUs.
- 2) Increase the number of ADUs allowed on a lot with an existing multifamily building.
- 3) Prohibit local governments from requiring replacement of uncovered parking spaces removed to construct ADUs.
- 4) Clarifies definition of livable space.

Additionally, the proposed amendments to the VHFHSZ in Chapter 17.88 replace references to the VHFHSZs as designated by California Department of Forestry and Fire Protection (Cal Fire) to the VHFHSZ as designated by both Cal Fire and the City. Previously, the City's adopted VHFHSZ was the same as the state-designated VHFHSZ.

BACKGROUND / LEGISLATIVE HISTORY

The City's ADU ordinance was originally adopted in January 22, 2022. The City's VHFHSZ is set forth in Chapter 17.88 of the Planning Code. Recommended updates to each are discussed below.

Accessory Dwelling Units

Staff previously came to the Planning Commission in [June](#) and [September](#) of 2021 and again in [April 2024](#) to discuss recommended Planning Code changes that aligned with new changes in state law. On June 28, 2024, the City Council adopted the revised ADU Ordinance in [Ordinance No. 13800, C.M.S.](#)

Very High Fire Hazard Severity Zone

In February 2025, Cal Fire revised the VHFHSZ maps for local jurisdictions. These maps impact Oakland communities that are vulnerable to wildfires. As part of the map update process, the state law, specifically Government Code section 51179, has given local jurisdictions the ability to adopt upgraded maps that include additional fire hazard areas. The Oakland Fire Department has recommended adoption of a revised VHFHSZ map, to include areas that were removed by the 2025 state revisions. This action will come to Council separately.

Planning Commission Recommendation

On May 7, 2025, City staff presented to the Planning Commission the proposed amendments to the Planning Code that would update the ADU regulations to comply with changes in State Law, and update the S-9 Fire Hazard Protection Overlay Zone to reference the VHFHAZ Map to also reflect the ability of the City Council to locally adopt local fire risk areas (see discussion in Analysis below).

The Planning Commission unanimously recommended that the City Council approve the proposed Planning Code amendments related to ADUs and the VHFHSZ (see below), with the following changes:

- Amend the middle column in Table 17.103.02 related to Category 2 ADUs to state the following:
 - In the row titled "Lot Coverage, Rear Setback Coverage", replace existing text with N/A.
 - In the rows titled "Open Space, Front Setback, and Floor Area Ratio (FAR)", replace existing text with "Established by the base zone, except if lot conditions preclude creating no more than the number of ADUs allowed, as stated above."
 - In the row titled "Maximum Height", add "An additional two (2) feet in height is allowed to align roof pitch of ADU with the roof pitch of the primary dwelling."

- Amend 17.103.080 A.12 to add a new subsection “d” that reads “This subsection 12 (twelve) does not apply to ADUs built pursuant to CA Government Code § 66323.”

ANALYSIS AND POLICY ALTERNATIVES

The proposed changes to the Planning Code to update the ADU Ordinance and VHFHSZ sections advance the following citywide priorities:

Responsive, Trustworthy Government: Updating the City’s ADU regulations and the definition of the VHFHSZ to align with recent changes in state law ensures that our local ordinances stay up to date and in compliance with state law and ensure effective and efficient delivery of ADU projects. It also shows collaboration across departments (Fire and Planning and Building) to respond to changes in state legislation.

Housing, Economic, and Cultural Security: Updating the City’s ADU regulations and the definition of the VHFHSZ to address changes in state law and further will improve the City’s ability to improve more complex projects, such as housing and ensure that housing units are effectively and efficiently delivered, helping to address our housing crisis.

