

Case File Number: ZA26004

May 20, 2026

<b>Location:</b>	Citywide
<b>Assessor’s Parcel Number(s):</b>	N/A
<b>Proposal:</b>	Planning Code amendments to (1) update Accessory Dwelling Unit regulations for consistency with state law and provide written findings pursuant to Government Code 66326(b); (2) revise discontinuance standards for nonconforming activities; (3) remove applicability of S-10 Scenic Route Combining Zone discretionary standards to ministerial design review; (4) permit Recreational Assembly Activities in the Wood Street D-WS-9 Zone; (5) revise minimum front setback in D-C0-2 Zone; (6) remove a review deadline from Development Agreement Procedure in Section 17.138.030; (7) revise utility screening standards in Section 17.124.045; and (8) incorporate various conforming and clerical revisions.
<b>Applicant:</b>	City of Oakland, Bureau of Planning
<b>Phone Number:</b>	Ruslan Filipau: (510) 238-3491
<b>Owner:</b>	N/A
<b>Case File Number:</b>	ZA26004
<b>Planning Permits Required:</b>	N/A
<b>General Plan:</b>	Citywide
<b>Zoning:</b>	Citywide
<b>Environmental Determination:</b>	The proposal relies on the previously certified Final Environmental Impact Reports for: the Oakland 2045 General Plan Update - Phase 1 (2023); the Coliseum Area Specific Plan (2015); 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 North Oakland Hill Area Specific Plan (1986); 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 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 15061(b)(3) (general rule, no significant effect on the environment).
<b>Historic Status:</b>	N/A
<b>City Council District:</b>	All Districts
<b>Status:</b>	Under Review
<b>Finality of Decision:</b>	Receive Planning Commission and public comments. Planning Commission to make a recommendation to City Council.
<b>For Further Information:</b>	Contact Case Planner <b>Ruslan Filipau</b> at (510) 238-3491 or by email at <a href="mailto:rfilipau@oaklandca.gov">rfilipau@oaklandca.gov</a>

**SUMMARY**

The proposed Planning Code amendments (see *Attachment A*) would amend Title 17 of the Oakland Municipal Code (Planning Code) to correct errors and inconsistencies, provide clarifications, and incorporate targeted substantive updates to address outstanding issues and keep the Planning Code current.

In addition, the California Department of Housing and Community Development (State HCD) reviewed Oakland’s Accessory Dwelling Unit (ADU) regulations under State ADU Law (Gov. Code, §§ 66310–66342), and directed the City to amend the Planning Code or adopt required findings. The proposed ordinance responds by amending Planning Code Section 17.103.080 and both incorporating previously adopted findings and making a new finding pursuant to Government Code Section 66326(b).

**BACKGROUND**

**Public hearing history**

The City of Oakland (City) adopted its Accessory Dwelling Unit (ADU) Ordinance [No. 13677 C.M.S.](#) on January 18, 2022. Following the adoption, the ADU regulations have been further revised by City Council as follows:

- On June 18, 2024, the City adopted Ordinance [No. 13800 C.M.S.](#), that updated the Planning Code to align with changes in State law that occurred since the adoption of the City’s ADU Ordinance in 2022, and to address written comments from the California Department of Housing and Community Development (State HCD) regarding the City’s compliance with state ADU regulations; and
- On July 1, 2025, the City adopted Ordinance [No. 13856 C.M.S.](#), that updated the Planning Code to align with changes in State law that became effective in January 2025.

On December 10, 2025, the City received from the State HCD a follow-up (second) review of Oakland’s Accessory Dwelling Unit Ordinance and Written Findings Letter Pursuant to State ADU Law (Gov. Code, No. 66310-66342), referenced in *Attachment B* to this report.

On January 8, 2026, the City provided State HCD with a timely written Response Letter (City Response Letter), referenced in *Attachment C* to this report. The City’s Response Letter addressed each of the State HCD Findings provided in its December 10, 2025 Findings Letter.

Following the City Response Letter, Planning staff met and conferred with State HCD staff on April 20, 2026, to review State HCD’s findings and clarify the City’s responses. This meeting included discussion of Findings #2 and #5, for which Planning staff do not recommend any action. This report explains the basis for these determinations and identifies additional changes to the City’s ADU regulations requested by State HCD.

In addition to proposed amendments to the City’s ADU Ordinance, this report outlines several other proposed changes to the Planning Code, along with a number of related conforming amendments to correct errors and inconsistencies.

