

# Appendix F: Housing Constraints

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State law requires an analysis of governmental and non-governmental constraints to Oakland meeting its housing needs. Governmental constraints can include zoning regulations, development standards, fees, and processing and permitting times, among others. Non-governmental constraints can include infrastructure, environmental, and market challenges. This appendix provides an assessment of these constraints as required by law and provides context on relevant local efforts to remove governmental constraints. The Housing Action Plan contained in Chapter 4 provides strategies the City will take to remove identified constraints.

Governmental constraints on affordable housing construction include a lack of local and State funding to support the development of affordable housing, a lack of clarity on permit streamlining processes, higher costs for all housing developments due to a lack of City staff capacity, ~~and the availability of concessions for market rate housing and community perception that these concessions limit the encouragement of affordable housing development. Both market-~~ Both market- rate and affordable housing also face constraints from development standards and green building standards. Non-governmental constraints on housing development include environmental constraints such as risk of seismic activity, infrastructure needs for infill housing, and the high cost of land, materials, and labor in Oakland.

## **F.I Governmental Constraints**

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While government regulations are intended to guide development in a community and ensure quality housing, they may also contribute to delays or increased development costs with negative impacts on housing affordability and availability. The following section assesses constraints imposed by governmental regulation on residential development, including those imposed by the current General Plan, specific plans, and the Municipal Code. Feedback received during community outreach highlighted the following controversial issues as governmental constraints impacting the development of housing:

- A lack of local and State funding to support the development of affordable housing. During outreach, community members expressed frustration with a perceived lack of political appetite to spend local money on affordable housing;
- A lack of clarity on available permit streamlining processes as well as how affordable housing is prioritized;
- The lack of City staff capacity as a major cost driver for all housing developments, including affordable and market-rate projects; and
- An abundance of concessions for market-rate projects and community perception that these concessions have led to an overall reduction in regulatory incentives and tools to encourage affordable housing development.

## Funding for Affordable Housing Development

Sources of funding for affordable housing development, including those at the local, State, and federal levels, are severely limited. Recent State efforts to increase the availability of funding, including the \$1.75 billion California Housing Accelerator fund and expanded Homekey funding, will provide only limited support for affordable housing development over the upcoming planning cycle. Moreover, popular funding mechanisms, such as the California Tax Credit Allocation Committee's (TCAC) competitive tax credit applications, disadvantage cities like Oakland, where the majority of the area is considered "low resource."

Funding at the local level is also very limited due to restrictions on the City's ability to raise tax revenues and budgeting decisions made by the City Council. According to a SPUR research brief, California's Proposition 13 has a major impact on Oakland's ability to collect revenue that could be used towards affordable housing development.<sup>1</sup> A key finding of the brief states that "Oakland misses out on \$400 million in Prop. 13 residential taxes every year, equivalent to what it spends on four city departments combined" – including over \$33 million for Housing and Community Development at minimum. According to SPUR, the uncollectible taxes are more than ten times the amount the City has currently budgeted for helping people experiencing homelessness, seven times more than it spends to protect tenants and create affordable housing, and more than five times the City's spending on programs and services for children in the City.

Local budget decisions also affect the availability of funding for affordable housing. Oakland has no major source of local revenue dedicated exclusively to affordable housing besides [the](#) Jobs Housing and Affordable Housing impact fees. This is different from other communities like San Jose, where 100% of the real estate transfer tax is dedicated to addressing housing and homelessness challenges. At present, the only ongoing local investment in the construction of affordable housing in Oakland comes from development impact fees and federal block grants.

During outreach, affordable housing developers noted that they are continually challenged by a lack of federal, State and local funding, as well as competition from market-rate developers to secure highly valuable land for development. In response to high land prices and increasing land values, the City approved Bond Measure KK in 2016 to fund affordable housing projects, including the 1-4 Unit Acquisition and Rehabilitation Program, which provides loans for acquisition-related and rehabilitation costs associated with developing, protecting and preserving long-term affordable housing throughout the city. Additional KK funds were allocated for site acquisition for multifamily affordable development. However, all KK funds will have been disbursed by 2023. [Measure U, a bond measure approved by Oakland voters in November 2022, will be able to assist in funding the same kind of affordable housing investments as Measure KK, but will be inadequate to meet Oakland's funding shortfall to meet RHNA goals.](#) Additional funding and acquisition strategies are provided in the Housing Action Plan, [actions 2.2.2, 3.1.1., 3.3.1, 3.3.4, 3.3.6, 3.3.10, 3.3.13, 3.3.14, and 3.3.18.](#)

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<sup>1</sup> Jacob Denney, Phil Levin, and Susannah Parsons. "Burdens and Benefits: Investigating Prop. 13's unequal impacts in Oakland." *SPUR*, February 2022. Available at [https://www.spur.org/sites/default/files/2022-02/SPUR\\_Burdens\\_and\\_Benefits.pdf](https://www.spur.org/sites/default/files/2022-02/SPUR_Burdens_and_Benefits.pdf)

## LAND USE POLICIES AND REGULATIONS

### General Plan

The City of Oakland last performed a comprehensive update to its General Plan in 1998 and is in the process of updating it again to reflect emerging opportunities, challenges, and approaches. As the General Plan Update is prepared in parallel with this Housing Element, its policy direction and shared goals will inform the assessment of constraints in this chapter.

The Land Use and Transportation Element (LUTE) [of the General Plan](#) sets forth the City's policies for guiding local land use and development. The LUTE outlines the vision for Oakland, establishing an agenda to encourage sustainable economic development, ensure and build on the transportation network, increase residential and commercial development in downtown, reclaim the waterfront for open space and mixed uses, and protect existing neighborhoods while concentrating new development in key areas. These policies, together with the zoning regulations, establish the amount and distribution of land allocated for different uses within the city. Table F-1 shows General Plan residential land use designations along with their descriptions from the City's Planning Code. These designations support a variety of housing types, ranging from large estate lot residential developments to multifamily high-rise apartments. Generally, the LUTE provides significant flexibility on zoning and density. However, the document was originally adopted in 1998 and will be revised during Phase II of the General Plan update (i.e., by July 2025) to address changing conditions in Oakland. [Table F-2 below summarizes the extent to which different housing types are permitted in the city. While multifamily development is permitted on about 9.8 percent of Oakland's land, single-family and two-family developments are permitted on about 43.4 percent and 17.8 percent of the city's land, respectively. About half the city is available for residential development, while much of the remaining acreage is designated open space, rights-of-way, and environmentally constrained areas. See Figure F-1 for the distribution of residential zones in Oakland.](#)

**Table F-1: General Plan Residential Land Use Designations, 2022**

<i>General Plan Residential Zone</i>	<i>Residential Zoning Designation</i>	<i>Description</i>
Hillside Residential	RH-1, RH-2, RH-3, RH-4	The intent of the Hillside Residential (RH) Zones is to create, maintain, and enhance residential areas that are primarily characterized by detached, single unit structures on hillside lots.
Detached Unit Residential	RD-1, RD-2	The intent of the Detached Unit Residential (RD) Zones is to create, maintain, and enhance residential areas primarily characterized by detached, single-unit structures.
Mixed Housing Type	RM-1, RM-2, RM-3, RM-4	The intent of the Mixed Housing Type Residential (RM) Zones is to create, maintain, and enhance residential areas typically located near the City's major arterials and characterized by a mix of single-family homes, townhouses, small multi-unit buildings, and neighborhood businesses where appropriate.
Urban Residential	RU-1, RU-2, RU-3, RU-4, RU-5	The intent of the Urban Residential (RU) Zones is to create, maintain, and enhance areas of the City that are appropriate for multi-unit, mid-rise or high-rise residential structures in locations with good access to transportation and other services.
High-Rise Apartment Residential	R-80	The intent of the High-Rise Apartment Residential (R-80) Zone is to create, preserve, and enhance areas for high-rise apartment living at high densities in desirable settings, and is typically appropriate to areas near major shopping and community centers and rapid transit stations.

Source: City of Oakland, Planning Code, 2022; Dyett & Bhatia, 2022

**Cumulative Impacts of Land Use Regulations**

~~This section evaluates how and to what extent Oakland's land use regulations constrain the maintenance, improvement, and development of housing. Table F-2 below summarizes the extent to which different housing types are permitted in the city. While multifamily development is permitted on about 9.8 percent of Oakland's land, single family and two family developments are permitted on about 43.4 percent and 17.8 percent of the city's land, respectively. Less than half the city is available for any kind of residential development, although much of the remaining acreage includes designated open space, rights of way, and environmentally constrained areas. See Figure F-1 for the distribution of residential zones in Oakland.~~

**Table F-2 Summary of Development Permitted, 2022**

<i>Project Type</i>	<i>Base Zones<sup>1</sup></i>	<i>Total Acreage</i>	<i>Percent of Total City Acreage<sup>2</sup></i>
Multifamily Housing <sup>3</sup>	RM-4, RU-1 to RU-5, R-80, HBX-1 to -3, CN-1 to -4, CC-1 to -2, C-40, C-45, CBD-R/-P/-C/-X, S-2, S-15, S-15W, D-WS, D-OTN, D-BV-2, D-BV-3, D-BV-4, D-KP-1 to -3, D-CE-3 and -4, D-LM-1 to -5, D-CO-1 to -2, D-OK-3	4,881.9	9.8%
Single-Family Housing <sup>4</sup>	RH-1 to -4, RD-1 to -2, RM-1 to -4, RU-1 to RU-3, R-80, HBX-1 to HBX-3, C-40, C-45, S-2, D-WS, D-OTN, D-KP-1 to -3, D-CE-3, D-OK-1 to -2	21,665.9	43.4%
Two-Family Housing <sup>5</sup>	RM-2 to RM-4, RU-1 to RU-5, R-80, HBX-1 to -3, CN-1 to -4, CC-1 to -2, C-40, C-45, CBD-R, S-2, D-WS, D-OTN, D-BV-4, D-KP-1 to -3, D-CE-3, D-LM-1 to -5, D-CO-1 to -2, D-OK-3	8,903.1	17.8%

1. The D-OK zoning district has not yet been implemented.

2. Zoning district acreage across project types is not mutually exclusive, and percentages should not be summed.

3. Multifamily housing requires a conditional use permit in RM-2, RM-3, D-BV-1, and D-CO-4 Zones.

4. Single-family housing requires a conditional use permit in S-15 and D-OK-3 Zones.

5. Two-family housing requires a conditional use permit in RD-2, RM-1, S-15, S-15W and D-CO-4 Zones.

Source: City of Oakland, 2022; Dyett and Bhatia, 2022

**Figure F- 1: Residential Zones**

*Source: City of Oakland, 2022*



A sample of variance/zoning concessions identified in staff reports between 2019 and 2021 is provided in Table F-3 below. Requests for variances were generally minor, with about one-third of the sample pertaining to setbacks for single-family dwellings, another two for driveway and paving separation, and one variance for group open space for a multifamily (10-unit) building. The two parking variance requests were for a single-family dwelling and a four-unit building.

**Table F-3: Sample of Variance/Zoning Concessions, 2019-2021**

Year	Case Number	Requested Variance
2019	PLN19184	Minor Variance for live/work units for 12-unit building
	PLN19044	Minor Variance for group open space for 10-unit building
	PLN18280	Minor Variance for setbacks and group open space for eight-unit building
	PLN16302	Minor Variance for setbacks and parking in mixed-use building
	PLN15197-R02	Minor Variance for driveway separation in nine-unit building
	PLN18420	Minor Variance for group open space in three-lot mini-lot development
2020	PLN19289	Minor Variance for parking in four-unit building
	PLN20088	Minor Variance for setbacks in single-family dwelling
2021	PLN20117	Minor Variance for setbacks in single-family dwelling
	PLN20127	Minor Variance for setbacks in single-family dwelling
	PLN21005	Minor Variance for paving in setback of single-family dwelling
	PLN21174	Minor Variance for parking in mixed-use building
	PUD06101-PUDF012	Minor Variance for setbacks in single-family dwelling

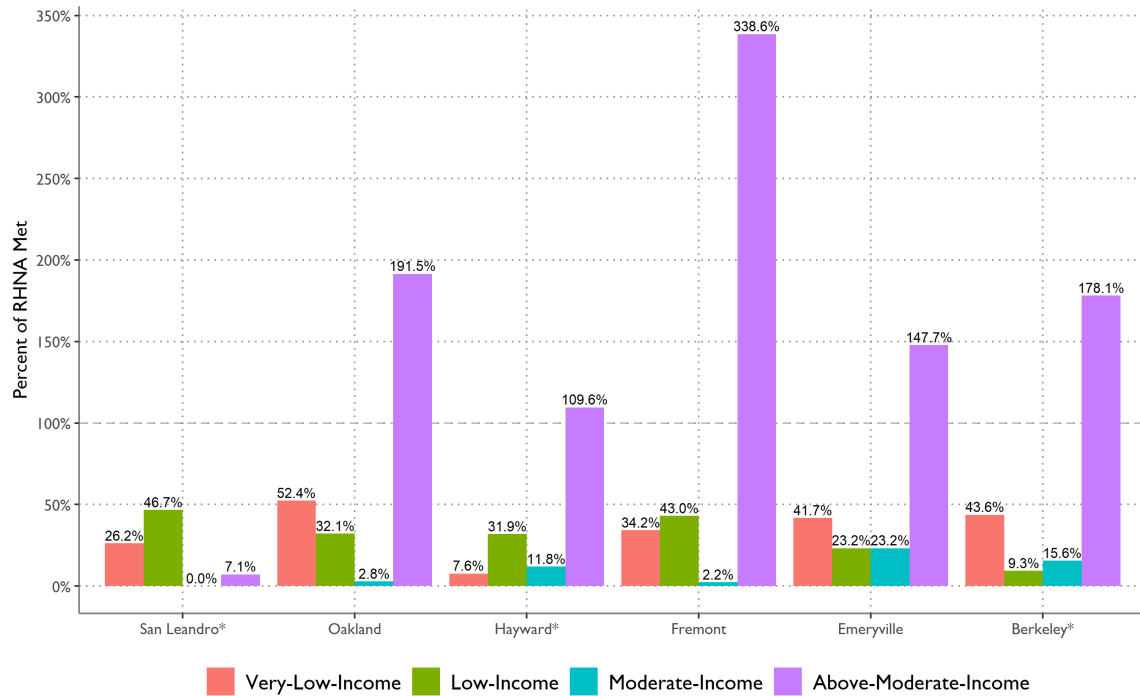
Source: City of Oakland, Staff Reports, 2019-2021

Chart F-1 below provides an overview of building permit approval rates compared to the 2015-2023 Regional Housing Needs Allocation (RHNA) for jurisdictions within Alameda County.<sup>2</sup> This provides a proxy for the comparative impact of land use regulations in Oakland and neighboring jurisdictions. Oakland is permitting at about the same rate as peer cities – the City has exceeded its above-moderate-income goal but has fallen short on its moderate- and lower-income goals. Oakland has one of the highest very-low-income building permit approval rates and one of the lowest moderate-income building permit approval rates among peer cities, including the five largest cities in Alameda County and neighboring Emeryville. The lag in [affordable](#) housing production is [in large part](#) due [largely](#) to a lack of local and State funding to meet Oakland’s affordable housing needs, as well as the length and complexity of permit processing. During outreach, stakeholders also pointed to an abundance of concessions for market-rate projects, which stakeholders conclude

<sup>2</sup> Note that permitting rates do not include building permits approved in 2021 in the cities of San Leandro, Hayward, and Berkeley. At the time of this draft (May 2022), these cities had not submitted their 2021 Annual Progress Reports (APRs) to State HCD.

has led to an overall reduction in regulatory incentives and tools to encourage affordable housing development.

**Chart F- I: Building Permit Approval by Percentage of the RHNA, 2015-2021**



\*Only includes permits approved between 2015-2020. As of May 2022, 2021 APR data is not available.