Accessory Dwelling Units

The proposed ADU-related Planning Code amendments consist of the following changes within Section **17.103.080 Accessory Dwelling Units in conjunction with One-Family, Two- to Four-Family, and Multifamily Dwelling Residential Facilities:**

1. Amend the “Replacement Parking” regulation in Section 17.103.080.A.4 to note that applicants do not need to replace an uncovered parking space that is removed to construct an ADU. Existing ADU law prohibits local agencies from requiring the replacement of covered off-street parking spaces, such as garages and carports. SB 1211 prohibits local agencies from requiring the replacement of both covered and uncovered off-street parking spaces.
2. Amend the “Objective Design Standards for Properties Listed in the California Register of Historic Resources” regulation in Section 17.103.080.A.10 to note that the standards do not apply to ADUs built pursuant to CA Government Code Section 66323. Existing state law requires local agencies to ministerially adopt ADUs. SB 1211 prohibits local agencies from requiring objective design or development standards for historic properties that are not authorized under Government Code Section 66323. For example, the State’s ADU handbook identifies objective standards as “numeric and fixed standards such as heights or setbacks, or design standards such as specified colors or materials.”¹ This change protects manufacturers of prefabricated ADUs, affording them the ability to manufacture a uniform product without worrying about locally disparate design and development standards.

¹ California Department of Housing and Community Development, “Accessory Dwelling Unit Handbook,” January 2025, <https://www.hcd.ca.gov/sites/default/files/docs/policy-and-research/adu-handbook-update.pdf>.

3. Amend “Table 17.103.02: Property Development Standards applying to Two- to Four-Family and Multifamily ADUs” to show that the maximum number of Category 2 ADUs for Two-to-Four-Family and Multifamily Buildings (detached ADUs) is no more than eight per lot, on lots with existing multifamily dwellings. Previous state law permitted only two Category 2 ADUs on lots with existing or proposed multifamily dwellings. SB 1211 expands the number of detached ADUs from two to eight for lots with existing multifamily dwellings.
4. Since the Planning Commission meeting, staff has determined that the following further amendment to Table 17.103.02 is needed to clarify the maximum number of Category 2 ADUs: Add “Two- to Four-Family” to both the Existing and Proposed building facility categories, as stated below:

Table 17.103.02: Property Development Standards applying to Two- to Four-Family and Multifamily ADUs

Development Standards	Types of Two- to Four-Family and Multifamily ADUs			Notes
	Category 1 ADU for Existing Two- to Four-Family and Multifamily Buildings	Category 2 ADU for Existing and Proposed Two- to-Four-Family and Multifamily Buildings	Category 3 ADU for Existing and Proposed Two- to-Four-Family and Multifamily Buildings	
Maximum Number	1 or up to 25 percent of existing units, whichever is greater, per Two- to Four-Family or Multifamily Facility. For the purposes of the 25 percent limitation, a unit is considered existing if it has received its certificate of occupancy.	<u>Existing Two- to Four-Family or Multifamily Facility: No more than 8 per lot.</u> <u>Proposed Two- to Four-Family or Multifamily Facility: No more than 2 per lot.</u>	Only 1 per lot.	1, 2, 3

5. Amend “Notes for Table 17.103.02” to clarify that for Category 2 ADUs, the number of detached ADUs cannot be more than the number of units in the main building.
6. Amend “Notes for Table 17.103.02” to clarify that community rooms and gyms are not included in the examples of non-livable space. SB 1211 clarifies the definition of livable space to mean “space in a dwelling intended for human habitation, including living,

sleeping, eating, cooking, or sanitation².” The updated State ADU Handbook provides examples of non-livable space as “structures that are not used as livable space include, but are not limited to: storage rooms, boiler rooms, passageways, attics, basements, or garages.”³

These changes, which are consistent with previous ADU regulations adopted by the California legislature, are intended to make it easier and more worthwhile for property owners, in particular multifamily property owners, to invest in ADUs.

Very High Fire Hazard Severity Zone

The proposed VHFHSZ-related amendments consist of changes to Chapter 17.88 S-9 Fire Safety Protection Combining Zone Regulations.

1. Amend Section 17.88.010 Title, Purpose and Applicability to reference the Very High Fire Hazard Severity Zone, as defined in Section 17.88.030(A).
2. Amend Section 17.88.030 Definitions to define the Very High Fire Hazard Severity Zone to be those areas identified by 1) CALFIRE and 2) by the City of Oakland, as authorized by Government Code Section 51179.