## GENERAL PLAN ANALYSIS

### **Land Use and Transportation Element (LUTE) General Plan Compliance:**

The proposed Planning Code amendments are in conformance with the General Plan Land Use and Transportation Element (LUTE). Specifically, the amendments support the intent of LUTE policies including, but not limited to, the following:

#### *Policy N3.3 Facilitating the development of Accessory Dwelling Units (ADUs)*

As part of its Pro-Housing Designation, the City of Oakland is committed to the production of new housing, including Accessory Dwelling Units (ADUs). The proposed amendments would bring the local ADU regulations in conformance with state law. Also, according to the 2026 Annual Progress Report (APR) the City has entitled around 2,000 ADUs between 2019 and 2025, of which around 1,200 ADUs have been built. This indicates the overall success of the ADU regulations.

#### *Policy N5.2 Buffering Residential Areas*

The proposal clarifies the standards for discontinuance of non-conforming industrial uses that are located next to sensitive residential uses. The amendments remove a “purposeful abandonment” provision that was open to interpretation and establish a clear timeline for discontinuance of use.

#### *Policy N11.2 Streamlining Permit Procedures.*

The proposed amendments would streamline review of development proposals by clarifying various code provisions and removing clerical errors and inconsistencies.

#### *Policy N12.4 Undergrounding Utility Lines.*

The proposal clarifies and strengthens requirements for screening and undergrounding electrical transformers in key areas, including BART Station areas, the Central District, and Commercial Corridors. The amendment supports attractive and walkable streetscapes and aligns with adopted Objective Design Standards. The proposed amendment was coordinated with the Department of Transportation.

### **Race and Equity General Plan Compliance:**

In September 2023, the City of Oakland adopted its first Environmental Justice Element (EJ Element) as part of Phase 1 of the General Plan Update, which constitutes the baseline against which the Race and Equity Impact Assessment for this project is determined. The EJ Element “serves as the foundation for achieving equity and environmental justice when planning for future growth and development in Oakland.” The EJ Element identifies communities that are disproportionately impacted by environmental justice issues and proposes goals, policies, and objectives to reduce the unique or compounded health risks in these communities. It also contains a comprehensive table of actions to achieve those goals and objectives, many of which have already been implemented.

*Policy EJ-1.1. Toxic Air Contaminants.* Reduce the public’s exposure to toxic air contaminants through appropriate land use and transportation strategies, identified through the LUTE update in Phase 2 of the GPU process, particularly in Environmental Justice Communities and other areas most burdened by air pollution, as identified in Figure EJ-1

*Policy EJ-1.3 Industrial Uses Near Sensitive Land Uses.* Ensure that heavy industrial uses are adequately buffered from residential areas, schools, and other sensitive land uses.

*Policy EJ-1.7 Truck-Related Impacts.* For new warehouses and truck-related businesses, reduce impacts from truck loading and delivery including noise/vibration, odors, air pollution, and greenhouse gas emissions.

### **Housing Element General Plan Compliance:**

The Housing Element, also adopted in 2023 as part of Phase 1 of the General Plan Update, includes racially equitable housing policies that protect tenants, address patterns of segregation by fostering inclusive neighborhoods, and provides housing options for Oaklanders of all incomes, prioritizing preservation and production for those with the greatest need.

The proposed ADU-related Planning Code amendments would support the following actions in the Housing Element: Action 3.2.5 Reduce constraints to the development of ADUs; and Action 3.4.9 Implement new ADU standards that streamline approvals and address unpermitted units. The shared objective of both actions is to help address the housing need by increasing production of ADUs.

### **KEY ISSUES AND IMPACTS**

The City Response Letter to State HCD, referenced in *Attachment C*, included the following recommended policy actions and clarifications in response to each of the State HCD Findings:

- 1. State HCD Finding: Statutory Numbering** – The Ordinance reflects outdated statute numbering (65852.2, etc.) and must be updated to reflect current statute (66310 – 66324).

*Policy Analysis and Recommendation:* City staff recommends that the Council update all instances of the statutory numbering to reflect the current Government Code sections (66310 – 66324) in the ADU Ordinance (Planning Code Section 17.130.080). To review all proposed amendments to the Planning Code, see *Attachment A*.

- 2. State HCD Finding: Planning Code Section 17.103.080 A.7 – Fire Hazard Restrictions** – The Ordinance restricts the number and types of ADUs within the S-9 Combining Zone by prohibiting new construction ADUs and limiting conversion units to one ADU or JADU per lot. In its July 5, 2023, Findings Letter (*Attachment D*), State HCD claims these restrictions are inconsistent with State ADU Law. The letter identifies two options for the City: (1) amend the Ordinance to comply with State law, or (2) adopt the Ordinance without changes and include findings explaining why the City believes the regulations comply with State law.