Source: State HCD, 5th Cycle Annual Progress Report Permit Summary, 2015-2021

### Planning Code

The type, location, density, and scale of residential development in Oakland is regulated through the City’s Planning Code, which is [Chapter Title 17](#) of the Oakland Municipal Code. Zoning ~~is regulations serve to implement~~ the ~~primary tool that local jurisdictions use to plan what goes where. It is used~~ “to designate certain areas as ‘appropriate’ for certain uses,” to “restrict or prohibit certain land uses in certain areas,” ~~General Plan and determining~~ “are designed to protect and promote the allowable uses to which land may be put.”<sup>3</sup> ~~health, safety, and general welfare of residents.~~ Zoning policies, which generally separate land into broad categories of use, such as residential, commercial, and industrial, thus have intense implications on social, environmental, and racial equity within a city. In the early 1900s, cities employed racial zoning, designating neighborhoods only for members of certain racial groups. The Supreme Court declared racialized zoning as unconstitutional in 1917, but jurisdictions found ways to use economic zoning to accomplish racial segregation, with the help of the federal government. In 1921, President Harding’s Advisory Committee on Zoning created a manual describing why every municipality

<sup>3</sup> ~~Schwarzer, M. Hella Town: Oakland’s History of Development and Disruption. 2021.~~

should have a zoning ordinance and published a model zoning ordinance.<sup>4</sup> While not explicitly stated, it was clear that “the creation of racially homogenous neighborhoods [w]as the reason why zoning should become such an important priority for cities.”<sup>5</sup>

~~Today,~~ Oakland’s Planning Code includes five zoning districts that are focused on prioritizing residential uses over most other uses. Most of Oakland’s residential land is currently zoned to maintain single-family development, which limits the capacity for residential development, especially affordable housing development. However, the City is undertaking significant efforts to amend its zoning code to expand the variety of housing types permitted in single-family zones, including duplexes, triplexes, and fourplexes. This effort is detailed in the Housing Action Plan and runs parallel with recent State efforts to increase permitted capacity in single-family zones through SB 9. While certain land use regulations are in need of reform—including parking standards and open space requirements, highlighted below—Oakland’s land use regulations in general do not unduly constrain housing development, as evidenced by the minor concessions requested in Table F-3. However, additional actions are necessary to incentivize further development of moderate- and lower-income housing.

Permitted uses range from one-family dwellings with ~~a secondary unit~~ accessory dwelling units in the RH and RD zones to two-family dwellings, multifamily dwellings, and rooming house residential facilities in RM, RU, and R-80 zones. As shown in Table F-4, residential uses are permitted by-right and do not require a conditional use permit (CUP). Various types of special needs housing may be permitted by-right, require a CUP, or be subject to certain limitations as noted in Tables F-4 through F-6 and discussed further below. The Housing Action Plan, Chapter 4 of the Housing Element, includes several actions under Policy 4.3 that are intended to reduce constraints on the production of these various special needs housing types, including emergency shelters, permanent supportive housing, employee housing, and smaller units such as rooming units.

Except for those projects determined exempt from design review as set forth in Section 17.136.025 of the Planning Code, residential projects must be approved pursuant to the design review process. This is discussed further in the Permits and Processing Procedures section of this Appendix. Action 3.4.8 moves design review toward more ministerial approvals by implementing objective design standards.

There are also 16 zoning districts included in the Planning Code that allow various types of residential uses along with commercial, industrial, agricultural, public, or open space uses. Within these zoning districts, some forms of residential development are permitted by-right, without being developed in conjunction with a commercial use on the same property. ~~Other residential uses are very limited in non-commercial zones.~~ Table F-5 and Table F-6 summarize permitted and conditionally permitted residential uses for these zoning districts.

<sup>4</sup> Maantay, J, “Zoning, Equity, and Public Health,” American Journal of Public Health, 91, no. 7 (2001).

<sup>5</sup> Rothstein, R, The Color of Law: a Forgotten History of how our Government Segregated America, 1 st ed. (New York: Liveright Publishing Corporation, 2017), 51.

Many zoning district boundaries cut through parcels instead of following property lines, especially along International Boulevard. This can make development challenging, as overlapping zones lead to conflicting permitted land uses and development standards for new construction. ~~Efforts the City will take to address this issue are outlined in the Housing Action Plan.~~ Action 3.4.6 corrects these divisions. Further, while not necessarily a constraint, it should be noted that the Planning Code separates permitted facility and activity types.

~~Most of Oakland's residential land is currently zoned to maintain single family development, which limits the capacity for residential development, especially affordable housing development. Current zoning restrictions make it economically infeasible for low income people to move to more affluent areas of Oakland because of higher development costs in low density areas. In order to make a return on their development, developers must sell or rent houses at a higher price, functionally barring low income people from these areas. Property owners may charge well above the development cost based on demand, regardless of what is affordable for most people in the area.~~

**~~However, the City is undertaking significant efforts~~**

~~to expand the variety of housing types permitted in single family zones, including duplexes, triplexes, and fourplexes. This effort is detailed in the Housing Action Plan and runs parallel with recent State efforts to increase permitted capacity in single family zones through SB 9. While certain land use regulations are in need of reform including parking standards and open space requirements, highlighted below Oakland's land use regulations in general do not unduly constrain housing development, as evidenced by the minor concessions requested in Table F-3. However, additional actions are necessary to incentivize further development of moderate and lower income housing. These actions are also outlined in the Housing Action Plan.~~

**Table F-4: Permitted Residential Land Uses in Residential Zones, 2022**

Type of Residential Use <sup>1</sup>	RH-1	RH-2	RH-3	RH-4	RD-1	RD-2	RM-1	RM-2	RM-3	RM-4	RU-1	RU-2	RU-3	RU-4	RU-5	R-80
One-Family Dwelling	P	P	P	P	P	P	P	P	P	P	P	P	P	(L)	(L)	P
One-Family Dwelling with Secondary Unit	P	P	P	P	P	P	P	P	P	P	P	P	P	(L)	(L)	P
Two-Family Dwelling	-	-	-	-	-	C(L)	C(L)	P	P	P	P	P	P	P	P	P
Multifamily Dwelling	-	-	-	-	-	-	-	C(L)	C(L)	P(L)	P	P	P	P	P	P
Rooming House	-	-	-	-	-	-	-	-	-	-	-	C	C	P	P	P
Vehicular	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P
Residential Care	P(L)	P(L)	P(L)	P(L)	P(L)	P(L)	P(L)	P(L)	P(L)	P(L)	P(L)	P(L)	P(L)	P(L)	P(L)	(L)
Supportive Housing	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P
Transitional Housing	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P
Semi-Transient	-	-	-	-	-	-	-	-	-	-	-	-	-	C(L)	C(L)	P
Bed and Breakfast	-	-	-	-	C	C	C	C	C	C	C	C	C	C	C	-

1. P = Permitted; C = Conditionally Permitted; P(L) = Permitted with Limitations; (C)L = Conditionally Permitted with Limitations; (L) = Permitted or Conditionally Permitted with Limitations; - = Prohibited

Source: City of Oakland, Planning Code, 2022

**Table F-5: Permitted Residential Land Uses in Non-Residential Zones, 2022**

Type of Residential Use <sup>1,2</sup>	HBX-1	HBX-2	HBX-3	HBX-4	CN-1	CN-2	CN-3	CN-4	CC-1	CC-2	CC-3
One-Family Dwelling	P(L)	P(L)	P(L)	C	(L)	(L)	(L)	(L)	(L)	(L)	(L)
<b>One-Family Dwelling with Secondary Unit</b>	<b>P</b>	<b>P</b>	<b>P</b>	<b>C</b>	<b>(L)</b>	<b>(L)</b>	<b>(L)</b>	<b>(L)</b>	<b>(L)</b>	<b>(L)</b>	<b>(L)</b>
Two-Family Dwelling	P	P	P	C	P(L)	P(L)	P(L)	P	P(L)	P(L)	(L)
Multifamily Dwelling	P	P	P	C	P(L)	P(L)	P(L)	P	P(L)	P(L)	(L)
Rooming House	P	P	P	C	P(L)	P(L)	P(L)	P	P(L)	P(L)	(L)
Vehicular	P	P	P	C	P	P	P	P	P	P	(L)
Residential Care	P(L)	P(L)	P(L)	P(L)	P(L)	P(L)	P(L)	P(L)	P(L)	P(L)	C(L)
Supportive Housing	P	P	P	P	P(L)	P(L)	P(L)	P(L)	P(L)	P(L)	C(L)
Transitional Housing	P	P	P	P	P(L)	P(L)	P(L)	P(L)	P(L)	P(L)	C(L)
Semi-Transient	C	C	C	C	-	-	-	-	-	-	-
Bed and Breakfast	-	-	-	C	C(L)	C(L)	C(L)	C(L)	C	C	C(L)

1. P = Permitted; C = Conditionally Permitted; P(L) = Permitted with Limitations; (C)L = Conditionally Permitted with Limitations; (L) = Permitted or Conditionally Permitted with Limitations; - = Prohibited
2. 'P' indicates that the type of residential use is permitted as a standalone use. Residential uses subject to certain limitations may not be permitted as a standalone use.
3. HBX = Housing and Business Mix Commercial; CN = Neighborhood Center Commercial; CC = Community Commercial

Source: City of Oakland, Planning Code, 2022

**Table F-5 Continued: Permitted Residential Land Uses in Non-Residential Zones, 2022**

Type of Residential Use <sup>1,2</sup>	CR-1	C-40	C-45	CBD-R	CBD-P	CBD-C	CBD-X	S-2	S-6	S-15	S-15W
One-Family Dwelling	(L)	P	P	(L)	(L)	(L)	(L)	P	-	C	(L)
<del>One-Family Dwelling with Secondary Unit</del>	<del>(L)</del>	<del>P(L)</del>	<del>P(L)</del>	<del>(L)</del>	<del>(L)</del>	<del>(L)</del>	<del>(L)</del>	<del>P(L)</del>	<del>-</del>	<del>(L)</del>	<del>(L)</del>
Two-Family Dwelling	(L)	P	P	P	-	-	-	P	-	C	C
Multifamily Dwelling	(L)	P	P	P	P	P	P	P	-	P	P
Rooming House	(L)	P	P	P	P	P	P	P	-	-	C
Vehicular	(L)	P	P	P	P	P	P	P	P	P	P
Residential Care	-	P(L)	P(L)	P(L)	P(L)	P(L)	P	P(L)	-	P(L)	P(L)
Supportive Housing	-	P	P	P	P(L)	P(L)	P	P	-	P	P
Transitional Housing	-	P	P	P	P(L)	P(L)	P	P	-	P	P
Semi-Transient	C(L)	P	P	C	C(L)	C(L)	C	P	-	-	-
Bed and Breakfast	-	-	-	P	P	P	P	-	-	-	-

1. P = Permitted; C = Conditionally Permitted; P(L) = Permitted with Limitations; (C)L = Conditionally Permitted with Limitations; (L) = Permitted or Conditionally Permitted with Limitations; - = Prohibited
2. 'P' indicates that the type of residential use is permitted as a standalone use. Residential uses subject to certain limitations may not be permitted as a standalone use.
3. CR = Regional Commercial; C-40 = Community Thoroughfare Commercial; C-45 = Community Shopping Commercial; CBD = Central Business District; S-2 = Civic Center Commercial; S-6 = Mobile Home Combining; S-15 = Transit-Oriented Development Commercial

Source: City of Oakland, Planning Code, 2022



**Table F-6: Permitted Residential Land Uses in District Zones, 2022**

Type of Residential Use <sup>1,2</sup>	D-WS <sup>3,4</sup>	D-OTN <sup>3,4</sup>	D-BV-1 <sup>4</sup>	D-BV-2 <sup>4</sup>	D-BV-3 <sup>4</sup>	D-BV-4 <sup>4</sup>	D-KP-1 <sup>4</sup>	D-KP-2 <sup>4</sup>	D-KP-3 <sup>4</sup>
One-Family Dwelling	P	P	(L)	(L)	(L)	(L)	P	P	P
One-Family Dwelling with Secondary Unit		P	P	(L)	(L)	(L)	(L)	P	P
Two-Family Dwelling	P	P	(L)	(L)	(L)	P(L)	P	P	P
Multifamily Dwelling	P	P	C(L)	P(L)	P(L)	P	P	P	P
Rooming House	-	-	C(L)	P(L)	P(L)	P	P	P	P
Vehicular	-	-	C(L)	C(L)	C(L)	P	P	P	P
Residential Care	P(L)	P(L)	C(L)	P(L)	P(L)	P(L)	P(L)	P(L)	P(L)
Supportive Housing	P	P	C(L)	P(L)	P(L)	P(L)	P	P	P
Transitional Housing	-	P	C(L)	P(L)	P(L)	P(L)	P	P	P
Semi-Transient	-	C	-	-	-	-	C	C	C
Bed and Breakfast	-	-	-	C	C	C	C	C	C

1. P = Permitted; C = Conditionally Permitted; P(L) = Permitted with Limitations; (C)L = Conditionally Permitted with Limitations; (L) = Permitted or Conditionally Permitted with Limitations; - = Prohibited
2. 'P' indicates that the type of residential use is permitted as a standalone use. Residential uses subject to certain limitations may not be permitted as a standalone use.
3. D-WS and D-OTN Zones permit "permanent residential activity".
4. D-WS = Wood Street District; D-OTN = Oak to Ninth District; D-BV = Broadway Valdez District; D-KP = Kaiser Permanente Oakland Medical Center District

Source: City of Oakland, Planning Code, 2022

**Table F-6 Continued: Permitted Residential Land Uses in District Zones, 2022**

Type of Residential Use <sup>1,2</sup>	D-CE-1	D-CE-2	D-CE-3	D-CE-4	D-CE-5	D-CE-6	D-LM-1	D-LM-2	D-LM-3	D-LM-4	D-LM-5
One-Family Dwelling	(L)	(L)	P	(L)	(L)	C(L)	(L)	(L)	(L)	(L)	(L)
<b>One-Family Dwelling with Secondary Unit</b>	<b>(L)</b>	<b>(L)</b>	<b>P</b>	<b>(L)</b>	<b>(L)</b>	<b>(L)</b>	<b>(L)</b>	<b>(L)</b>	<b>(L)</b>	<b>(L)</b>	<b>(L)</b>
Two-Family Dwelling	(L)	(L)	P	(L)	(L)	(L)	P	P(L)	P(L)	P(L)	P(L)
Multifamily Dwelling	(L)	(L)	P	P	(L)	(L)	P	P	P	P	P
Rooming House	(L)	(L)	P	P	(L)	(L)	P	P	P	P	P
Vehicular	(L)	(L)	P	(L)	(L)	(L)	P	P	P	P	P
Residential Care	-	-	P(L)	P(L)	-	-	P(L)	P(L)	P(L)	P(L)	P(L)
Supportive Housing	-	-	P	P	-	-	P(L)	P(L)	P(L)	P(L)	P
Transitional Housing	-	-	P	P	-	-	P(L)	P(L)	P(L)	P(L)	P
Semi-Transient	-	-	C	C	-	-	C(L)	C(L)	C(L)	C(L)	C
Bed and Breakfast	-	-	P	-	-	-	P	P	P	P	P

1. P = Permitted; C = Conditionally Permitted; P(L) = Permitted with Limitations; (C)L = Conditionally Permitted with Limitations; (L) = Permitted or Conditionally Permitted with Limitations; - = Prohibited
2. 'P' indicates that the type of residential use is permitted as a standalone use. Residential uses subject to certain limitations may not be permitted as a standalone use.
3. D-CE = Central Estuary District; D-LM = Lake Merritt Station Area District

Source: City of Oakland, Planning Code, 2022

Table F-6 Continued: Permitted Residential Land Uses in District Zones, 2022

Type of Residential Use <sup>1,2</sup>	D-CO-1	D-CO-2	D-CO-3	D-CO-4	D-CO-5	D-CO-6	D-OK-1	D-OK-2	D-OK-3
One-Family Dwelling	-	-	-	-	-	-	P	P	C
<del>One-Family Dwelling with Secondary Unit</del>	<del>-</del>	<del>-</del>	<del>-</del>	<del>-</del>	<del>-</del>	<del>-</del>	<del>P</del>	<del>P</del>	<del>C</del>
Two-Family Dwelling	P	P	-	C	-	-	-	-	P
Multifamily Dwelling	P	P	-	C	-	-	-	-	P
Rooming House	-	-	-	-	-	-	-	-	-
Vehicular	P	P	-	C	-	-	P	P	C
Residential Care	P(L)	P(L)	-	C(L)	-	-	P(L)	P(L)	P(L)
Supportive Housing	P	P	-	C(L)	-	-	P	P	P
Transitional Housing	P	P	-	C(L)	-	-	P	P	P
Semi-Transient	-	-	-	-	-	-	-	-	-
Bed and Breakfast	-	-	-	-	-	-	-	-	-

1. P = Permitted; C = Conditionally Permitted; P(L) = Permitted with Limitations; (C)L = Conditionally Permitted with Limitations; (L) = Permitted or Conditionally Permitted with Limitations; - = Prohibited
2. 'P' indicates that the type of residential use is permitted as a standalone use. Residential uses subject to certain limitations may not be permitted as a standalone use.
3. D-CO = Coliseum Area District; D-OK = Oak Knoll District

Source: City of Oakland, Planning Code, 2022

## **Development Standards**

Oakland regulates the location, density, and scale of residential development primarily through development standards contained in the Planning Code. The Planning Code regulates the size of residential structures through requirements for minimum lot size, setbacks, and height limits. A development application must comply with all uniformly applied development standards, typically imposed as Standard Conditions of Approval, including those development applications "deemed approved" under the State Permit Streamlining Act. Most residential projects are also subject to design review, which is discussed further in the Permits and Processing Procedures section below. A summary of the structural residential development standards for the residential and non-residential zoning districts is provided in Table F-7 and Table F-8 below. An analysis of the impact of individual key development standards [and their cumulative effect](#) is provided in the subsections below.

