



AGENDA REPORT

TO: Edward D. Reiskin
City Administrator

FROM: William A. Gilchrist
Director, PBD

SUBJECT: Informational Report on Easing
Process for Accessory Dwelling Units
(ADUs)

DATE: March 4, 2021

City Administrator Approval 

Date: Mar 11, 2021

RECOMMENDATION

Staff Recommends That The City Council Receive An Informational Report From The City Administrator, Or Their Designee, On The Status And Timeline Of Easing The Process For Adding Accessory Dwelling Units (ADUs), Including: Updating Our Municipal Code To Comply With State Law And Make Other Revisions; Providing Dedicated Staff And Extended Hours For Processing ADU Applications; The Number Of Applications And Number Of Approvals And Average Timeline Of Approval For Each Of The Past Two Years; Use Of Pre-Approved Templates For ADUs; Improved Public Informational Materials And Online Systems For ADU Applicants.

EXECUTIVE SUMMARY

At the February 25, 2021 Rules and Legislation Committee meeting, Vice Mayor Rebecca Kaplan submitted a request that the City Council receive an informational report regarding the City's efforts to inform and educate the public on accessory dwelling unit (ADU) development; amend the Oakland Municipal Code (OMC) to facilitate ADU development; and to note other actions that the City has or will undertake to ease ADU development. This informational report responds to that request.

BACKGROUND AND LEGISLATIVE HISTORY

On February 16, 2016, the City Council adopted Ordinance No. 13357 C.M.S., which revised the City's Secondary Unit regulations. The purpose of those amendments was to encourage construction of more Secondary Units in the City of Oakland, and thereby help address the City's housing shortages and escalating costs.

On May 2, 2017, the Oakland City Council adopted Ordinance No. 13435 C.M.S. which accomplished the following: 1) revised regulations for secondary units to comply with State law; 2) created and mapped a new zoning overlay that identifies areas in the City where new category two secondary units are not permitted; 3) made minor changes in various chapters of the Planning Code; and 4) made appropriate California Environmental Quality Act determinations. In addition, this Ordinance responded to City Council's direction requested at

City Council
March 16, 2021

the February 16, 2016 City Council meeting that the Administration prepare further amendments to the Secondary Unit Regulations, including clarification that the City's zoning regulations do not invalidate stricter regulations that may be imposed by a homeowners' association's Covenants, Conditions & Restrictions (CC&Rs).

ANALYSIS AND POLICY ALTERNATIVES

The Planning and Building Department (PBD) has taken a number of actions to support and ease regulations for property owners that seek to develop ADUs on their properties. This section identifies the policies and administrative actions that have occurred or are in development.

The PBD recognizes that ADUs are an affordable and effective means to produce much needed housing within the city of Oakland.

Current Planning Code Regulations

The City of Oakland is following laws adopted by the California Legislature regarding ADUs, which supersedes local ordinances. State law allows jurisdictions the option of developing and implementing procedures for the review and processing of ADU applications, or to amend their local law to comply with State law, in which case those amendments must be reviewed by the State Housing and Community Development Department (State HCD). The ADU standards that the City of Oakland currently maintains in compliance with State law may be found online at: <https://www.oaklandca.gov/documents/adu-regulations-quick-reference-guide>.

Recent Updates to State Regulations for ADUs

Over the years, the California Legislature has updated laws pertaining to ADUs (and more recently Junior ADUs¹) to encourage their development in response to the state's housing affordability crisis. The adoption of Senate Bill (SB) 1069 and Assembly Bill (AB) 2299 in 2016, and subsequent legislation in 2017 (SB 229 and AB 494) have laid the foundation for a proliferation of ADUs. In 2019, the California Legislature adopted AB 68, AB 881, and SB 13 and in 2020 adopted AB 3182. State HCD, which provides regulatory oversight and technical assistance on housing policy throughout the state, summarized recent legislative action as follows:

The Legislature further updated ADU and JADU law effective January 1, 2021 to clarify and improve various provisions in order to promote the development of ADUs and junior accessory dwelling units (JADUs). These include allowing ADUs and JADUs to be built concurrently with a single-family dwelling, opening areas where ADUs can be created to include all zoning districts that allow single-family and multifamily uses, modifying fees from utilities such as special districts and

¹[AB 2406 \(2016\)](#) added Government Code Section 65852.22. The bill allows local governments to adopt ordinances for JADUs, which are no more than 500 square feet and are contained entirely within an existing single-family structure. JADUs are typically bedrooms in a single-family home that have an entrance into the unit from the main home and an entrance to the outside from the JADU. The JADU must have cooking facilities, including a sink, but is not required to have a private bathroom.

water corporations, limited exemptions or reductions in impact fees, and reduced parking requirements. Source: [Accessory Unit Handbook](#)

Under California Government Code Section 65852.2(4), local ordinances that do not align with state law shall be considered null and void upon the date the state law becomes effective:

...In the event that a local agency has an existing accessory dwelling unit ordinance that fails to meet the requirements of this subdivision, that ordinance shall be null and void upon the effective date of the act adding this paragraph and that agency shall thereafter apply the standards established in this subdivision for the approval of accessory dwelling units, unless and until the agency adopts an ordinance that complies with this section.