*Policy Analysis and Recommendation:* The City has already satisfied the second option by adopting findings supporting its Accessory Dwelling Unit (ADU) regulations in the S-9 Combining Zone. These findings were first adopted with the City's ADU Ordinance [No. 13677 C.M.S.](#) on January 18, 2022, pursuant to Government Code section 66326(b)(2)(B). The City subsequently reaffirmed and expanded these findings in Ordinance [No. 13800 C.M.S.](#), adopted June 18, 2024 (see findings beginning on page 8). The supporting Agenda Report for that hearing further documents the basis for regulating ADUs in the S-9 Combining Zone. Additionally, the

City's August 4, 2023, response to State HCD (*Attachment E*) provides a detailed response to State HCD's concerns regarding fire hazard restrictions, including the City's Findings and supporting documentation in Attachments A–G to the City's previous response letter. Finally, the previously adopted Findings can be found in the current Planning Code Section 17.88.020 Findings, also attached in *Attachment A*.

Based on these facts and actions, the City maintains that it has complied with State law as to HCD's finding, by adopting findings pursuant to Government Code section 66326(b)(2)(B) demonstrating that the S-9 ADU regulations are consistent with State law and necessary to protect public safety. These findings and the supporting rationale remain unchanged.

City staff met and conferred with State HCD to further discuss this issue on April 20, 2026, during which Planning staff demonstrated that the required findings had been adopted.

- 3. State HCD Finding: Planning Code Section 17.103.080 A.9 and A.12.c** – Visibility – The ADU Ordinance limits exterior staircases based on “visibility from the public right-of-way.” HCD finds this standard subjective and inconsistent with Government Code section 66314(b)(1), which requires objective standards. Additionally, these provisions may not be applied to units created under Government Code section 66323.

*Policy Analysis and Recommendation:* City staff recommends the City remove the “visibility” criteria in Planning Code Section 17.103.080 A.9 and likewise eliminate the staff consultation requirement in Section 17.103.080 A.12.c, which has not been used in practice over the last several years and cannot result in denial of an ADU or application of any additional requirements.

- 4. State HCD Finding: Planning Code Section 17.103.080 A.10.a and b** – Subjective Terminology – The Ordinance uses subjective terms such as “predominant” and “visually similar” in ADU design standards, which conflicts with Government Code section 66314(b) requiring objective standards.

*Policy Analysis and Recommendation:* City staff recommends removal of the term “predominant” from Planning Code Section 17.103.080 A.10.a, and replacing “visually similar” with “visually matching” materials, which can be objectively measured against existing materials.

- 5. State HCD Finding: Planning Code Section 17.103.080 A.12 and Table 17.103.02** – Front Setbacks – The Ordinance requires that no other placement options exist before allowing an ADU in the front setback on lots with a California Register Property or multifamily dwellings. State HCD finds this inconsistent with Government Code section 66321(b)(3), which prohibits standards that would preclude an ADU of at least 800 square feet and does not allow such prerequisites.

*Policy Analysis and Recommendation:* Government Code section 66321(b)(3) limits the City's ability to apply development standards, including front setbacks, if they would prevent construction of a qualifying 800-square-foot ADU with minimum four-foot side and rear setbacks. Staff interpret this to allow the City to guide ADU siting when feasible alternatives on the lot exist. The Ordinance's “order of preference” simply establishes preferred locations (e.g., rear or side

yards), but does not prohibit front-yard ADUs if no other compliant location is available. If the only available location is in the front yard, the City will permit an ADU in that location.

The intent is to avoid placing ADUs in front of California Register Properties and primary residences when other viable locations exist. If the front yard is the only feasible location, the Ordinance allows it. Staff has not encountered cases where a front-yard ADU was necessary on a qualifying historic property or where the primary residence is the prominent structure. Staff finds the current provisions consistent with State law and does not recommend any amendments.

During a meeting with State HCD on April 20, 2026, Planning staff clarified its interpretation of this provision. The State HCD staff acknowledged and verbally agreed that the City's ADU Ordinance does not prohibit ADUs and therefore is consistent with State law. City staff notified the State HCD that staff will present to City Council a written finding in the Ordinance responsive to State HCD finding #5.