Development standards will be impacted by recent State law, including SB9 – which went into effect on January 1, 2022. Some of the key changes in SB9 include permitting landowners to build two residential units on one lot in a single-family zone ministerially, requiring that the minimum size of residential units must be 800 feet, and permitting an urban lot split ministerially.<sup>6</sup> Notably, while the bill establishes minimum housing unit sizes, it does not impose maximums. No setback can be required for a structure constructed in the same location and to the same dimensions as an existing structure. For all other new construction, the minimum side and rear setbacks are four feet. As part of its missing middle housing strategy, [\(Action 3.2.1\)](#), the [City](#) intends to eliminate single-family zoning except in the Very High Fire Hazard Severity Zones. As part of the zoning code amendments that would be made, reduction of minimum lot size and reduced setbacks will [also](#) be included.

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<sup>6</sup> The City hosts more information on the SB 9 permitting process at <https://www.oaklandca.gov/resources/sb-9-two-unit-residential-duplexes-lot-subdivision>.

**Table F-7: Residential Development Standards in Residential Zoning Districts, 2022**

Zone	Maximum Density		Maximum Height (ft) <sup>1</sup>			Minimum Setback (ft) <sup>2</sup>				Minimum Lot Size (sq. ft)
	Permitted Density	Conditionally Permitted Density	Wall Primary Building	Pitched Roof Primary	Accessory Structures	Front	Rear	Interior Side	Street Side	
<b>Hillside Residential</b>										
RH-1			25	30	15	25	35	6/15%	6	43,560
RH-2			25	30	15	25	35	6/15%	6	25,000
RH-3	1 primary unit per lot	N/A	25	30	15	20	25	6/10%	6	12,000
RH-4			25	30	15	20	20	5/10%	5	6,500 or 8,000
<b>Detached Unit Residential</b>										
RD-1	1 primary unit per lot	N/A	25	30	15	20	20	5	5	5,000
RD-2		2 units on lots 6,000 sf or greater	25	30	15	20	15	5	5	5,000
<b>Mixed Housing Type</b>										
RM-1	1 primary unit per lot	2 units on lots ≥ 4,000 sf	25	30	15	20	15	5	5	5,000
RM-2	1 primary unit on lots < 4,000 sf; 2 units on lots ≥ 4,000 sf	Lots ≥ 4,000 sf, 3 or more units, 1 unit per 2,500 sf	25	30	15	20	15	5	5	5,000
RM-3		Lots ≥ 4,000 sf, 3 or more units, 1 unit per 1,500 sf	30	30	15	15	15	4	4	4,000
RM-4	1 primary unit on lots < 4,000 sf; for 1-4 units, 1 unit per 1,100 sf on lots ≥ 4,000 sf	Lots ≥ 4,000 sf, 5 or more units, 1 unit per 1,100 sf	35	35	15	15	15	4	4	4,000
<b>Urban Residential</b>										

**Table F-7: Residential Development Standards in Residential Zoning Districts, 2022**

Zone	Maximum Density		Maximum Height (ft) <sup>1</sup>			Minimum Setback (ft) <sup>2</sup>				Minimum Lot Size (sq. ft)
	Permitted Density	Conditionally Permitted Density	Wall Primary Building	Pitched Roof Primary	Accessory Structures	Front	Rear	Interior Side	Street Side	
RU-1	1 unit per 1,100 sf		40	40	15	15	15	4	4	4,000
RU-2	1 <b>regular</b> unit or rooming unit per 800 sf		50	50	15	10	15	4	4	4,000
RU-3	1 <b>regular</b> unit or rooming unit per 450 sf	N/A	60	60	15	10	15	0	4	4,000
RU-4	1 <b>regular</b> unit or rooming unit per 225-550 sf					5	0/10/15	0	0	4,000
RU-5				35 – 120		0	0/10/15	0	0	4,000
<b>High-Rise Apartment Residential</b>										
R-80	1 <b>regular</b> unit per 300 sf or 1 rooming unit per 150 sf	The number of permitted units may be increased by but not to exceed 50 percent		None prescribed			None prescribed			4,000

1. Maximum height for footprint slope of ≤ 20%.

2. Minimum setback for a lot with a street-to-setback gradient of ≤ 20%.

Source: City of Oakland, Planning Code, 2022

**Table F-8: Residential Development Standards in Non-Residential Zoning Districts, 2022**

Zone	Maximum Permitted Density	Maximum Height (ft)	Minimum Setback (ft)				Minimum Lot Size (sq. ft)
			Front	Rear	Interior Side	Street Side	
<b>Neighborhood Center Commercial</b>							
CN-1, CN-2, CN-3, CN-4	1 unit per 550 sf	35 - 90	0	10/15	0	0	4,000
<b>Community Commercial</b>							
CC-1, CC-2, CC-3	1 unit per 225 – 550 sf	35 – 160	0	10/15	0	0	4,000 or 7,500
<b>Community Thoroughfare Commercial</b>							
C-40	1 unit per 450 sf	None prescribed	10	0/10/15	0	0	4,000
<b>Community Shopping Commercial</b>							
C-45	1 unit per 300 sf	None prescribed			N/A		4,000
<b>Central Business District</b>							
CBD-R, CBD-P, CBD-C, CBD-X	1 unit per 90 – 300 sf	55 – No limit	0	0/10	0	0	4,000 or 7,500
<b>Housing and Business Mix Commercial</b>							
HBX-1, HBX-2, HBX-3, HBX-4	1 unit per 800 – 1,000 sf	35 - 55			N/A		4,000
<b>Civic Center Commercial</b>							
S-2	1 unit per 300 sf	None prescribed			N/A		4,000
<b>Mobile Home Combining</b>							
S-6	1 unit per 3,300 sf	N/A			N/A		45,000
<b>Transit-Oriented Development Commercial</b>							

**Table F-8: Residential Development Standards in Non-Residential Zoning Districts, 2022**

Zone	Maximum Permitted Density	Maximum Height (ft)	Minimum Setback (ft)				Minimum Lot Size (sq. ft)
			Front	Rear	Interior Side	Street Side	
S-15, S-15W	1 unit per 225 – 550 sf	35 - 160	0	10	0	0	4,000
<b>Wood Street District</b>							
D-WS-1 – D-WS-9	1 unit per 332 – 1,535 sf	50 - 90	N/A	N/A	0/5/10	0/10	1,000 or 2,000
<b>Broadway Valdez District Commercial</b>							
D-BV-1, D-BV-2, D-BV-3, D-BV-4	1 unit per 90 – 450 sf	45 – 250	0	10/15	0	0	4,000, 7,500, or 10,000
<b>Central Estuary District Zones</b>							
D-CE-1 – D-CE-6	1 unit per 700 sf	45 - 85	0/5/10	10	0/4	0/4/5	4,000 or 10,000
<b>Lake Merritt Station Area District</b>							
D-LM-1 – D-LM-5	1 unit per 110 – 450 sf	45 - 275	0	0/10	0	0	4,000 or 7,500
<b>Coliseum Area District</b>							
D-CO-1 – D-CO-6	1 unit per 130 – 260 sf	85 - 159	0/10	10	0	0/10	4,000, 5,000, or 10,000
<b>Oak Knoll District</b>							
D-OK-1 – D-OK-7	1 primary unit per lot	20 - 46	0/5/8/15/20	0/5/12/15/20	0/3/4/5/20	0/5/ 20	2,000, 3,750, 4,000 or 5,000

Source: City of Oakland, October 2022



### Residential Density

~~Three~~Seven residential zoning districts—RU-1, RU-2, RU-3, RU-4, RU-5, and R-80, ~~and~~ as well as RM-4 ~~with~~on parcels larger than 4,000 square feet—permit residential densities that exceed 30 dwelling units per acre (du/ac), as do a number of commercial, combining, and district zones. Permitted density within a zone also depends on the height area, discussed below. As noted in Table F-8 above, this include zones within the following districts: Neighborhood Commercial, Community Commercial, Community Thoroughfare Commercial, Community Shopping Commercial, Central Business District, Housing and Business Mix Commercial, Civic Center Commercial, Transit-Oriented Development Commercial, Wood Street District (D-WS-2, -3, -4, -7, and -8), Broadway Valdez District Commercial, Central Estuary District (D-CE-3 and -4), Lake Merritt Station Area District and the Coliseum Area District (D-CO-1 and -2). Most of these zones also permit multifamily development by right—excluding HBX-4, CR-1, D-BV-1, and D-CO-4—as noted in Tables F-4 through F-6 above.

The City permits significant **residential** densities throughout Oakland, although higher resource areas tend to be lower density. In March 2021, the City Council directed the Planning Bureau to explore criteria for allowing four units on all residential parcels citywide, including in areas that are zoned to only allow single-family homes. The intent of the resolution, which passed unanimously, is to end a historic pattern of exclusionary zoning. Actions the City will take to increase permitted densities are included in the Housing Action Plan. While the City does not currently have minimum densities, this has not historically affected realistic capacity—according to a 2021 study of housing built on designated 5<sup>th</sup> cycle RHNA inventory sites, permitted projects in Oakland exceeded “realistic” capacity estimates by 300 percent.<sup>7</sup>

### Floor Area Ratio (FAR)

FAR only applies to non-residential buildings, with a few exceptions. According to the City’s Planning Code, the maximum FAR is 0.25 to 0.55 for one- and two-family dwellings in the RH, ~~RD,~~ ~~and RM Zones Zone~~, depending on lot size. ~~The RD and RM Zones include similar maximum FAR requirements, but those requirements only apply to lots that have a footprint slope of greater than twenty percent. Lots with less than 5,000 square feet in area may have dwellings with at least 2,000 square feet, regardless of FAR listed. The RU~~ Urban Residential ~~zones~~Zones do not have FAR regulations for residential development. However, nonresidential maximum FAR is 2.0 to 4.0 for the RU-4 and RU-5 Zones, depending on height area. For mixed use projects in the D-LM Lake Merritt Station Area District, D-BV Broadway Valdez District, and CBD Central Business District Zones, the total lot area shall be used as a basis for computing both the maximum non-residential FAR and the maximum residential density.

For the CN Neighborhood Center, CC Community Commercial, and S-15 Transit-Oriented Development Commercial Zones, no portion of lot area used to meet the residential density requirements shall be used for computing the maximum non-residential FAR unless the total non-

<sup>7</sup> Siddharth Kapur, et al. UCLA Lewis Center for Regional Policy Studies. What Gets Built on Sites that Cities “Make Available” for Housing? Evidence and Implications for California’s Housing Element Law. August 2021. Accessed at [https://escholarship.org/content/qt6786z5j9/qt6786z5j9\\_noSplash\\_e70697e42e10371d566b599594a50e06.pdf?t=qyg5hv](https://escholarship.org/content/qt6786z5j9/qt6786z5j9_noSplash_e70697e42e10371d566b599594a50e06.pdf?t=qyg5hv) on June 28, 2022.

residential FAR on the lot is less than 3,000 square feet. In the proposed Zoning Code Amendments, the City will be looking at allowing double counting of the FAR and density in the S-15 all Residential and Commercial Zones and allowing in the CN and CC Zones a larger exemption than 3,000 square feet for the non-residential square footage.

The R-80 High-Rise Apartment Residential Zone regulations permit a maximum FAR of 3.5 for both residential and non-residential facilities, with additional increases allowed upon the granting of a conditional use permit. These ratio ranges are relatively similar to Oakland's peer jurisdictions. The City of Berkeley does not have maximum FARs prescribed to residential districts but does have maximum FAR standards in its commercial zones. Berkeley has a FAR of up to 3.0 in its Neighborhood Commercial (C-N) District and up to 6.0 in its Downtown District. The City of Emeryville has maximum FAR values ranging from 0.5 to 3.0. However, some areas may reach a maximum of up to 6.0 with a density bonus. The City of Richmond prescribes maximum FARs between 0.5 to 5.0 in commercial mixed-use zones. Generally, Oakland's FAR requirements are comparable to these other jurisdictions and have not posed a significant constraint to residential development.

#### *Building Height*

Permitted building heights depend on the zoning district and the City's height area maps. Height areas are intended to promote cohesive development patterns in high density neighborhoods, including in downtown, near the Lake Merritt BART station, and in the Broadway Valdez Specific Plan District. Allowable building heights and densities along corridors in Oakland need to better align with Building Code construction types to ensure development feasibility by increasing heights to allow for the maximum height under wood frame construction (as an example, there are some areas where current height limits may be shy of 5 feet to allow a full top story under Type 3/Type 5 construction, therefore limiting the development potential)). This misalignment can create uncertainty in the development process and poses a constraint. The City will revise permitted building heights as part of the Housing Action Plan (Action 3.4.1).

#### *Setbacks*

In zones primarily intended for single-family development, the minimum front setback ranges from 20 to 25 feet, the minimum side setback ranges from four to six feet (up to 20 feet in the D-OK districts), and the minimum rear setback ranges from 15 to 35 feet. In mixed-use and multifamily zoning districts front and rear setbacks range from zero to 15 feet, and side setbacks range from zero to 10 feet (in some districts, like R-80, no setbacks are required). These requirements are fairly similar to similar other jurisdictions, although some minimum rear setbacks are greater than in peer cities. However, setback requirements were not identified as a constraint to development during public outreach. For comparison, a summary of required setbacks in neighboring cities is provided in Table F-9 below.

As Oakland seeks to encourage more missing middle development within traditionally single-family zones, setback requirements that have not historically been a constraint could impede higher density development. For example, in the RD zones, adherence to existing front, side, and rear setbacks could reduce the buildable area on a smaller, 4,000-square-foot lot with 40 feet of frontage to 1,800 square feet. Similarly, adherence to existing front, side, and rear setbacks on a 4,000-square-

foot parcel with 40 feet of frontage in the RM zones would result in a buildable area of 2,240 square feet. A fourplex in a traditional two-unit ground floor, two-unit second floor layout would ordinarily require 1,600 square feet of buildable area, so these setback requirements alone would not act as a constraint. Nonetheless, because the site may have additional constraints, and because the City seeks to encourage increases in density that would not necessary require demolition of existing structures, the City is including in its Housing Action Plan proposals to reduce setback requirements, with particular focus on reducing existing rear setback requirements (Action 3.4.1 and 3.4.7).

**Table F-9: Summary of Minimum Setbacks by Jurisdiction**

Jurisdiction	Single-Family Setbacks (ft.)			Multifamily Setbacks (ft.)		
	Front	Side	Rear	Front	Side	Rear
Oakland	20-25	4-6 <sup>1</sup>	15-35	0-15	0-10	0-15
Richmond	20-25	5-10	20-25	10	5-10	20
Berkeley	20	4-15	20	15-20	4-15	15-21
Emeryville <sup>2</sup>	-	-	-	5-10	3	15

1. Up to 20 feet in D-OK zones

2. Setbacks are only required in the RH, RMH, and RM zoning districts.

Source: City of Oakland, Planning Code, 2022; City of Richmond, Municipal Code, 2022; City of Berkeley, Municipal Code, 2022; City of Emeryville, Municipal Code, 2022

**Minimum Lot Size**

Minimum lot sizes for residential districts range from 4,000 square feet for multifamily development to between 4,000 and 43,560 square feet for single-family development. In commercial and other zoning districts, minimum lot sizes are typically 4,000 square feet, but can reach as high as 10,000 square feet in some districts. For comparison, the City of Berkeley requires a minimum lot size of between 5,000 to 25,000 square feet in single-family zones, 5,000 square feet in multifamily and other zones, and no minimums in limited commercial districts. Similarly, the City of Richmond requires a minimum of between 3,750 and 11,000 square feet for single-family zones, 5,000 square feet for multifamily zones, and between 5,000 and 10,000 square feet in other zones (up to 20 acres in open space development). The City of Emeryville does not require minimum lot areas except in the RM Medium Density Residential zone, which requires 2,500 square feet. Generally, Oakland’s minimum lot size standards are comparable to these jurisdictions and do have not pose historically posed a significant constraint to development but could impede the development of missing middle housing that the City is currently seeking to encourage. Action 3.4.1 and 3.4.7 reduce minimum lot sizes to facilitate subdivision of existing lots.