The jurisdiction has the option to amend its ordinance to comply with State law, in which case those amendments must be reviewed by State HCD, or the jurisdiction has the option to develop and implement procedures to review and process ADU applications in compliance with State law. Efforts to update the Planning Code are discussed in the following section titled "Updating The Planning Code to Comply with State Law and Make Other Revisions".

Updating The Planning Code to Comply with State Law and Make Other Revisions

The Planning Bureau has been working on a two-step process with the Office of the City Attorney to implement the State law for ADUs. Since January 1, 2020 when the applicable State laws went into effect, the City has utilized ministerial checklists created by PBD and City Attorney staff that implement procedures for the review and processing of ADU applications in compliance with State law. These checklists clearly lay out the state regulations regarding ADUs and can be easily used by the public and staff to review the compliance of individual ADU projects. The checklists are organized by the approval process for both Planning and Building Permits and are used by staff as part of an expedited approval process.

The next step in the process is the current work underway to update the City's Planning Code to comply with State Law along with other related revisions in the Code. The Planning Bureau is looking to bring these ADU-related Planning Code amendments to the Planning Commission in May of 2021 and to the Community and Economic Development Committee of the City Council in June of 2021 for the adoption process.

Providing Dedicated Staff and Extended Hours for Processing ADU Applications

PBD currently has one dedicated Planner II for ADU applications. If there is an excess demand for planning/zoning review, then these applications are scheduled to the on-duty case planners shift for review. Currently, the department schedules virtual appointments for the intake of ADU building permit applications. If there is excess demand for virtual appointments for building permit intake, staff routes the application to one the Department's on-call permit technicians to create the application and to notify the applicant. Through a separate agenda item, PBD plans to request authorization from the City Council to execute additional on-call contracts so that the department will have the ability to respond efficiently during periods of increased demand. A

Request for Proposals (RFP) was posted in January 2021 and staff plans on submitting a scheduling request to the City Council Rules and Legislation Committee in April 2021.

Applicants can submit an application at their convenience 24 hours a day, 7 days a week. Staff, with the support of existing on-call contracts, is currently working evenings and weekends to keep up with the current volume of work. PBD is evaluating staffing models that can support online and in-person submissions once the County's Shelter in Place Order is fully lifted.

The Number of Applications and Number of Approvals and Average Timeline of Approval for 2019-2020

There were 173 building records created in calendar year 2019 in Accela, and 247 records created 2020. Of the 173 records created in 2019, 117 permits were issued in 2019. Of the 247 building records created in 2020, 114 were issued in 2020. The average days from building record creation to permit issuance in 2019 was 104 days, and in 2020 it was 107 days. The total number of ADU permits issued in 2019, regardless of the year that the application was submitted, was 289 permits. In 2020, the total number of ADU permits issued, independent of the year the application was submitted, was 179 permits. Out of the 173 building records created in 2019, and 247 created in 2020, there are several applications that are still in various stages in the building permit approval process. There are 56 records in 2019 that currently have the status of on hold, inactive, or in plan review with comments. For 2020, there are 133 that have those statuses. This information is summarized in **Table 1** below.

Table 1: ADU Building Permits 2019 and 2020

Metric	2019	2020
ADU Building Records Created	173	247
ADU Building Permits Issued – Same Year	117	114
ADU Building Records with Status of On Hold or Inactive or Plan Review with Comments	56	133
ADU Average Days Creation to Issuance	104	107
ADU Permits Issued – Various Years	289	179

The average timelines do not currently include the time for planning/zoning approval. In addition, these timelines do not include when the “clock” stops (or is tolled) as provided under Government Code Section 65852.2(b). Tolling may occur when the application is deemed incomplete, the applicant has been asked to pay fees, to provide other documents, or to respond to requests for revisions from the plan checker. The numbers taken from Accela do not take into consideration delays caused either by staff or the applicant and is simply a calculation of difference of the time that the record was created vs. the date the permit was issued.

Staff are seeking ways to increase capacity to issue these permits within the statutory timeline, this includes hiring additional staff, having on-call staff available should demand exceed capacity, reviewing internal processes, improving public information available on the website, developing pre-approved templates, and making improvements to online permitting systems.

Use of Pre-Approved Templates for ADUs

Beginning in April 2021, PBD will launch a program to offer a Pre-Approved Template for ADUs that will allow applicants to move through plan review quickly if the template is used unchanged. Pre-approved sets of plans shall offer the applicant a range of studio/one-bedroom/two-bedroom options that would be offered free-of-charge. The plan review will still be legally subject to the plan review fee charge; however, this fee should benefit from the enhanced efficiency due to the use of a standard template for staff review.