#### **Non-ADU-related proposed Title 17 (Planning Code) substantive amendments:**

- 1. Revising discontinuance standards for nonconforming activities in Planning Code Section 17.114.050.C.** Clarifies the standard when nonconforming Truck-Intensive Industrial Activities are considered discontinued by replacing ambiguous language with a clear, objective rule. This change is proposed because of a recent appeal case for 966 81st Avenue (Case File Number: DET250056-A01), which focused particular attention on an ambiguity in the existing Planning Code: the "purposeful abandonment" provision in Planning Code Section 17.114.050.C. was determined to be subjective and open to interpretation. To address this issue, the proposed amendment eliminates the undefined "purposeful abandonment" standard and instead establishes a clear 60-day timeframe for cessation of active operations. The proposed amendment will make the discontinuance determination process clear and unambiguous, providing greater regulatory certainty that is consistent with City's other goals and policies.

Specifically, the change is consistent with the Environmental Justice (EJ) Element of the General Plan Action EJ-A.1. *Amend the City's Zoning code to include the following changes: Amend the permit procedures for nonconforming Truck-Intensive Industrial Activities.* The amendment also relies on the Racial Equity Impact Assessment (REIA) for the EJ Element. This amendment is still stricter than the previous nonconforming standard that was set forth prior to changes made in 2023.

- 2. Removing applicability of S-10 Scenic Route Combining Zone discretionary standards to ministerial design review in Planning Code Section 17.90.050.** Removes application of discretionary standards to Ministerial Design Review to address the use of non-objective findings. Only objective standards would apply to ministerial projects; existing Criteria A. and B. in Planning Code Section 17.90.050 would continue to apply to Regular Design Review.
- 3. Allowing Recreational Assembly Activities in the Wood Street D-WS-9 Zone by revising Planning Code Table 17.101A.020.** Allows Recreational Assembly Activities (e.g., plazas, community gardens) to support desirable community-serving development. Removes the Conditional Use Permit requirement to eliminate conflicts where such amenities may be either voluntarily proposed or required as part of project approvals.

4. **Revising Minimum Front Setback In D-CO-2 Zone in Planning Code Table 17.101H.03 and the footnote #2 to the table.** Establishes a consistent 10-foot minimum front setback along Hegenberger Road, aligning with all other zones along this gateway corridor that already require the 10-foot front setback. Revises Footnote #2 to clarify that this front setback requirement applies only to Hegenberger Road and Oakport Street.
5. **Removing a review deadline from Development Agreement Procedure in Planning Code Section 17.138.030 – Planning Commission Action.** Removes an arbitrary review deadline that is inconsistent with Development Agreement processes. The existing review deadline provision does not apply to Development Agreements due to their extended and phased negotiation timelines. The amendment also updates outdated language for consistency with other Planning Code chapters.
6. **Revising utility screening standards in Planning Code Section 17.124.045.** Clarifies and strengthens City requirements for screening and undergrounding electrical transformers in key areas, including BART station areas, the Central District, and Commercial Corridors. The amendment supports attractive and walkable streetscapes and aligns with adopted Objective Design Standards. The proposed amendment was coordinated with the Oakland Department of Transportation.

**Proposed Title 17 (Planning Code) conforming and clerical revisions:**

7. **Planning Code Table 17.101K.05 – D-DT Base Height and Intensity Regulations (Height Areas 1–11).** To correct technical inconsistencies and align residential density and height standards:
  - Revise maximum residential density in D-DT Height Areas 5 and 6 to correct a clerical error that resulted in unintended lower densities. For example, the maximum density for Regular Dwelling Units in D-DT Height Area 5 is revised from 1,000 square feet per unit to 300 square feet per unit, consistent with similar typical requirements for other Base Height Areas. Also, previous earlier versions of the Planning Code list the correct (higher) density requirements (e.g. 300 sf. per unit instead of 1,000 sf).
  - Update the maximum height in D-DT Height Area 9 from 75 feet to 95 feet to align with prior legislative changes in the D-DT and other zones, ensuring consistency across zones.
8. **Planning Code Table 17.17.03 – Property Development Standards.** Add clarification identifying the living unit types to which permitted densities apply, consistent with formatting used in other zones.
9. **Planning Code Section 17.101K.130 – General Design Standards.** Clarify that these standards do not apply to projects subject to separately adopted Objective Design Standards.
10. **Planning Code Section 17.07.060.** Remove subsections B. and C. in Planning Code Section 17.07.060, which expired in 2023 and are no longer relevant.
11. **Planning Code Table 17.97.04 – S-15 Transit-Oriented Development Zone.** Revise the maximum number of stories in the 250-foot height zone from 24 to 25 stories to align with

standard story-to-height relationships used in other zones, which typically assume 10 feet per story.