**Ground Floor Commercial**

A number of zoning districts either require or allow active commercial uses on the ground floor. In the case where ground floor commercial is required, this can limit residential capacity in a given project. A summary of ground floor commercial regulations by zoning district is provided below:

- **Urban Residential.** Completely residential projects are permitted in all zones. In the RU-4 and RU-5 ~~zonesZones~~, commercial uses are also permitted, but may only be located either on the ground floor of a corner parcel or in an existing non-residential facility built prior to 2011, and are typically permitted up to 5,000 square feet.
- **Neighborhood Center Commercial.** The CN-1 and CN-2 ~~zonesZones~~ do not permit new ground floor residential facilities (except for incidental pedestrian entrances), while CN-3 permits ground floor only on interior lots with a CUP and not on corner lots.
- **Community Commercial.** The CC-1 and CC-2 ~~zonesZones~~ require a CUP for residential uses on the ground floor, although buildings not located within 20 feet of the principal street frontage and incidental pedestrian entrances that lead to one of these activities elsewhere in a building are exempted from the CUP requirement. Further, in CC-1, multifamily ground floor development is only permitted if ~~part of a development that has~~ a majority of floor area is devoted to commercial activities.
- **Central Business District.** In the CBD-P and CBD-C ~~zonesZones~~, residential activities may not be located within 30 feet of the front lot line on the ground floor of the principal building with the exception of incidental pedestrian entrances that lead to one of these activities elsewhere in the building. There are no restrictions on ground floor residential in the CBD-R and CBD-X ~~zonesZones~~.
- **Broadway Valdez District Commercial.** In the D-BV-2 ~~zoneZone~~, residential uses are not permitted if located on the ground floor of a building and within 50 feet of any street-abutting property line; incidental pedestrian entrances that lead to one of these activities elsewhere in the building are exempted from this restriction. In the D-BV-3 ~~zone, if aZone~~, residential uses located on the ground floor of a building and within 60 feet from any street-abutting property line facing Broadway, 27th Street, or Piedmont Avenue are only permitted with a CUP; incidental pedestrian entrances that lead to one of these activities elsewhere in the building are exempted from this requirement. In the D-BV-4 ~~zoneZone~~, residential uses are prohibited if located on the ground floor of a building and within 60 feet from any street-abutting property line facing Broadway; incidental pedestrian entrances that lead to one of these activities in stories above the ground floor are exempt from this restriction.
- **Central Estuary District.** Completely residential projects are permitted in all zones. Some ground-floor commercial uses are permitted in the D-CE-3 through D-CE-6 ~~zonesZones~~.
- **Lake Merritt Station Area District.** In D-LM-1 through D-LM-4 ~~zonesZones~~, residential uses may not be located within 30 feet of the front lot line on the ground floor of an existing principal building fronting a Commercial Corridor or within 30 feet of the front lot line on the ground floor of a new principal building fronting a Transitional Commercial Corridor, as defined in Section 17.101G.010.C, with the exception of incidental pedestrian entrances that lead to one of these activities elsewhere in the building.

While these requirements are intended to foster thriving commercial centers and corridors to increase access to amenities and opportunity, they do restrict the capacity of residential development projects. Further, especially as the transition of retail and commercial businesses away from brick-and-mortar storefronts has been accelerated by the COVID-19 pandemic, increasing numbers of ground floor storefronts remain vacant in Oakland. To address prolonged ground floor [vacancies](#), the City will ~~explore ways to permit and incentivize~~ [increase the allowance for residential development on the ground floor](#) in these buildings as part of the Housing Action Plan: [\(see Action 3.8.2\)](#).

### *Open Space*

Oakland's open space requirements—especially for group or common open space—are higher than in other cities of similar density and size. Minimum usable open space requirements differ by zoning district in Oakland. For example, Housing and Business Mix Commercial (HBX) zones require a minimum of 100 to 200 square feet of usable open space per dwelling unit. The Lake Merritt Station Area District (D-LM) zones require 75 square feet per unit. Primarily residential areas, like the Urban Residential (RU) zones, require 100 to 150 square feet of group useable open space per unit. However, each one square foot of private usable open space ~~shall be~~ considered equivalent to two square feet of required group usable open space and may be so substituted. These open space requirements do not apply to Downtown. In comparison, the City of Berkeley's C-DMU Downtown Mixed-Use District requires a minimum of 40 square feet of usable open space per dwelling unit. San Diego requires 36 to 48 square feet per unit. Oakland also limits the amount of the common space that can be on rooftops, while many other jurisdictions do not have such limitation. So as to not hinder construction, these standards could be adjusted to be more in line with the standards of peer jurisdictions. Actions the City will take to address these constraints are provided in the Housing Action Plan (see Action 3.4.1 and 3.4.4).

### *Courtyard Requirements*

Per Section 17.108.120 of the Planning Code, courtyards are required for lots that contain residential facilities with two or more dwelling units, except for a single-family home with an ADU. Courtyard requirements were not identified as a significant constraint to development during outreach. Courtyards must meet minimum depths between exterior walls, listed below:

- Legally Required Living Room Windows in Either or Both Walls. If either or both such opposite walls contain any legally required window of any living room in a Residential Facility, a court shall be provided between such walls with a minimum horizontal depth equal to 16 feet, plus four feet for each story above the level of the aforementioned court, but shall not be required to exceed 40 feet.
- Other Legally Required Windows in Both Walls. If both such opposite walls contain legally required windows of any habitable rooms, other than living rooms, in a Residential Facility, a court shall be provided between such walls with a minimum horizontal depth of 10 feet.

### *Parking Requirements*

In California, the cost of providing structured parking can add between \$36,000 to \$38,000 per housing unit to the overall costs of a multifamily housing development project (or about 8.0 percent of per unit costs).<sup>8</sup> Parking-related requirements and costs can significantly impact and constrain multifamily housing development, particularly those providing affordable units. Market demand or financial lenders often mandates the provision of parking in multifamily housing development. Further, for built-out cities like Oakland, the reliance on infill development and underground parking may lead to higher costs than in cities with more open land.

Recent State law has reduced minimum parking requirements for specific projects near transit. For instance, AB 2923 allows BART to enable transit-oriented development (TOD) through land-use zoning on BART-owned property in collaboration with local jurisdictions. Baseline zoning standards from the bill include no minimum number of vehicle parking spaces is enforced in these TOD areas. For properties undergoing the SB9 process, local agencies may not impose parking requirements when a parcel is located within one-half mile walking distance of either a high-quality transit corridor or a major transit stop. Changes in accessory dwelling unit (ADU) regulations, Density Bonus parking waivers, and SB 35 streamlined approvals have led to further parking reductions in Oakland.

The City's parking requirements for residential uses—provided in Section 17.116.060 of the Planning Code—vary by residential facility type. Lower density zones require as much as two spaces per unit, while higher density zones require one space or less per unit. Chapter 17.94 of the Planning Code details Residential Parking Combining (S-12) Zone regulations. This combining zone is intended to ensure that adequate off-street parking is provided for high density residential neighborhoods and adjacent commercial areas. Oakland parking requirements are provided in Tables F-10 and F-11 below.

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<sup>8</sup> Carolina Reid, Adrian Napolitano, and Beatriz Stambuck-Torres, “The Costs of Affordable Housing Production: Insights from California’s 9% Low-Income Housing Tax Credit Program” *The Turner Center for Housing Innovation at University of California*, March 2020.

**Table F-10: Residential Off-Street Parking Requirements, 2022**

<i>Residential Facility Type</i>	<i>Zone</i>	<i>Total Required Parking</i>
One-Family Dwelling	RH Zones, except when combined with the S-12 Zone.	Two (2) spaces for each dwelling unit; however, when combined with the S-11 Zone, the requirement is one (1) space per bedroom with a minimum of two (2) spaces per dwelling unit and a maximum requirement of four (4) spaces per dwelling unit.
	CBD, S-2, and D-LM Zones, except when combined with the S-12 Zone.	No spaces required.
	S-15 and D-CO Zones, except when combined with the S-12 Zone.	One-half space for dwelling unit.
	Any other zone, except when combined with the S-12 Zone.	One space for each dwelling unit.
	Any zone combined with the S-12 Zone.	Basic requirement – one off-street parking space shall be provided for each three habitable rooms in a residential facility. See Section 17.94.040 for additional details.
One-Family Dwelling with Secondary Unit	CBD, S-2, and D-LM Zones, except when combined with the S-11 or S-12 Zone.	No additional space required for the Secondary Unit.
	Any other zone, except when combined with the S-11 or S-12 Zone.	One space for the Secondary Unit, except that no parking shall be required if located as specified in Section 17.103.080.
	Any zone combined with the S-11 Zone.	One space for each bedroom in the Secondary Unit, up to a maximum requirement of two spaces per Secondary Unit, except that no parking shall be required if located as specified in Section 17.103.080.
	Any zone combined with the S-12 Zone.	One space for each bedroom in the Secondary Unit, except that no parking shall be required if located as specified in Section 17.103.080.
Two-Family Dwelling. Multifamily Dwelling	CBD, S-2, and D-LM Zones, except when combined with the S-12 Zone.	No spaces required.
	D-BV-1, D-BV-2, S-15, and D-CO Zones, except when combined with the S-12 Zone.	One-half space for each dwelling unit.
	D-BV-3 and D-BV-4 Zones, except when combined with the S-12 Zone.	Three-quarters space for each dwelling unit.

	Any other zone, except when combined with the S-12 Zone.	One space for each dwelling unit.
	Any zone combined with the S-12 Zone.	Basic requirement – one off-street parking space shall be provided for each three habitable rooms in a residential facility. See Section 17.94.040 for additional details.
Rooming House	CBD, S-2, D-LM, D-BV-1, and D-BV-2 Zones.	No spaces required for Rooming Units.
	All other zones	One space for each two Rooming Units.
Micro-Living Quarters	D-BV-1 and D-BV-2 Zones. (Micro-Living Quarters are not permitted in any other zone.)	No spaces required.
	CBD, S-2, and D-LM Zones	No spaces required.
Mobile Home	All other zones.	One space for each dwelling unit plus one additional space for each four dwelling units.

Source: City of Oakland, Planning Code Section 17.116.060, 2022

**Table F-1 I: Residential Maximum Off-Street Parking Requirements, 2022**

Residential Facility Type	Zone	Maximum Number of Parking Spaces
One-Family Dwelling.	CBD, S-15, D-LM, and D-CO Zones.	One and one-quarter parking spaces per dwelling unit.
One-Family Dwelling with Secondary Unit.	All other zones	No maximum parking requirement.
Two-Family Dwelling.		
Multifamily Dwelling.		
Mobile Home.		
Rooming House	CBD, S-15, D-LM, and D-CO Zones.	One and one-quarter parking spaces per each two rooming units.
	All other zones.	No maximum parking requirement.

Source: City of Oakland, Planning Code Section 17.116.060, 2022

Parking regulations in the city are higher relative to some adjacent cities. For example, the City of Emeryville has no parking minimums for any use (including residential). Emeryville also has *maximum* parking regulations, which caps parking provided to be no more than 10 percent of the estimated demand – which is provided in the City’s Municipal Code. The City of Berkeley recently approved an ordinance that eliminates parking requirements for residential properties citywide, with the exception of hillside properties, and placed a maximum of the number of off-street parking units allowed for new projects in transit-rich areas. Although Oakland undertook efforts to reduce its parking standards for residential and commercial buildings in 2016—with no required parking and a cap on maximum parking in areas close to major transit hubs such as downtown or near



BART stations—additional efforts are needed to reduce parking requirements citywide. The City of Oakland will ~~conduct a comprehensive review of~~ reduce its parking regulations requirements to remove a constraint to development following adoption of the Housing Element, as further discussed in the Housing Action Plan (See Action 3.4.34).

### *Combining Zone Standards*

Combining zones are overlay districts which may be appended to existing base zones. Combining zones are typically used when local conditions, including environmental or other conditions, generate a need for more specific regulations. The standards of the combining zone are supplementary to that of the base zone when applied. The impact of combining zones on residential use is summarized in Table F-12 below.

### *Cumulative Effect of Development Standards*

As described above, a 2021 study of housing built on designated 5<sup>th</sup> cycle RHNA inventory sites, permitted projects in Oakland exceeded “realistic” capacity estimates by 300 percent.<sup>9</sup> As shown in Appendix C: Sites Inventory, tables C-4 and C-5, pipeline projects with planning and building permits have average densities of 115 percent and 150 percent of allowable density, respectively. Many of these projects utilize the State and City density bonus to achieve these higher densities. Thus, Oakland’s development standards do not present a constraint to achieving maximum densities when considered cumulatively. Combined with actions to revise zoning standards, building heights, setbacks, lot coverage, open space requirements, parking requirements, and other individual constraints as listed above, Oakland’s future development standards should reduce any potential constraints even further.

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<sup>9</sup> Siddharth Kapur, et al. UCLA Lewis Center for Regional Policy Studies. What Gets Built on Sites that Cities “Make Available” for Housing? Evidence and Implications for California’s Housing Element Law. August 2021. Accessed at [https://escholarship.org/content/qt6786z5j9/qt6786z5j9\\_noSplash\\_e70697e42e10371d566b599594a50e06.pdf?t=qvg5hv](https://escholarship.org/content/qt6786z5j9/qt6786z5j9_noSplash_e70697e42e10371d566b599594a50e06.pdf?t=qvg5hv) on June 28, 2022.

**Table F-12: Summary of Combining Zone Standards, 2022**

<i>Combining Zone</i>	<i>Applicable Base Zones</i>	<i>Impact on Residential Use</i>
S-4 Design Review	Any other zone	Requires design review process for all new construction or alteration, unless exempt.
S-7 Preservation	Any other zone	Requires additional design review criteria to structures with special character, mostly applicable to older neighborhoods.
S-9 Fire Safety	Any other zone	Protects uses in Very High Fire Hazard Severity Zones, and prohibits accessory dwelling units not entirely within an existing structure.
S-10 Scenic Route	Any other zone	Enhances areas along scenic routes, and includes additional design review criteria, subdivision restrictions, height restrictions on downslope lots, and conditional use permit restrictions.
S-11 Site Development and Design Review	Any other zone	Applicable to areas subject to the North Oakland Hill Area Specific Plan, and includes additional residential siting requirements, design review criteria, and limitations on residential density.
S-12 Residential Parking	Any zone in which Residential Facilities are permitted or conditionally permitted	Ensures adequate off-street parking in high-density residential neighborhoods, including additional off- and on-street parking requirements.
S-15 Transit-Oriented Development Commercial Zone Regulations	Provided in Table F-5	Provided in Table F-8.
S-17 Downtown Residential Open Space	Any zone within the General Plan-designated Central Business District	Provides open space and landscaping standards for <a href="#">downtown</a> residential development.
S-19 Health and Safety Protection	HBX, D-CE-3, D-CE-4, CIX-1, CIX-1A, CIX-1B, CIX-1C, CIX-1D, CIX-2	Related to the storage and use of hazardous materials.
S-20 Historic Preservation District	Any other zone	Provisions are similar to S-7, but applies to larger areas (i.e., historic districts). S-20 includes additional design review standards, and provides more expeditious review procedures than S-7.

Source: City of Oakland, Planning Code, 2022

### Specific Plans

Oakland has embarked on a series of [area](#) plans for creating sustainable and vibrant neighborhoods. Through the use of specific plans, the City can guide development at a neighborhood scale and meet local community needs. This section summarizes recent specific plans with potential for residential development. Permitted residential densities are described in Table F-7 and Table F-8

above. The success of specific plan areas in meeting their residential development goals is provided in Appendix A.

### *Central Estuary Area Plan (2013)*

The City adopted the Central Estuary Area Plan (CEAP) in April 2013 to guide future development of the Central Estuary area, which is encompassed by 19th Avenue to the north, 54th Avenue to the south, I-880 to the east, and the Oakland Estuary to the west. Certain portions of the Plan Area have been designated to accommodate multifamily and mixed-use residential development. As of adoption, the CEAP anticipated an additional development potential of 391 residential units and 31 live/work units. Projects completed within the Plan Area include the 41-unit Phoenix Commons senior housing project in 2016 and the 41-unit market-rate 3030 Chapman apartment building in 2018. More recent entitled and permitted projects include warehouse and industrial conversions to residential uses, a six-unit condominium project, and accessory dwelling units.