Improved Public Informational Materials and Online Systems for ADU Applicants

To assist property owners, landlords, and the general public in understanding the opportunities afforded by ADUs and the City's permit application processes, PBD recently published and posted the following resources online:

1. **Single-Family ADU Guide:** gives homeowners information to decide if an ADU is right for them (Link: <https://www.oaklandca.gov/documents/your-guidebook-to-oakland-adus>)
2. **Rental Property Owner Checklist (Landlord Guide):** prepares homeowners to rent their ADU (Link: <https://www.oaklandca.gov/documents/oakland-adu-guide-for-landlords>)

In these guides, homeowners and permit applicants will find answers to questions such as:

- What are the steps to build an ADU?
- How much does an ADU cost?
- What does the City's approval process look like?
- How do I find a good contractor?
- What tenant protections apply to my ADU?

In addition, the City of Oakland has released a [Quick Reference Table of ADU Regulations](https://www.oaklandca.gov/documents/adu-regulations-quick-reference-guide) to provide an overview of ADU regulations such as how big an ADU can be, whether parking must be provided, and much more. (Link here: <https://www.oaklandca.gov/documents/adu-regulations-quick-reference-guide>).

PBD proactively communicated and shared these new resources with a select number of community stakeholders and interested parties and has partnered with the City Administrator's Office's Public Information Officer to publish informational posts on social media channels. But staff also intends to send additional messages about the guides, code updates, and improvements to the City's permit processing to a broader e-mail distribution list of active permit holders, which includes over 13,000 subscribers as of March 2021.

Improving Online Systems for ADU Applicants

At the beginning of February 2021, PBD unveiled an enhanced Online Permit Portal that builds upon the City's Accela Citizen Access (ACA) permitting and property records system. The enhancements allow homeowners and contractors to apply for 12 unique building permits online.

In addition, PBD is planning to expand the Online Permit Center in the next six months, to allow the public to apply for more permits online, including Single-Family and Multi-Family ADUs. The applicant will receive automated email notifications sharing the progress of their application, and can print their permit as it is issued by City staff. As an interim step, by April 2021, PBD will digitize both the Single-Family and Multi-Family ADU applications and convert them to fillable PDF forms that can be easily submitted electronically with associated plans, drawings, and other required documentation.

FISCAL IMPACT

This item is for informational purposes only and does not have a direct fiscal impact or cost

COORDINATION

This report was prepared in coordination with the City Administrator's Office.

SUSTAINABLE OPPORTUNITIES

Economic: The development of ADUs can create positive economic impacts in Oakland. The construction of more ADUs can help address the city's housing shortage and escalating housing costs. In 2011-12, the University of California at Berkeley Institute for Urban and Regional Development (IURD) conducted an analysis of ADU development in the East Bay which is contained in a report titled "[Scaling Up Secondary Unit Production in the East Bay: Impacts and Policy Implications](#)." The report authors estimated that a \$100,000 ADU "stimulates about \$81,000 of indirect and induced spending in the local economy". The study estimated that the "direct, indirect and induced economic impacts" to Oakland would be \$348.3 million dollars. The IURD researcher's model also indicated that "the direct spending on a \$100,000 construction project creates the equivalent of 1.7 jobs, 0.8 jobs for the construction alone and 0.9 jobs associated with indirect and induced spending."

Environmental: ADUs add density to existing neighborhoods without the need to develop additional infrastructure and counteracting urban sprawl. ADUs can also contribute to the City's desire to foster more walkable neighborhoods with greater use of bicycling and public transit.

Race & Equity: While ADUs provide benefits to all homeowners, the construction of ADUs can preserve homeownership within Oakland for people who are Black, Indigenous and People of Color (BIPOC) by allowing owners to develop an additional unit that can be rented and provide a source of income, or to offer the unit to family members who may have been displaced from Oakland due to gentrification or other economic factors.

ACTION REQUESTED OF THE CITY COUNCIL

Staff Recommends That The City Council Receive An Informational Report From The City Administrator, Or Their Designee, On The Status And Timeline Of Easing The Process For Adding Accessory Dwelling Units (ADUs), Including: Updating Our Municipal Code To Comply With State Law And Make Other Revisions; Providing Dedicated Staff And Extended Hours For Processing ADU Applications; The Number Of Applications And Number Of Approvals And Average Timeline Of Approval For Each Of The Past Two Years; Use Of Pre-Approved Templates For ADUs; Improved Public Informational Materials And Online Systems For ADU Applicants.

For questions regarding this report, please contact Angela Robinson Piñon, Assistant Director of Planning and Building at arobinsonpinon@oaklandca.gov or (510) 238-3707.

Respectfully submitted,



WILLIAM A. GILCHRIST
Director, Planning & Building Department

Prepared by:
Angela Robinson Piñon, Assistant Director
Planning & Building Department