12. **Planning Code Section 17.100B.080.** Remove an obsolete reference to previously deleted Planning Code Section 17.100B.070.
13. **Planning Code Table 17.101A.02, Note #1.** Revise lot area requirements for Rooming Units to be half those required for Regular Dwelling Units, consistent with recent revisions in all other zones following the 2023 amendments to Land Use and Transportation Element (LUTE) of the General Plan (Resolution 89907 C.M.S.). Rooming Units were inadvertently missed from this note previously.
14. **Planning Code Section 17.107.020 – Definitions (“Economically Feasible”).** Reintroduce and revise this definition solely to maintain an existing cross-reference with Oakland Municipal Code (OMC) Title 15, Section 15.78.030. This definition was removed as a part of 2022 Density Bonus Planning Code Amendments Package Ord. No. 13684 C.M.S. to be consistent with the State Density Bonus provisions. However, this definition does not apply to provisions in Title 17 (Planning Code).
15. **Planning Code Section 17.108.140 – Fences, Hedges, and Walls.** Make non-substantive edits to improve clarity and objectivity.
16. **Citywide Activity Classifications.** Remove outdated activity type “Massage Services” and rename the previously deleted “Scrap Operation Commercial Activities” classification to “Salvage/Junk Yard Industrial Activities” to reflect current classifications in various Sections of the Planning Code (e.g. Planning Code Chapter 17.114 Article II.)
17. **Planning Code Section 17.114.150 Nonconforming Sign Regulations.** Remove references to ephemeral signage (e.g., painted signs, posters) that do not require permits and are not regulated by the Planning Code.
18. **Planning Code Table 17.65.120 – HBX Zone Open Space Standards.** Revise formatting and detail to align with other zones by specifying requirements by living unit type. No change is proposed to open space standards for Regular Dwelling Units.
19. **Planning Code Section 17.96.050.C.** Add a conforming clarification to help specify the meaning of the provision 17.96.050.C.
20. **Planning Code Section 17.138.100.** Clarify that subdivisions are not approved through Development Agreements and must be processed through the appropriate subdivision procedures.
21. **Replace the term “Dwelling Unit” with “Living Unit”** throughout various sections of the Planning Code because the term “Living Unit” is broader and inclusive of Dwelling Units, Rooming Units and Efficiency Dwelling Units.

**ENVIRONMENTAL DETERMINATION**

The proposal relies on the previously certified Final Environmental Impact Reports for: the Oakland 2045 General Plan Update - Phase 1 (2023); the Coliseum Area Specific Plan (2015); Broadway Valdez Specific Plan (2014); West Oakland Specific Plan (2014); Central Estuary Area Plan (2013); General Plan Land Use and Transportation Element (1998); the Oakland Estuary Policy Plan (1998); the North Oakland Hill Area Specific Plan (1986); 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 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 15061(b)(3) (general rule, no significant effect on the environment).

**RECOMMENDATIONS:**

Staff requests that the Planning Commission recommend that:

1. The City Council approve the proposed Planning Code amendments to: (1) update Accessory Dwelling Unit regulations for consistency with state law and provide written findings pursuant to Government Code 66326(b); (2) revise discontinuance standards for nonconforming activities; (3) remove applicability of S-10 Scenic Route Combining Zone discretionary standards to Ministerial Design Review; (4) permit Recreational Assembly Activities in the Wood Street D-WS-9 Zone; (5) revise minimum front setback in the D-C0-2 Zone; (6) remove a review deadline from Development Agreement Procedure in Section 17.138.030; (7) revise utility screening standards in Section 17.124.045; and (8) incorporate various conforming and clerical revisions.
2. Affirm staff's environmental determination.

Prepared by:



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Ruslan Filipau  
Planner IV

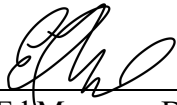
Reviewed by:



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Laura Kaminski, Strategic Planning Manager  
Bureau of Planning

Approved for forwarding to the Planning Commission:



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Ed Manasse, Deputy Director  
Bureau of Planning

**ATTACHMENTS:**

**Attachment A:** Proposed OMC Title 17 (Oakland Planning Code) Amendments

**Attachment B:** California Department of Housing and Community Development (State HCD) December 10, 2025 Review of Oakland's Accessory Dwelling Unit Ordinance and Written Findings Letter Pursuant to State ADU Law (Gov. Code, No. 66310-66342).

**Attachment C:** City's January 8, 2026 Response Letter (City Response Letter) to State HCD's December 10, 2025, Findings Letter.

**Attachment D:** State HCD July 5, 2023 Findings Letter.

**Attachment E:** City's August 4, 2023 Response Letter to State HCD (with attachments A-G).