The CEAP is implemented in the Planning Code through the D-CE Central Estuary District Zones, provided in Chapter 17.101E of the Oakland Planning Code. The D-CE District Zones include the following:

- **D-CE-1 (Embarcadero Cove).** The D-CE-1 zone is intended to create, maintain, and enhance the marine, office and other commercial uses in the Central Estuary area.
- **D-CE-2 (High Street Retail).** The D-CE-2 zone is intended to create, maintain, and enhance areas of the Central Estuary with a wide range of commercial uses with direct street frontage and access to the freeway.
- **D-CE-3 (Jingletown/Elmwood).** The D-CE3 zone is intended to provide development standards for areas of the Central Estuary that have a mix of industrial, heavy commercial and residential development. This zone is intended to promote housing with a strong presence of commercial and industrial activities.
- **D-CE-4 (Mixed Use Triangle).** The D-CE-4 zone is intended to create, maintain and enhance areas of the Central Estuary that have a mix of industrial and heavy commercial activities. Higher density residential development is also appropriate in this zone.
- **D-CE-5 (Food Industry Cluster, High Street Warehouse Wedge, Tidewater South).** The D-CE-5 zone is intended to create, preserve, and enhance areas of the Central Estuary that are appropriate for a wide variety of heavy commercial and industrial establishments. Uses with greater off-site impacts may be permitted provided they meet specific performance standards.
- **D-CE-6 (Con Agra, Owens Brockway, Tidewater North).** The D-CE-6 zone is intended to create, preserve and enhance areas of the Central Estuary that are appropriate for a wide variety of businesses and related commercial and industrial establishments that may have the potential to generate off-site impacts such as noise, light/ glare, odor, and traffic. This zone allows heavy industrial and manufacturing uses, transportation facilities, warehousing and distribution, and similar related supporting uses. Uses that may inhibit

such uses, or the expansion thereof, are prohibited. This district is applied to areas with good freeway, rail, seaport, and/or airport access.

*Lake Merritt Station Area Plan (2014)*

The Lake Merritt Station Area Plan (LMSAP) was adopted by the City [as a specific plan](#) in December 2014. The approximately 315-acre Planning Area covers the area around the Lake Merritt BART station in Downtown Oakland. The LMSAP projects that there is capacity for 4,900 additional housing units through 2035. All of the opportunity sites identified in the LMSAP have access to necessary infrastructure to support development. Therefore, the opportunity sites could accommodate a range of income levels depending on availability of adequate financial subsidies to make possible the development of units for very-low- and low-income households. Further, the LMSAP provides a target that 15 percent of new units built in the Planning Area be affordable for low- and moderate-income households.

The LMSAP is implemented in the Planning Code through the D-LM Lake Merritt Station Area District Zones, provided in Chapter 17.101G. The D-LM Zones include the following:

- **D-LM-1 Lake Merritt Station Area District Mixed - 1 Residential Zone.** The intent of the D-LM-1 Zone is to create, maintain, and enhance areas of the Lake Merritt Station Area Plan District appropriate for high-density residential development with compatible Commercial Activities.
- **D-LM-2 Lake Merritt Station Area District Pedestrian - 2 Commercial Zone.** The intent of the D-LM-2 Zone is to create, maintain, and enhance areas of the Lake Merritt Station Area Plan District for ground-level, pedestrian-oriented, active storefront uses. Upper story spaces are intended to be available for a wide range of Office and Residential Activities.
- **D-LM-3 Lake Merritt Station Area District General - 3 Commercial Zone.** The intent of the D-LM-3 Zone is to create, maintain, and enhance areas of the Lake Merritt Station Area Plan District appropriate for a wide range of ground-floor Commercial Activities. Upper-story spaces are intended to be available for a wide range of Residential, Office, or other Commercial Activities.
- **D-LM-4 Lake Merritt Station Area District Mixed - 4 Commercial Zone.** The intent of the D-LM-4 Zone is to designate areas of the Lake Merritt Station Area Plan District appropriate for a wide range of Residential, Commercial, and compatible Light Industrial Activities.
- **D-LM-5 Lake Merritt Station Area District - 5 Institutional Zone.** The intent of the D-LM-5 Zone is to create, preserve, and enhance areas devoted primarily to major public and quasi-public facilities and auxiliary uses.

*Broadway Valdez District Specific Plan (2014)*

The City adopted the Broadway Valdez District Specific Plan (BVDSP) in June 2014. The BVDSP provides a framework for development in the approximately 95-acre area along Oakland's Broadway corridor between Grand Avenue and I-580. Amendments to the Planning Code include the development of new zoning regulations for the Broadway Valdez District (D-BV) that are tailored to address specific conditions in the district and achieve the vision set forth in the BVDSP. D-BV zones establish retail and mixed-use commercial zones in the Plan Area and emphasize transit-oriented development. In addition, proposed height areas allow for greater densities, particularly at retail and mixed-use boulevard zones.

The BVDSP projected 1,800 new housing units through 2035. Sites were identified for mixed-use or purely residential uses to accommodate over 30 units per acre; with maximum residential density ranging from 90 to 450 square feet of lot area required per dwelling unit. The Environmental Impact Report (EIR) for the BVDSP allowed for flexibility and a mix and match of uses as long as the total car trip allocation was not exceeded. As of spring of 2022, the plan area has a total of approximately 4,100 residential units that have applied for planning permits, approved for planning permits, applied for building permits, have had a building permit issued, or completed construction. Of those 4,100 residential units, approximately 2,200 units have been completed so far. That still leaves approximately 1,900 units in the pipeline of approval and construction. All of the sites have access to necessary infrastructure to support development. A good portion of the opportunity sites identified in the BVDSP have been developed, but there are additional sites in the pipeline as well as ~~ones that have do not have projects applied for yet~~ sites without submitted plans that could accommodate a range of income levels depending on availability of adequate financial subsidies to make possible the development of units for very-low- and low-income households. The BVDSP aims to encourage 15 percent of all new housing units in the Plan Area to be affordable including both units in mixed-income developments and units in 100 percent affordable housing developments. A few of the newer projects have included some affordable units as part of their project while others have paid Affordable Housing Impact Fees to go into the Affordable Housing Trust Fund to help fund affordable housing development. Affordable Housing Impact Fees were adopted after the adoption of the BVDSP project, so a number of projects were underway before the Affordable Housing Impact Fees went into effect in September 2016.

#### *Coliseum Area Specific Plan (2015)*

The City adopted the Coliseum Area Specific Plan (CASP) in April 2015. The CASP, consisting of approximately 800 acres along I-880 and Hegenberger Road, seeks to transform the underutilized land around the Oakland-Alameda County Coliseum and Arena into a world-class sports, entertainment, and science and technology district that boasts a dynamic and active urban setting with retail, entertainment, arts, culture, and live and work uses. The CASP amended the maximum residential density and non-residential FAR in the "Community Commercial" and "Regional Commercial" LUTE designations. The CASP allows for development of up to 5,750 housing units by 2035.

The CASP implemented new zoning districts, which include the following:

- **Coliseum District-1 (D-CO-1).** This zone replaces the Transit Oriented Development zone (S-15) mapped around the Coliseum BART station. The D-CO-1 Zone is intended to create, preserve and enhance areas devoted primarily to serve multiple nodes of

transportation and to feature high-density residential, commercial, and mixed-use developments, to encourage a balance of pedestrian-oriented activities, transit opportunities, and concentrated development; and encourage a safe and pleasant pedestrian environment near transit stations by allowing a mixture of residential, civic, commercial, and light industrial activities. The new D-CO-1 zone limits the building height in this area to 159 feet unless Federal Aviation Administration (FAA) review and CUP review allows taller building heights. The new D-CO-1 zone applies to all properties east of the Union Pacific Railroad (UPRR) railroad tracks that are within the Coliseum Specific Plan Area.

- **Coliseum District-2 (D-CO-2).** This zone replaces the Regional Commercial-1 (CR-1) zone that applied to the majority of the Coliseum District. The new D-CO-2 zone specifically permits and encourages development of regional-drawing centers of activity, such as new sports and entertainment venues, residential, retail, restaurants, and other activity-generating uses, as well as a broad spectrum of employment activities. The new D-CO-2 zone clarifies that any building height over 159 feet will require FAA review and City CUP approval.

#### *West Oakland Specific Plan (~~2018~~2014)*

The West Oakland Specific Plan (WOSP) was adopted by the City in ~~2018~~2014, and comprises approximately 1,900 acres. The WOSP focuses on clarifying the industrial/residential interface, emphasizing commercial use along important corridors, and clarifying housing and business mix boundaries and urban open space uses. Such zoning changes include the adoption of the Commercial Industrial Mix (CIX-1A) business enhancement zone, Commercial Industrial Mix (CIX-1B) low intensity business zone, Commercial Industrial Mix (CIX-1C) high intensity business zone, Commercial Industrial Mix (CIX-1D) retail commercial mix zone, and Housing and Business Mix (HBX-4) zone, as well as mapping of commercial overlay zones near the West Oakland BART station along the 5th Street and Chester Street frontage area, and adopting zoning and height area maps.

Buildout of the West Oakland Opportunity Areas is expected to result in 4,286 to 5,267 new housing units by 2035. Areas with residential potential include along the 7th Street and San Pablo Avenue corridors (more than 1,400 housing units), the envisioned 24-acre mixed-use Transit Oriented Development at the West Oakland BART station (between 1,325 to 2,308 housing units), and approximately 1,520 housing units elsewhere within residential and housing and business mix areas.

#### *The Downtown Oakland Specific Plan (Public Review Draft Plan, 2019)*

In August 2019, the City published a public review draft of the Downtown Oakland Specific Plan (DOSP), which envisions new zoning regulations that can be introduced to more closely align with community goals and feasible development potential. The Plan Area encompasses approximately 930 acres, with a potential for 29,100 new housing units by 2040, of which 4,365 to 7,275 will be affordable units. Key issues related to housing that the zoning update will address include:

- **Establish development hierarchy based on land use character and intensity maps.** The Land Use Character Map and Intensity Map establishes a clear development hierarchy for downtown, depicting nodes and corridors of activity and intensity, as well as transitions to areas of preservation and less intensity. New development downtown should be consistent with the overall community vision established by this Plan.
- **Unlock bonus development potential in exchange for needed community benefits.** The Plan will ensure that downtown’s continued growth and revitalization provides community benefits to local residents and the broader community. As part of the planning effort, the City is studying how “upzoning” areas of downtown would affect land value and, to what extent and through what approaches, this value creation may provide funding for pre-defined community benefits based on Plan goals. A zoning incentive program can apply to development projects of any size, with clearly identified benefits to be provided in exchange for increases in building intensity. The increased intensity allowed can be in the form of increased height, FAR, and/or density (to encourage micro-units and other affordable-by-design residential unit types).
- **Study intensity in General Plan.** The updated zoning regulations for downtown may also include an increase in the FAR and density permitted under the General Plan, particularly for portions of the plan area where an increase in intensity is desired, to be consistent with the proposed new bonus provisions. Increasing the maximum FAR and density in select downtown locations will not only capture value and contribute to community benefits, but it can also add intensity to the downtown without requiring lot aggregation, which often results in overly large building footprints and bulky podiums.
- **Include update to Jack London area zoning.** The zoning for the Jack London area dates to the 1960s and is inconsistent with the General Plan. The area was not included in recent 2009 and 2011 citywide zoning updates. Implementation of the Downtown Plan will make the zoning for the Jack London district consistent with the community vision to create an iconic waterfront that is a regional and local amenity with dining, living, entertainment, and civic uses.
- **Streamline approvals, create predictable outcomes.** A goal for the downtown zoning amendments should be to streamline the project approvals process and offer predictability for developers and the community. This can be done by clearly defining the desired urban form and maximum intensity of future development, including identified community benefits that should be provided in exchange for any bonus intensity.
- **Designate office opportunity sites.** Estimates of Downtown Oakland’s potential capture of additional office space demand over the next 20 years vary from 10 million to 20 million square feet of space, and significantly more over additional time. Office Priority Sites are identified near BART stations within the Mixed-use Downtown Core Character area. Zoning updates for these identified Office Priority Sites can require new mixed-use development that has a designated percentage of gross floor area to be dedicated to commercial office space.

## **Density Bonus**

The State Density Bonus Law requires local governments to provide a density increase over the otherwise maximum allowable residential density, along with other incentives for the production of below market-rate housing units, when builders agree to construct housing developments with units affordable to lower- or moderate-income households. Historically, developers infrequently sought density bonuses in Oakland due to the fairly high residential densities permitted in the City. However, the City has seen an uptick in recent years as a means of builders receiving not only a bonus in allowable density, but also relaxation of various development standards that may otherwise preclude construction or increase costs.

Density bonus standards in Oakland are contained in Chapter 17.107 of the Planning Code. The Density Bonus Ordinance was updated in April 2014, and [amended](#) again in April 2022, to remain consistent with State law. Prior to this most recent revision, Oakland implemented its local density bonus program in the manner required to ensure consistency with State law. Oakland anticipates that the State Density Bonus Law will continue to be revised by the State legislature in future years. As a result, Chapter 17.107 provides that any provision of the State Density Bonus Law, California Government Code Sections 65915 through 65918, but not included in Chapter 17.107 shall nonetheless be considered valid and applicable to density bonus projects in the City of Oakland. [Oakland's density bonus ordinance provides for density bonuses to both for-sale and rental housing development projects that include deed-restricted moderate income units, while state law applies to moderate-income units only in for-sale housing developments.](#)

Recent changes to State Density Bonus Law have significantly expanded incentives for 100 percent affordable, special needs and mixed-income projects located near transit. For example, Assembly Bills 2345 (2020) and 1763 (2019) aim to greatly facilitate affordable housing production, especially 100 percent affordable housing development production. The City of Oakland has implemented the provisions of these amendments at the time that they went into effect and have incorporated those amendments into the latest revision to Chapter 17.107.

In addition to implementing the California Density Bonus law, Oakland has available additional local density bonuses, including a Senior Housing Density Bonus and a Planned Unit Development (PUD) bonus.<sup>10</sup> The City of Oakland Senior Housing Density Bonus, Oakland Planning Code Section 17.106.060, provides for an increase of 75 percent more senior housing units than otherwise permitted by zoning if a conditional use permit is approved. An applicant may choose whether to seek the Oakland Senior Housing Density Bonus or to utilize the State Density Bonus for senior citizen housing developments, but cannot combine the two. In addition, the City of Oakland's flexible Planned Unit Development procedures offer varying special bonuses for worthwhile projects, some of which include increases in overall density. When a project seeks both a Planned

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<sup>10</sup> A PUD is a large, integrated development adhering to a comprehensive plan and located on land equaling 60,000 or more square feet in size. Certain uses may be permitted in addition to those otherwise allowed in the underlying zone, certain of the other regulations applying in said zone may be waived or modified, and the normally required design review process may also be waived for developments at the time of initial granting of a PUD permit. The PUD density bonus permits an increase of density by up to 33 percent (except in the RH and RD-1 zones) if the development contains detached buildings each containing only one living unit; townhouse or similar single-family semi-detached or attached buildings each containing only one living unit; buildings each containing two living units and; buildings each containing more than two living units.



Unit Development and State Density Bonus, the Planned Unit Development bonus is calculated first, up to the General Plan maximum density, and then the State Density bonus is calculated from this new allowed number of units.

According to Annual Progress Reports (APRs) submitted to HCD, 10 projects were permitted between 2018 and 2021 that used density bonus provisions to provide affordable housing. The total capacity of these projects is 1,526 units, including 176 very low-income units, 105 low-income units and 64 moderate-income units. In addition, over the same period, eight density bonus projects were completed with 245 very low-income units, 19 low-income units and 315 market-rate units. For comparison, there were about 169 market-rate projects (excluding single-family homes and ADUs) during this period – meaning 5.9 percent of these projects utilized a density bonus. About 1,526 units were provided in these 169 projects, of which 345 units are provided for lower- and moderate-income households (22.6 percent). Waivers and concessions requested by density bonus projects include reductions in parking requirements, increases in allowable building heights, reductions in usable open space requirements, and eliminating a required loading berth.

### **On- and Off-Site Improvements**

The Oakland Municipal Code requires several on- and off-site improvements for new development, depending on the zone. Site improvements may include those related to streets, sidewalks, water and sewage, landscaping, recreation amenities, and any other public improvements found necessary to mitigate the impacts of new development. Additional site improvements may be required in the City’s specific plan areas. Since Oakland is mostly built out, housing in the city is largely located on already subdivided lots. Depending on the potential transportation impacts and the location of redevelopment, off-site infrastructure improvements may be required to satisfy California Environmental Quality Act (CEQA) requirements. Off-site improvements may include transit boarding islands, transit shelters, curb extensions, bike facilities, or pedestrian lighting. Table F-13 summarizes the City’s current complete street design standards.