These changes ensure that the Planning Code will match what the City has adopted as its VHFHSZ.

FISCAL IMPACT

If adopted by the City Council, there will be no impact on costs to the City. Implementation of these Planning Code changes will be a routine component of ministerial project review and approval administered by the Department of Planning and Building, which collects fees for such review and approvals as established in the Master Fee Schedule. Staff will inform the public of the new regulations as part of all applicable inquiries and apply the new regulations as part of all applicable planning and building permit applications. Staff will also develop any application materials including summaries and guides using internal resources and staff's time.

PUBLIC OUTREACH / INTEREST

To adopt the previous ADU Ordinance in 2022, staff conducted significant engagement with community members, interested parties and stakeholders, as well as internal City Departments to review and discuss the ADU regulations. Given that these current changes proposed are in response to changes in State law and are required to bring our Ordinance into compliance with State Law, no additional public engagement was conducted.

The proposed amendments were presented at a public meeting of the Planning Commission on May 7, 2025. The meeting was noticed in the *Oakland Tribune*.

² Ibid.

³ Ibid.

COORDINATION

This report and legislation have been reviewed by the Office of the City Attorney and the Budget Bureau.

SUSTAINABLE OPPORTUNITIES

Economic: The amendments to the ADU Ordinance are intended to encourage the construction of more ADUs by making it easier to add ADUs on existing uncovered parking spaces by eliminating the need to replace those spaces. The amendments also increase the number of detached ADUs that can be added to a multifamily dwelling. These changes should help address the city's housing shortage and escalating costs. The amendments to the VHFHSZ will not change from the existing condition.

Environmental: ADUs are built in established neighborhoods and can contribute to the city's desire to foster more dense and walkable neighborhoods with greater use of bicycling and transit. The amendments to the VHFHSZ will not change from the existing condition.

Race and Equity: The amendments to ADU regulations may help with adding more units of housing throughout all areas of the City where residential development is allowed. This additional supply of housing, which is relatively inexpensive and fast to construct will diversify the current housing stock and provide more people across multiple socio-economic levels with access to housing. ADUs built in areas that are at greater risk of displacement and in transit-served corridors with access to services are particularly valuable for the most economically disadvantaged communities. ADUs may also help some homeowners facing economic challenges to continue living in their community because of the additional rental income these units bring. Finally, ADUs would allow for multi-generational households or provide a place for a caretaker. However, it is important to note that ADUs cannot have an affordability requirement. The amendments to the VHFHSZ will not change from the existing condition.

CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA)

The proposed amendments to the Planning Code rely on the previously certified Final Environmental Impact Reports for: the Oakland 2045 General Plan Update - Phase 1 (2023); the Coliseum Area Specific Plan (2105); Broadway Valdez Specific Plan (2014); West Oakland Specific Plan (2014); Central Estuary Area Plan (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; and various Redevelopment Plan Final EIRs (collectively, "EIRs"). No further environmental review is required under CEQA Guidelines Sections 15162, 15163, 15164, and 15183. 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), 15061(b)(3) (general rule, no significant effect on the environment), 15301 (existing facilities), 15302 (reconstruction and rehabilitation) and 15303 (small structures). Each finding represents, both individually and collectively, a basis for CEQA clearance.

ACTION REQUESTED OF THE CITY COUNCIL

Staff Recommends That The City Council Conduct A Public Hearing And, Upon Conclusion, Adopt an Ordinance:

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2) Making Appropriate California Environmental Quality Act Findings.

For questions regarding this report, please contact KHALILHA HAYNES, PLANNER III, at 510-406-4802.

Respectfully submitted,

William A Gilchrist

WILLIAM A. GILCHRIST
Director, Planning and Building Department

Reviewed by:
Laura Kaminski, Strategic Planning Manager

Prepared by:
Khalilha Haynes, Planner III
Strategic Planning