**Table F-13: Complete Streets Design Standards, 2022**

Street	Width of Right-of-Way (ft.)	Visibility Measured Along the Centerline (ft.)	Minimum Radii of Curvature on Centerline of Streets (ft.)	Tangent length between all reversed curves (ft.)
Arterial	80	300	500	150
Collector	60	200	300	150
Local	40	100	100	50
Blind	50	-	-	-
Alley	26	-	-	-

Source: Oakland Municipal Code, Chapter 16.16 Design Standards, 2022

Per the City’s Standard Conditions of Approval, all land use projects that generate more than 50 net new a.m. or p.m. peak hour vehicle trips must prepare a Transportation and Parking Demand Management (TDM) Plan as early as feasible in the planning process. Mandatory strategies that must be incorporated into a TDM plan based on a project location or other characteristics are provided in Table F-14 below.<sup>11</sup>

<sup>11</sup> City of Oakland Transportation Impact Review Guidelines (TIRG) are available on the City’s website: <https://cao-94612.s3.amazonaws.com/documents/oak063581.pdf>

**Table F-14: Required/Mandatory TDM Strategies<sup>1</sup>**

<i>Improvement</i>	<i>Required by Code or When...</i>
Bus boarding bulbs or islands	<ul style="list-style-type: none"> <li>• A bus boarding bulb or island does not already exist and a bus stop is located along the project frontage; and/or</li> <li>• A bus stop along the project frontage serves a route with 15 minutes or better peak hour service and has a shared bus-bike lane curb</li> </ul>
Bus shelter	<ul style="list-style-type: none"> <li>• A stop with no shelter is located within the project frontage, or</li> <li>• The project is located within 0.10 miles of a flag stop with 25 or more boardings per day</li> </ul>
Concrete bus pad	<ul style="list-style-type: none"> <li>• A bus stop is located along the project frontage and a concrete bus pad does not already exist</li> </ul>
Curb extensions or bulb-outs	<ul style="list-style-type: none"> <li>• Identified as an improvement within site analysis</li> </ul>
Implementation of a corridor-level bikeway improvement	<ul style="list-style-type: none"> <li>• A buffered Class II or Class IV bikeway facility is in a local or county adopted plan within 0.10 miles of the project location; and</li> <li>• The project would generate 500 or more daily bicycle trips</li> </ul>
Implementation of a corridor-level transit capital improvement	<ul style="list-style-type: none"> <li>• A high-quality transit facility is in a local or county adopted plan within 0.25 miles of the project location; and</li> <li>• The project would generate 400 or more peak period transit trips</li> </ul>
Installation of amenities such as lighting; pedestrian-oriented green infrastructure, trees, or other greening landscape; and trash receptacles per the Pedestrian Master Plan and any applicable streetscape plan.	<ul style="list-style-type: none"> <li>• Always required</li> </ul>
Installation of safety improvements identified in the Pedestrian Master Plan (such as crosswalk striping, curb ramps, count down signals, bulb outs, etc.)	<ul style="list-style-type: none"> <li>• When improvements are identified in the Pedestrian Master Plan along project frontage or at an adjacent intersection</li> </ul>
In-street bicycle corral	<ul style="list-style-type: none"> <li>• A project includes more than 10,000 square feet of ground floor retail, is located along a Tier I bikeway, and on-street vehicle parking is provided along the project frontages.</li> </ul>
Intersection improvements <sup>2</sup>	<ul style="list-style-type: none"> <li>• Identified as an improvement within site analysis</li> </ul>
New sidewalk, curb ramps, curb and gutter meeting current City and ADA standards	<ul style="list-style-type: none"> <li>• Always required</li> </ul>

**Table F-14: Required/Mandatory TDM Strategies<sup>1</sup>**

<i>Improvement</i>	<i>Required by Code or When...</i>
No monthly permits and establish minimum price floor for public parking <sup>3</sup>	<ul style="list-style-type: none"> <li>If proposed parking ratio exceeds 1:1000 sf (commercial)</li> </ul>
Parking garage is designed with retrofit capability	<ul style="list-style-type: none"> <li>Optional if proposed parking ratio exceeds 1:1.25 (residential) or 1:1000 sf (commercial)</li> </ul>
Parking space reserved for car share	<ul style="list-style-type: none"> <li>A project is located within downtown. One car share space preserved for buildings between 50 – 200 units, then one car share space per 200 units.</li> </ul>
Paving, lane striping or restriping (vehicle and bicycle), and signs to midpoint of street section	<ul style="list-style-type: none"> <li>Typically required</li> </ul>
Pedestrian crossing improvements, pedestrian-supportive signal changes <sup>4</sup>	<ul style="list-style-type: none"> <li>Identified as an improvement within site analysis</li> <li>Identified as an improvement within operations analysis</li> </ul>
Real-time transit information system	<ul style="list-style-type: none"> <li>A project frontage block includes a bus stop or BART station and is along a Tier 1 transit route with 2 or more routes or peak period frequency of 15 minutes or better</li> </ul>
Relocating bus stops to far side	<ul style="list-style-type: none"> <li>A project is located within 0.10 mile of any active bus stop that is currently near-side</li> </ul>
Signal upgrades <sup>5</sup>	<ul style="list-style-type: none"> <li>Project size exceeds 100 residential units, 80,000 sf of retail, or 100,000 sf of commercial; and</li> <li>Project frontage abuts an intersection with signal infrastructure older than 15 years</li> </ul>
Transit queue jumps	<ul style="list-style-type: none"> <li>Identified as a needed improvement within operations analysis of a project with frontage along a Tier 1 transit route with 2 or more routes or peak period frequency of 15 minutes or better</li> </ul>
Trenching and placement of conduit for providing traffic signal interconnect	<ul style="list-style-type: none"> <li>Project size exceeds 100 units, 80,000 sf of retail, or 100,000 sf of commercial; and</li> <li>Project frontage block is identified for signal interconnect improvements as part of a planned ITS improvement; and</li> </ul>

**Table F-14: Required/Mandatory TDM Strategies<sup>1</sup>**

<i>Improvement</i>	<i>Required by Code or When...</i>
	<ul style="list-style-type: none"> <li data-bbox="989 326 1766 386">• A major transit improvement is identified within operations analysis requiring traffic signal interconnect</li> </ul>
Unbundled parking	<ul style="list-style-type: none"> <li data-bbox="989 396 1608 428">• If proposed parking ratio exceeds 1:1.25 (residential)</li> </ul>

1. AC Transit must be consulted for any transit related elements.
2. Including but not limited to visibility improvements, shortening corner radii, pedestrian safety islands, accounting for pedestrian desire lines.
3. May also provide a cash incentive or transit pass alternative to a free parking space in commercial properties.
4. Including but not limited to reducing signal cycle lengths to less than 90 seconds to avoid pedestrian crossings against the signal, providing a leading pedestrian interval, provide a “scramble” signal phase where appropriate.
5. Including typical traffic lights, pedestrian signals, bike actuated signals, transit only signals.

Source: City of Oakland, *Transportation Impact Review Guidelines, 2017*

While on- and off-site improvements increase the costs of development, they are required to mitigate the impact of new development on the City's infrastructure and are largely unavoidable. However, the City attempts to mitigate the impact on affordable housing through the use of regulatory incentives, funding assistance, and other strategies. Further, Oakland's requirements were not identified as a significant constraint during outreach with affordable housing developers.

### **Building Codes and Enforcement**

Oakland adopts the California Model Building Codes (CMBC) established by the California Building Standards Commission (CBSC) through Title 24 of the California Code of Regulations, which was last updated in ~~2019~~2022. The CMBC establish the minimum requirements to safeguard the public health, safety and general welfare through structural strength, means of egress facilities, stability, access to persons with disabilities, sanitation, adequate lighting and ventilation and energy conservation; safety to life and property from fire and other hazards attributed to the built environment; and to provide safety to fire fighters and emergency responders during emergency operations. Local jurisdictions are required to enforce the CMBC but may also enact more stringent amendments to the CMBC based on climatic, geological, or topographical conditions. Oakland's modifications to the CMBC are generally for the purpose of protecting health and safety in areas subject to natural hazards. Local amendments that may increase development costs are largely related to fire risks, habitability issues, topography, and seismic risks. These amendments do not substantially differ from those of other cities within Alameda County and thus are not considered to act as a constraint on the development of housing.<sup>12</sup> While requirements may lead to increased costs of construction, reducing building code requirements may lead to long-term health and safety risks, particularly in a seismically active area like Oakland.

The City's Planning & Building Department reviews all new construction and improvements to existing structures in Oakland. Building services performed include field inspections, plan reviews, and permit issuance in person or electronically. Planning & Building allows users to apply for selected permits, check on the status of permits, research property records, and print permits or inspection cards via the Online Permit Center. The Green Building Code, or CALGreen, applies to most new residential construction (including affordable housing construction). Both single-family and multifamily units must meet CALGreen mandatory measures for residential new construction, as do Category 2 ADUs. Depending on the project, Oakland's green building requirements may also apply.<sup>13</sup>

When applying for building permits, applicants may be required to undergo the Plan Check process. During Plan Check, City engineers review development plans for compliance with applicable codes and regulations. This can include compliance with applicable local, State and federal laws to ensure access for disabled persons. Plans may need to be submitted to the Fire

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<sup>12</sup> The latest local amendments, including standard findings, are available at the following link: <https://oakland.legistar.com/LegislationDetail.aspx?ID=4212920&GUID=C9824F8B-AF8B-44CE-B43A-BC83BFC2FD34>

<sup>13</sup> <https://www.oaklandca.gov/topics/green-building>

Prevention Bureau for initial review, or may be routed for concurrent review during the Building Plan Check process.

Upon issuance of a building permit, the following inspections are typically required – pre-construction, pre-pour/foundation stage, framing stage, rough-in/frame stage, insulation, drywall/lath/gas test, and final. A final inspection is called in when all related permits have an approved rough-in inspection. To increase predictability during the construction process, the City provides resources on its website of what is typically required.<sup>14</sup>

Code Enforcement Services carries out the City’s enforcement program to address violations of the Oakland Municipal Codes, City ordinances, and land use regulations. Code Enforcement Services uses progressive enforcement to follow up on complaints – property owners are notified through the U.S. Postal Services. When a violation is verified by a Building Inspector a Notice of Violation is issued that includes a list of violations and corrections that must be made. The property owner has 30 days to correct the violation. Residents are able to file a complaint via the Accela Citizen Access Portal. Code enforcement efforts are also linked to housing rehabilitation efforts – if an inspection results in an Order to Abate – Habitability or a if a property is a Substandard Public Nuisance a Compliance Plan may be required. Compliance Plans are agreements with the property owner/agent/buyer to rehabilitate the property, correct housing violations, and pay fee assessments in an agreed timeline. The Investor-Owned Residential Property Registration, Inspection & Rehabilitation Program also ensures the regular inspection and maintenance of properties with a default or foreclosure history that have non-owner occupant buyers.

Efforts to comply with State Health and Safety Code Section 17980, related to the abatement of substandard buildings, are contained in Section 15.08.110 of the Oakland Municipal Code and require notice to residential tenants of buildings deemed substandard. Further, under the Code Compliance Relocation Program, residential tenants who are displaced due to actions taken to address violations of City of Oakland building codes may be eligible for relocation benefits from the property owner, pursuant to Oakland Municipal Code Section 15.60.

## **PROVISION FOR A VARIETY OF HOUSING TYPES**

The Housing Element must identify adequate sites that are available for the development of housing types for all economic segments of the population, including those populations with special needs. This section summarizes the extent to which various housing types are permitted in the city, as well as any constraints that may be contained in City regulations.

### **Accessory Dwelling Units (ADUs)**

Accessory Dwelling Units (ADUs)—formerly known as secondary or granny units—are attached or detached units that provide complete independent living facilities for one or more persons and are located on a lot with a proposed or existing primary residence. An ADU must include permanent provisions for living, sleeping, cooking, and sanitation, located on the same lot as a

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<sup>14</sup> See Building Bureau resources at the following links: <https://cao-94612.s3.amazonaws.com/documents/What-to-expect-during-your-City-of-Oakland-Building-Inspection-4.2021.pdf> and <https://cao-94612.s3.amazonaws.com/documents/Overview-of-Planning-and-Building-Inspection-Types.pdf>

single-family or multifamily structure. By their nature, ADUs tend to cost less to construct because they do not involve the purchase of land. The California legislature has found ~~and declared~~ that ADUs often provide housing for family members, students, the elderly, in-home health care providers, the disabled, and others, at below market prices within existing neighborhoods. As noted by the Turner Center for Housing Innovation and the Center for Community Innovation, in higher-wealth areas, ADU construction is providing new housing supply with access to existing resources, and in lower-income areas, new ADUs are helping to reduce overcrowding, provide new rental income, and build home equity.<sup>15</sup> Several pieces of recent State legislation modified regulations for ADUs with the intent and effect of encouraging their construction. Some of the key changes included prohibiting standards related to lot coverage standards, lot size, FARs, or open space that may impede the development of ADUs, reducing review time for permit applications, and reducing regulations related to parking, height, setbacks, and unit size.

In Oakland, ADUs are regulated by Section 17.103.080 of the Planning Code. New regulations for ADUs were adopted by the City Council in January 2022 to meet the State law requirements. The Planning Code differentiates between a Category One and Category Two ADU. Category One units are those that are located entirely within a One-Family Residential Facility or detached accessory structure and involve no expansion of the existing building envelope. Category Two units are those that a) are not entirely within the building envelope of a One-Family Residential Facility or detached accessory structure; and b) involve either construction of a new structure, or an exterior addition to an existing structure. In addition, Multifamily Category One ADUs are conversions of existing non-habitable space within an existing multifamily building; Multifamily Category Two ADUs are newly constructed detached ADUs or conversions of an existing detached accessory structure; and Multifamily Category Three ADUs are interior or attached to the primary structure. All ADUs are subject to ministerial approval and regulations related to occupancy, sale of unit, parking configuration, fire sprinklers, and compliance with building and fire codes. The relevant standards for ADUs are shown in Table F-15.

The City's Planning Code also lays out requirements for junior accessory dwelling units (JADU) and meets the State law for them. According to State law, JADUs involve the conversion of space within the building envelope of an existing or proposed single-family dwelling, resulting in a living unit of not more than 500 square feet, requiring owner-occupancy in the JADU or primary dwelling unit. In comparison to the 1,000 square foot maximum for Category Two ADUs that are detached in Oakland, both the City of Berkeley and the City of Emeryville permits a 1,200 square foot maximum for detached ADUs. Oakland does allow for a 1,200 square foot for Category Two ADU that is attached or a Category One ADU as well as for a Category Two ADU Oakland has a height limit of 20 feet, which is greater than the minimum 16-foot height limit that the State requires. [Housing Action Plan policies 3.2.5 reduce constraints to the development of ADUs, and 3.2.6 commits the City to monitoring affordability of permitted ADUs.](#)

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<sup>15</sup> Karen Chapple, David Garcia, Eric Valchuis, and Julian Tucker. "Reaching California's ADU Potential: Progress to Date and the Need for ADU Finance." *The Turner Center for Housing Innovation at University of California*, August 2020



**Table F-15: ADU Development Standards, 2022**

<i>Standards</i>	<i>One-Family ADU Category One</i>	<i>One-Family ADU Category Two</i>
Maximum Size	Conversion of Attached Structures: 50% of floor area of primary residence or 850 sf., whichever is greater, but shall not exceed 1,200 sf.  Interior Conversion: size is limited by the existing building envelope, but shall not exceed 1,200sf.	For detached: 850 sf. for studio or 1- bedroom. 1,000 sf. for 2-bedroom or more  For attached: Whichever is greater: 850 sf. for studio or 1- bedroom, and 1,000 sf. For a 2-bedroom or more; or 50% of floor area of primary residence, but shall not exceed 1,200 sf.
Parking for ADU	None required if located: a) within ½-mile walking distance of public transit; b) on any lot within a City of Oakland Area of Primary Importance (API) or Secondary Importance (ASI), as defined in the General Plan’s Historic Preservation Element; c) in areas where parking permits are required but not offered to occupants of ADUs; or d) where there is a carshare vehicle within one block of the ADU. Otherwise: One (1) space per ADU, which can be tandem	None required if located: a) within ½-mile walking distance of public transit; b) on any lot within a City of Oakland Area of Primary Importance (API) or Secondary Importance (ASI), as defined in the General Plan’s Historic Preservation Element; c) in areas where parking permits are required but not offered to occupants of ADUs; or d) where there is a carshare vehicle within one block of the ADU. Otherwise: One (1) space per ADU, which can be tandem
Side and Rear Setbacks	-	4 feet or the regularly required setback, whichever is less, but in no case shall the setback be less than 3 feet from the side or rear lot line;

Source: Oakland Planning Code, Section 17.103.080 Accessory Dwelling Units in conjunction with One-Family, Two-Family, and Multifamily Dwelling Residential Facilities, 2022

### Live-Work Units

Live-work units are properties that combine residential and non-residential uses in either commercial or residentially zoned areas. There are numerous types of live-work units that are permitted in the city as outlined in Table F-16. The City makes a distinction between live/work and work/live units. They define live/work units as those that accommodate both residential and non-residential activities, while work/live units are primarily non-residential with an accessory residential area. These units are generally permitted within the commercial districts and must meet certain criteria. Live/work units are also permitted in HBX and D-CE zoning districts, and work/live units are permitted, under limited circumstances, in industrial zones.

All live-work units are subject to Building Code requirements which may be costly to update and have a significant effect on the function and layout of these units, particularly in terms of Americans with Disabilities Act (ADA) access and bathroom configuration.

For comparison, the City of Berkeley permits live-work units by right in all commercial districts except C-SA and C-W, which require a use permit or an administrative use permit. Live-work units are not permitted in all residential districts. In the City of Emeryville, live-work units in residential zones are subject to on-premises sales and work ~~restricts~~ restricted to occupants. In a residential zone, no live-work building may be converted to wholly nonresidential uses; however, it may be converted to wholly residential uses. In a nonresidential zone, any live-work building may be converted to wholly nonresidential uses which are permitted in that zone. [Action 3.2.2. updates development standards, building codes, and land use regulations to promote artist housing, including joint living and working quarters \(JLWQs\) in areas where appropriate under the General Plan.](#)

**Table F-16: Live-Work Units, 2022**

Type	Description	Permitted Zones
JLWQ	Joint Living and Working Quarters (JLWQs) are live/work units resulting from the conversion of part or all of a building that was originally constructed for commercial or industrial activities.	Zones that permit or conditionally permit residential dwelling units.
Residentially Oriented JLWQ	Residentially Oriented JLWQs are live/work units resulting from the conversion of part or all of a building that is both: 1) originally constructed for nonresidential activities, and 2) at least ten years old.	Within the area bounded by Highway 980/Brush Street, the Estuary shoreline, the Lake Merritt/Estuary channel, the western shore of Lake Merritt, and 27th Street. Unlike standard JLWQs, Residentially Oriented JLWQs can only be in the Downtown and Jack London Square area.
HBX Work/Live and Live/Work Units	HBX work/live and live/work units are nonresidential facilities that can be established within an existing building, an expansion of an existing building, or a new building.	Housing and Business Mix (HBX) Zones
D-CE Work/Live and Live/Work Units	D-CE work/live and live/work units are nonresidential facilities that can be established within an existing building, an expansion of an existing building, or a new building.	Central Estuary District (D-CE) -3, -4, and -5 Zones
Industrial Work/Live Units	Work/live units established as part of a new building or the conversion of an existing building if the site is within 300 feet of a Residential Zone.	CIX, IO, and IG Zones. Industrial work/live units are not permitted in the IG or IO Zones, except the legalization of existing units that house artists are conditionally permitted anywhere in the CIX, IG, and IO Zones.
Work/Live Units in Additions and New Buildings	Live/work and work/live units in a newly constructed building or expansion of an existing building.	CIX, IO, IG, HBX, D-CE Zones

Source: Oakland Planning Code, 2022

### **Manufactured Housing and Mobile Home Parks**

Manufactured homes, also referred to as factory-built homes or modular homes, consist of a residential building or dwelling unit which is either wholly or partially constructed or assembled off-site. Manufactured housing is typically constructed off-site and installed on a foundation, which is significantly less costly than the construction of individual single-family homes on site.

Mobile home parks were previously permitted in the Mobile Home Combining (S-6) Zone. This zone was intended to create, preserve, and enhance areas containing attractive mobile home parks, and is typically appropriate to a variety of living environments with good access to major thoroughfares.

The Oakland Construction Innovation and Expanded Housing Options Ordinance (No. 13666), passed into law in November 2021, aimed to address the city's increasing cost of building housing, while increasing housing options and affordability to residents. The ordinance updated the City's zoning regulations to:

- Allow residential occupancy of recreational vehicles (RVs) and tiny homes on wheels ("Vehicular Residential Facilities") on private property subject to certain health and safety standards;
- Allow mobile homes and manufactured homes in all zoning districts where residential uses are permitted;
- Establish density and open space regulations for efficiency dwelling units; and
- Establish height regulations for modular construction.
- In addition, the Ordinance amended the Oakland Building Code to allow light straw-clay construction.

### **Housing for Persons with Disabilities**

California Government Code 65583 requires jurisdictions to analyze potential and actual constraints that could affect the development, maintenance, and improvement of housing for persons with disabilities. Further, the Lanterman Developmental Disabilities Services Act and Community Care Facilities Act states that mentally, physically, developmentally disabled persons and children and adults who require supervised care are entitled to live in normal residential settings. To that end, State law requires that licensed family care homes, foster homes, and group homes serving six or fewer persons be treated like single-family homes and be allowed by right in all residential zones. In addition, both the Federal Fair Housing Act and the California Fair Employment and Housing Act place an affirmative duty on jurisdictions to make reasonable accommodations in their zoning and other land use regulations as necessary to afford disabled persons an equal opportunity to use and enjoy a dwelling. The following sections provide a summary of the relevant portions of Oakland's Zoning Code that address these requirements, as well as any potential constraints.

In Section 17.09.040 of the Oakland Planning Code, a family is defined as “one person, or a group of people living together as a single housekeeping unit, together with any incidental domestic servants and temporary nonpaying guests.”

#### *Reasonable Accommodation*

While the City’s Planning & Building Department implements the reasonable accommodation requirements in the California Building Code, Chapter 17.131 further outlines reasonable accommodations policy and procedures in the City’s Planning Code. The intent of this chapter is to provide flexibility in the application of the Planning Code for individuals with a disability when flexibility is necessary to eliminate barriers to housing opportunities. The chapter facilitates compliance with federal and State fair housing laws and promotes housing opportunities for residents of Oakland.

The reasonable accommodation procedure is a ministerial process. The Planning Director, or his or her designee, shall have the authority to consider and act on requests for reasonable accommodation and shall make reasonable accommodations in rules, policies, practices, or services when those accommodations may be necessary to afford persons with disabilities equal opportunities to use and enjoy the dwelling. “Category A” Requests are requests for accommodation from development regulations not specified as a “Category B” request, including but not limited to, setbacks, building height limits and parking regulations in the Planning Code, or for any additions to Residential Facilities which meet the definition of a “Small Project,” as defined in Section 17.136.030(B), shall be considered “Category A” requests. A proposal will qualify for “Category A” Request if it meets each of the provisions set forth below.

- The proposal is limited to one or more of the types of work listed as “Category A” request in 17.131.040(B)(1); and
- The accommodation is necessary to afford people with disabilities an equal opportunity to use and enjoy the dwelling.

“Category B” Requests are requests for accommodation from residential density regulations in the Planning Code; distance separation requirements in the Planning Code; land use activities not permitted by the Planning Code; any additions to Residential Facilities which meet the definition of “Regular design review” as defined in Section 17.136.040(A); and any other accommodations request, under the discretion of the Planning Director, shall be considered “Category B” requests. A proposal will qualify for “Category B” Request if it meets each of the provisions set forth below.

- That the housing, which is the subject of the request for reasonable accommodation, will be used by people with disabilities protected under fair housing laws;
- That the accommodation is necessary to afford people with disabilities an equal opportunity to use and enjoy the dwelling;
- That the requested accommodation will not require a fundamental alteration to zoning laws, rules, policies, practices and procedures; and

- That the requested accommodation will not impose an undue financial or administrative burden on the City.

#### *Residential Care Facilities*

Residential care facilities include facilities that require a State license or are State-licensed for seven or more residents which provide twenty-four hour primarily nonmedical care and supervision as defined in the City's Planning Code. Occupancy of living accommodations by six or fewer residents are excluded and are treated as single-family dwellings. Currently, residential care facilities are permitted in residential zones if located in single family dwellings, but require conditional use permits if located in any other residential facility type. Additionally, this also includes requirements that they be located no closer than 300 feet from any other facility, and require parking demand generation and noise not be substantially greater than normally generated by surrounding residential activities. Residential care facilities are permitted in non-residential zones if they are located in single family dwellings, but require conditional use permits if located in any other residential facility type and/or when located on the ground floor of a street fronting building—though Incidental pedestrian entrances that lead to one of these activities elsewhere in the building are exempted from this Conditional Use Permit requirement. Currently, residential care facilities in CC zones are also required to comply with each of the following additional criteria:

1. That the proposal will not detract from the character desired for the area;
2. That the proposal will not impair a generally continuous wall of building facades;
3. That the proposal will not weaken the concentration and continuity of retail facilities at ground level, and will not impair the retention or creation of an important shopping frontage;
4. That the proposal will not interfere with the movement of people along an important pedestrian street; and
5. That the proposal will conform in all significant respects with any applicable district plan which has been adopted by the City Council.

Residential care facilities require one parking space for each three employees on site during the shift that has maximum staffing, and one space for each facility vehicle. Where more than two spaces are required, additional spaces beyond two may be provided in tandem.

While the City has not denied permits for residential care facilities in the past few years, the City will amend the Zoning Code to Allow residential care facilities by-right in all residential facility types; allow residential care facilities by-right in the ground floor in non-residential zones; add standard conditions of approval (in place of conditional use permits); and add an exemption to the overconcentration restriction that allows residential care facilities for foster family homes and the elderly within 300 feet of another residential care facility to align with State licensing overconcentration requirements/exclusions. in California Health and Safety Code Section 1520.5 (see Action 3.7.8).

## **Housing for Persons Experiencing Homelessness**

Persons experiencing homelessness are identified as a special needs group and may require specialized forms of housing, including emergency shelters, transitional and supportive housing, low barrier navigation centers, and single room occupancy (SRO) units. The City also has 85 Project Homekey-funded sites. The following sections summarize City requirements for the various forms of housing that can meet the needs of the population experiencing homelessness.

### *Emergency Shelters*

Emergency shelters include the provision of short-term housing, with or without a fee, to individuals and families who are homeless and who may require special services. According to 2020 Homeless Management Information System (HMIS) data, the Oakland, Berkeley/Alameda County Continuum of Care contains 2,032 total year-round beds, including 1,383 emergency shelter beds.

Emergency shelter for homeless individuals and families is permitted by right, without discretionary action, in eight areas throughout the City ~~by right~~, subject to objective development and location standards, which are codified in the Oakland Planning Code Section 17.103. These areas are displayed in Figure F-2 below ~~, and described in further detail below along with the HCD/TCAC Opportunity Area designation. Analysis of the currently designated areas for by right approval of emergency shelters shows that high-resource areas are underrepresented, and no higher resource areas overlap with the by right designated areas. To redress this, the Housing Action Plan (Chapter 4) includes actions under Policy 4.3 to provide greater opportunities for emergency shelters, including by providing for by right approval throughout the city when located on properties with religious institutions and similar community assembly civic activities (see Action 4.3.6).~~

- Segment 1 – the portion of Martin Luther King Jr. Way between 51st Street and the City of Oakland City Limits (Moderate and High Resource). This includes approximately 20 acres of land with parcel sizes averaging approximately 0.3 acres but ranging between 2,000 square feet to 7 acres. These parcels predominantly have existing uses. Portions of Segment 1 have public transportation through the Ashby and MacArthur BART Stations, and the entirety of the corridor is served by AC Transit. Segment 1 is designated in the Oakland General Plan for Mixed Use Residential, Urban Residential, and Neighborhood Commercial uses.
- Segment 2- the portion of San Pablo Boulevard between 53rd Street and the City of Oakland City Limits (Moderate Resource). This includes approximately 42 acres of land with parcel sizes averaging approximately 0.2 acres. City records have identified at least 11 vacant lots within Segment 2. Segment 2 is well served by public transportation through AC Transit lines 72, 72M, and 72R. Segment 2 is designated in the Oakland General Plan for Community Commercial and Neighborhood Commercial uses.
- Segment 3 – the portion of the area surrounding Webster Street bounded by 29th Street to the south, the I-580 overpass to the north, Elm Street to the west, and Webster Street to the east (Low Resource). This includes approximately 36 acres of land with parcel sizes averaging 0.4 acres. City records have identified at least 3 vacant lots within Segment 3.

Segment 3 is well served by public transportation on Telegraph Avenue and Broadway provided by AC Transit. Segment 3 is designated in the Oakland General Plan for Institutional Uses and is zoned S-1 (Medical Center).

- Segment 4 – the portion of San Pablo Boulevard lying between Grand Avenue and I-580 (Low Resource). This includes approximately 34 acres of land with parcel sizes averaging 0.2 acres. City records have identified at least 33 vacant lots within Segment 4. Segment 4 is well served by public transportation through AC Transit lines 72, 72M, and 72R. Segment 4 is designated in the Oakland General Plan for Urban Residential and Community Commercial uses.
- Segment 5 – the area surrounding Third Street bounded by Martin Luther King Jr. Way to the east, Fifth Street to the north, Embarcadero West to the south, and Union Street to the west (mid of Low, Moderate, and High Resource). This includes approximately 80 acres of land with parcel sizes averaging 0.6 acres. City records have identified at least 19 vacant lots within Segment 5. Portions of Segment 5 is served by public transportation through the West Oakland BART station. Segment 5 is predominantly designated under the General Plan for Business Mix uses.
- Segment 6 – the portion of E. 12th Street between 14th Avenue and 23rd Avenue (High Segregation & Poverty). This includes approximately 37 acres of land with parcel sizes averaging 0.4 acres. City records have identified at least 14 vacant lots within Segment 6. Segment 6 is well served by public transportation through the AC Transit Tempo Bus Rapid Transit line. Segment 6 is predominantly designated under the General Plan for Business Mix uses.
- Segment 7 – the portion of MacArthur Boulevard between Fruitvale Avenue and High Street (Low and Moderate Resource). This includes approximately 68 acres of land with parcel sizes averaging 0.2 acres. City records have identified at least 121 vacant lots within Segment 7. Segment 7 is well served by multiple AC Transit lines, including the 54 line providing connections to Fruitvale BART. Segment 7 is designated in the Oakland General Plan for Neighborhood Commercial and Urban Residential uses.
- Segment 8 – the area of Coliseum Way bounded by San Leandro Street to the north, I-880 to the south, 66th Avenue to the east, and High Street to the west (Low Resource). This includes approximately 227 acres of land with parcel sizes averaging 1.1 acres. City records have identified at least 34 vacant lots within Segment 8. Portions of Segment 8 have limited public transportation options, either by walking to AC Transit options along San Leandro Street or by walking to the Coliseum BART station. Segment 8 is designated in the Oakland General Plan for General Industry and Transportation and Business Mix uses.

The City of Oakland has declared a local shelter crisis. For the duration of that declared emergency, emergency shelters are permitted by right with no discretionary approvals, including design review, on all properties owned or leased by the City that are designated by the City Administrator for use as temporary emergency housing sites. See Oakland Planning Code Section 17.07.060 for further details on implementation.

Additionally, emergency shelters are conditionally permitted in high-density residential zones and several commercial zones. Conditionally permitting alternative housing in all high-density residential zones and most commercial zones further increases housing opportunities and the feasibility of accommodating affordable housing in Oakland. Historically, the CUP process and conditions imposed have not created significant constraints to locating residential uses for special need groups in residential or commercial zones; rather it is the absence of a dependable source of funds for the social services agencies who provide these services which constrains the housing from being built. But in order to limit the possibilities that the permitting process would act as a constraint, the Housing Action Plan (Chapter 4) includes actions under Policy 4.3 to reduce this from a major conditional use permit requirement to a minor conditional use permit requirement, which means the permit would be issued at the staff level and appealable only to the Planning Commission.

Development of shelter facilities is further facilitated by a relaxation of parking standards well below those required for ordinary residential facilities, in recognition of the fact that most homeless persons do not have vehicles and thus a requirement for parking would be an unnecessary constraint. The City requires one parking space for each three employees on site during the shift that has maximum staffing, plus one space for each facility vehicle, consistent with requirements in AB 139.

#### *Transitional, Supportive, and Semi-Transient Housing*

The Oakland Planning Code defines transitional, supportive, and semi-transient housing as follows:

- **Transitional Housing:** includes housing configured as rental housing developments, but operated under program requirements that call for the termination of assistance and recirculation of the assisted unit to another eligible program recipient at some predetermined future point in time, which shall be no less than six (6) months from beginning of assistance. As noted in Tables F-4 through F-6, transitional housing is permitted as a use distinct from other permanent residential types and is permitted differently than other residential uses in some zoning districts. This will be corrected as part of the Housing Action Plan: (Action 4.3.3).
- **Supportive Housing:** includes housing with (a) no limit on length of stay; (b) that is linked to an onsite or offsite service that assist the supportive housing resident in retaining the housing, improving his or her health status, and maximizing his or her ability to live and, when possible, work in the community; and (c) that is occupied by a target population (as defined in subdivision (g) of Government Code Section 65582). As noted in Tables F-4 through F-6, supportive housing is permitted as a use distinct from other permanent residential types and is permitted differently than other residential uses in some zoning districts. This will be corrected as part of the Housing Action Plan. Supportive housing is required under state law to be a use by right in zones where multifamily and mixed uses are permitted, including nonresidential zones permitting multifamily uses, if the proposed housing development satisfies the requirements listed in Government Code Section 65651. To date, the City of Oakland has received two development application utilizing this provision but anticipates receiving more in the future. At the time of publication of this



document, one of the two applications—PLN22172—has been determined eligible for streamlining and now has an approved entitlement for 40 lower income supportive housing units; the other—PLN22168—is assigned and undergoing review. The Housing Action Plan will include an action to redefine Supportive Housing to clarify that projects that meet the requirements of Government Code Section 65651 will be permitted by right without discretionary review (Action 4.3.3).

- **Semi-Transient Housing:** include the occupancy of living accommodations partly on a 30 days or longer basis and partly for a shorter time period, but with less than 30 percent of the living units under the same ownership or management on the same lot being occupied on a less-than-thirty-days basis; but exclude institutional living arrangements involving the provision of a special kind of care or forced residence, such as in nursing homes, orphanages, asylums, and prisons.

#### *Low Barrier Navigation Centers*

Recent State law, including AB 101, requires that low barrier navigation centers for persons experiencing homelessness be allowed by right and without any discretionary approval within the local jurisdiction. Currently, the City does not provide a definition for “low barrier navigation centers” nor does it provide specific regulations for the development of these facilities. The City will address this as part of the Housing Action Plan: (see Action 4.3.5: Provide development standards for Low Barrier Navigation Centers).

**Figure F-2: Approved Locations for Permitting Emergency Shelters By-Right, 2022**

Source: City of Oakland, 2022

### *Single Room Occupancy (SRO)*

Single-room occupancy units (SROs)—called Residential Hotels in the [Oakland](#) Planning Code—are defined in accordance with California Health and Safety Code Section 50519, and refer to any building built before 1960 containing six or more rooming units, intended or designed to be used, or which are used, rented, or hired out, to be occupied, or which are occupied, for sleeping purposes by guests, which is also the primary residence of those guests, and where the entrances to the individual units are generally accessed via a shared lobby area.

SROs are an essential component of the city’s supply of naturally occurring affordable housing, as they are a flexible and easily accessible form of housing that provides very-low-, and extremely-low-income residents the ability to remain in Oakland and avoid homelessness. To that end, on December 4, 2018, the Oakland City Council adopted new Planning Code Chapter 17.153, which regulates the conversion, demolition, rehabilitation, and sale of Residential Hotels to protect this important type of housing. The purpose of the chapter is to benefit the general public by minimizing the adverse impact on the housing supply and on displaced very-low- and extremely-low-income, elderly, and disabled persons, which results from the loss of SRO units as a naturally occurring affordable housing option. The ordinance has established a process for identifying and preparing a registry of known existing Residential Hotel Units, and regulates the demolition, conversion and rehabilitation of Residential Hotel Units.

The City has been able to successfully implement the ordinance following adoption. The Planning Bureau has largely gone through the process of confirming the status of individual properties as residential hotels, and has flagged all properties in the Accela permitting system. If the Planning & Building Department receives an application for renovations or other projects pertaining to these properties, the application is routed to appropriate Planning staff. Staff can then review the residential hotel certificate of status for the property and compare it to the proposal to see if it proposes any amenity rehabilitation that is prohibited under the ordinance, or whether it would require a CUP meeting the requirements under Planning Code Chapter 17.153 to provide equivalent low-income housing. There have not been any CUPs issued or sought under Chapter 17.153, which means that residential hotels have been successfully preserved in their status quo. There have been some applications for amenity rehabilitation, often in buildings that have been vacant for 10 or more years.

### **Efficiency Dwelling Units and Rooming Units**

Efficiency Dwelling Units are defined in the Oakland Planning Code as studio units, with kitchens, under 400 square feet. Rooming units are defined as units without kitchens, such as those commonly found in SROs. Both are a smaller unit formats, which typically cost less to build and are likely to be provided at a lower cost.

Efficiency dwelling units can be constructed in all zoning districts in which multifamily housing is permitted as either part of, or the entirety of, multifamily developments. Efficiency units can be constructed at higher density, often at twice the density, than otherwise provided for larger format dwelling units.

As with efficiency dwelling units, rooming units are permitted to be constructed at densities significantly higher, often twice as dense, than the density provided for larger format dwelling units. However, rooming units are only permitted as part of rooming house facilities, a separate residential facility designation. Rooming units currently cannot be included in multifamily dwelling residential facilities. As shown in Table F-4, rooming house facilities are permitted and conditionally permitted in a wide variety of zoning districts similar to multifamily dwelling facilities. But in contrast to multifamily dwelling facilities, rooming houses are not permitted in RM, RU-1, S-15, D-WS, D-CO, D-OK zoning districts and are conditionally permitted rather than permitted in RU-2, RU-3, S-15W, zoning districts. The Housing Action Plan includes an action (Action 3.7.6) that would expand districts in which rooming house facilities may be constructed in order to reduce constraints on construction of rooming units, and additionally proposes actions to address an unaddressed need for “intentional community” housing types.

### **Farmworker and Employee Housing**

Farmworkers, people whose primary income comes from permanent or seasonal agricultural labor, are considered to have special housing needs due to their limited income and unstable nature of employment. As discussed in Appendix B, farming is not a major industry in Oakland with only 0.5 percent of Oakland’s labor force employed in the “agriculture, forestry, fishing and hunting” industry in 2019. The city is located in a highly urbanized area with no working farms within or adjacent to city limits. Oakland’s stock of affordable housing is available to any farmworkers that may reside in the city. Since all affordable housing units are available to farmworkers in Oakland, it is not necessary for the City to establish a specific program or funding for farmworker housing.

Farm and agricultural employee housing is a type of employee housing under the Employee Housing Act, California Health and Safety Code Sections 17000 et seq. Section 17021.5 of the Employee Housing Act requires that any employee housing providing accommodations for six or fewer employees shall be deemed a single-family structure with a residential land use designation, and not be subject to any conditional use permit, zoning variance, or other zoning clearance that is not required of a family dwelling of the same type in the same zone. The Oakland Planning Code’s definitions of “family” and “dwelling unit” in Section 17.09.040 do not restrict households to related members of a family or place a limitation on size of a household, but it does not explicitly state that this employee housing type would be treated the same as a single-family structure. The Housing Action Plan (Chapter 4) contains a program to amend the zoning code definitions to provide greater clarity that employee housing for six or fewer employees is treated the same as a single-family structure. The program will also include amendments to ensure the City of Oakland complies with Section 17021.6 of the Employee Housing Act, which require employee housing consisting of no more than 36 beds in a group quarters or 12 units designed for use by a single family or household to be deemed an agricultural land use.

## **PERMITS AND PROCESSING PROCEDURES**

### **Residential Permit Processing**

Housing development can be constrained by long permit processing timelines, which can create uncertainty, increase overall project costs, and ultimately make a project infeasible. A ministerial approval provides the shortest timeline, while a discretionary approval, particularly those with review in front of several adjudicatory bodies, can significantly add to the time required. The

necessary approval process depends on several factors, including the applicable zoning district, the project type, size, and complexity, and the degree to which the project is seeking modifications to the applicable development standards such as through variances, conditional use permits, rezoning, or general plan amendments. This section explores the typical process for a development application in Oakland, including when discretionary approval is required.

The City of Oakland administers the permit process through the Planning and Building Department. Basic steps that are typically required in the approval process include the following:

- **Pre-Application Meeting.** Proposals that involve multiple permit approvals or complex design considerations is typically initiated through a voluntary pre-application review process. The Pre-Application meeting involves the review of preliminary plans and photographs of a proposed project. At this time, staff will evaluate the proposal, review compliance with the General Plan and Planning Code, determine appropriate applications and fees, offer comments on the proposal to meet the General Plan objectives and Planning Code development standards, identify related non-planning issues, and describe the permit process and timeline.
- **Application for Development Review.** The Basic Application for Development Review is an application form filed to accompany all zoning permit applications, and is submitted along with site plans and/or other data to the Planning and Building Department. Significant discretionary actions are the subject of a public hearing before one of several hearing bodies, depending on the specific action.
- **Supplemental Planning Forms.** Most project applications require supplemental forms including findings for [Conditional Use Permits \(CUPs\)](#), design review, and variances.
- **Environmental Review.** Pursuant to the California Environmental Quality Act, projects are required to undergo environmental review to identify significant environmental impacts. Infill development consistent with the General Plan and zoning requirements may be exempt from such review. Depending on project size, environmental review typically takes between 6 and 9 months for projects consistent with the Oakland General Plan and between 12 and 36 months for more complex projects.

The time required to process an application depends primarily on the permit type, size, and complexity of the project and the number of approvals required. Typical timelines for common applications, as well as the relevant approval body, are provided below in Table F-17.

Permit applications for affordable housing developments, as with other multifamily projects, are "deemed complete" within 30 days of submittal. Generally, the City streamlines processes for the issuance of zoning and building permits for affordable housing projects. The City prioritizes affordable housing development during the entitlement process, and actively works with affordable housing developments to ensure that projects can smoothly go through the entire approval process. However, there is limited staff capacity to review projects which can increase the time required for permit approval. Affordable housing developers have emphasized the need for permit streamlining, approving projects by right, reducing permitting costs, and facilitating development on smaller sites.

**Table F-17: Application Processing Times, 2022**

<i>Application Type</i>	<i>Approval Body</i>	<i>Typical Processing Time<sup>1</sup></i>
Residential Design Review	Director of City Planning	9 months
Tentative Parcel Map	Director of City Planning	9-12 months
Parcel Map	City Engineer	5-9 months
Tentative Subdivision Map	Planning Commission	12 months
<del>Final Subdivision Map</del>	<del>City Council</del>	<del>9-15 months</del>
Major Conditional Use Permit	Planning Commission	9-12 months
Minor Conditional Use Permit	Director of City Planning	9 months
Planned Unit Development	Planning Commission	2 years
Development Agreement	Planning Commission & City Council	3 years
Variance—Major	Planning Commission	9-12 months
Variance—Minor	Director of City Planning	9 months
General Plan Amendment	Planning Commission & City Council	2-3 years
Rezone	Planning Commission & City Council	2-3 years

I. Does not include appeals.

Source: City of Oakland, 2022

Depending on project type and applicable zoning, a project application may be subject to discretionary review. As noted in Table F-4, single-family dwellings are permitted by right in almost every residential zoning district. Two-family dwellings require a CUP in the RD-2 and RM-1 districts, while multifamily dwellings require a CUP in the RM-2 and RM-3 districts. The most common forms of discretionary review and the general ministerial review process are described in further detail below.

**Ministerial Review**

Projects subject to ministerial review are permitted by right, meaning development approvals require little or no personal judgement by a public official and are granted through reference to objective standards. Although there are a variety of zoning districts in Oakland that permit multifamily development without a conditional use permit, most residential developments are subject to design review – a discretionary process discussed further below. Projects that are currently subject to by-right review that is not subject to CEQA are limited to ADUs, affordable housing and supportive housing streamlining projects (SB 35 and AB 2162), and SB 9 lot splits. Efforts to expand by-right procedures, including for Low Barrier Navigation Centers and affordable developments, are provided in the Housing Action Plan.

Affordable housing developments under Government Code Section 65913.4, commonly referred to as an SB 35 project, are subject to streamlined, ministerial approval. The City processed its first SB 35 affordable housing application in 2018. The City maintains and regularly updates an SB 35 streamlining checklist on its website.<sup>16</sup> Prior to submitting an application for streamlined

<sup>16</sup> <https://cao-94612.s3.amazonaws.com/documents/2021-New-Construction-NOFA-SB-35-Streamlining-Checklist-PDF.pdf>

ministerial approval under SB 35, an applicant must first submit a notice of intent pre-application to the City, which commences the tribal scoping consultation process in accordance with AB 168. Only when the tribal scoping consultation is completed may an applicant submit an application for streamlined ministerial approval. Approvals must be completed within 90 days of submittal (for proposed projects involving 150 or fewer units) or 180 days of submittal (for proposed projects containing more than 150 housing units). As ministerial approvals, these projects are not subject to CEQA under CEQA Guidelines Section 15268.

### **Design Review**

On December 19, 2006, the Oakland City Council adopted design review-related amendments to the Oakland Planning Code (Title 17). The design review framework reduces the number of different review procedures and uniformly applies those procedures citywide. Design review is intended to address the compatibility of new construction and additions with surrounding development and preserve the architectural quality of Oakland's housing stock. There are two types of residential design review processes – regular design review and small project design review (SPDR). Historic properties and landmarks may be subject to additional regulations. Applications for design review are processed concurrently with other planning permits.

Regular design review is required for the construction of all new dwelling units, except for [secondary accessory dwelling units \(i.e., ADUs\)](#), [projects streamlined under state law such as SB 35 and AB 2162](#), and those deemed exempt pursuant to Oakland Planning Code Section 17.136.025. Regular design review is a full review process that involves notification to all owners of property within 300 feet of the proposed project. The decision on a regular design review application can be appealed to the City Planning Commission or its Residential Appeals Committee. Projects are reviewed against a set of adopted residential design criteria as well as special design review findings of the individual zoning districts.

Regular design review applicants may submit for pre-application review, and may be requested to do so if the project is of a larger scale or involves a significant policy issue. As noted in Table F-17, residential design review is considered by the Director of City Planning. Residential design review approval may be granted only if the proposal conforms to all of the following general design review criteria, as well as to any and all other applicable design review criteria:

1. That the proposed design will create a building or set of buildings that are well related to the surrounding area in their setting, scale, bulk, height, materials, and textures;
2. That the proposed design will protect, preserve, or enhance desirable neighborhood characteristics;
3. That the proposed design will be sensitive to the topography and landscape;
4. That, if situated on a hill, the design and massing of the proposed building relates to the grade of the hill; and
5. That the proposed design conforms in all significant respects with the Oakland General Plan and with any applicable design review guidelines or criteria, district plan, or

development control map which have been adopted by the Planning Commission or City Council.

Application of these design review criteria can impact project cost and timing, and lead to applicant uncertainty about the project review process. As a result, the design review criteria can act as a constraint on housing construction. When evaluating projects for compliance with these criteria, Planning staff utilizes published design guidelines that include both objective and subjective criteria. Applicants are also often required to include photographs of adjacent properties to document the neighborhood context. Relying on both the design guidelines and an analysis of neighborhood context, Planning staff may request design changes to the project to meet the design review criteria. Addressing these comments can extend the approval process by requiring additional rounds of review and revisions to the project to meet the design review criteria. Depending on the project's context and an applicant's resources to make requested revisions, the design review process can add anywhere from weeks, to several months, to a year to the review process. For more complex projects, review of a project's compliance with the design review criteria is provided both at the staff level and through input from members of the Oakland Planning Commission Design Review Committee and other applicable boards. This might result in several rounds of revision and review, resulting in additional impacts to project cost and timing. To address this constraint, the Housing Action Plan proposes Action 3.4.7, the creation and implementation of objective design standards available to all housing development projects. Projects utilizing objective design standards will not be required to independently make findings of compliance with the regular design review criteria.

SPDR applies to all additions citywide of more than 10 percent, but not more than 1,000 square feet or 100 percent of the total floor area or footprint on site, whichever is less. There are three tracks for SPDR approval – based on whether a proposal involves a local register property and the size of an upper-story addition. SPDR was designed to have a quicker turnaround time than other types of zoning permits, including regular design review. A final decision on an application is usually made at the zoning counter, unless the proposal involves an upper-story addition of more than 250 square feet. For SPDR proposals involving an upper-story addition of more than 250 square feet, applicants are required to provide public notice of the project by displaying a large notice poster at the project site and by mailing notice along with a copy of the plans to all adjacent neighbors and properties directly across the street. There is no appeal of the SPDR decision, and approval shall be granted to applications that meet the following criteria:

1. That for Nonresidential Facilities and the nonresidential portions of Mixed-Use Development projects, the proposed design conforms with the adopted checklist criteria for nonresidential facilities, as may be amended;
2. That for Residential Facilities with one or two primary dwelling units and the residential portions of Mixed-Use Development projects with one or two primary dwelling units, the proposed design conforms with the adopted checklist criteria for facilities with one to two primary dwelling units, as may be amended;
3. That for Residential Facilities with three or more living units and the residential portions of Mixed-Use Development projects with three or more dwelling units, the proposed



design conforms with the adopted checklist criteria for facilities with three or more living units, as may be amended; and

4. That for Local Register Properties, the proposed project will not substantially impair the visual, architectural, or historic value of the affected site or facility.

Projects that involve designated historic properties are reviewed by the Landmarks Preservation Advisory Board. Design review of these properties is conducted concurrently with one of the design review procedures described above.

Design review can increase the approval timeline of a project significantly, especially when approval criteria are subjective. In Oakland, case by case design review of single-family homes and single-family home additions can create a bottleneck in the permitting process and diverts resources from other planning efforts. Further, State law requires that jurisdictions review new multifamily and residential mixed-use developments ministerially against objective standards. The City has already started a process to develop [new](#) procedures, regulations, and objective design and development standards to streamline the approval of housing. These standards will have a particular focus on much-needed affordable housing projects in transit-rich areas. This effort is described further as part of the Housing Action Plan.

### **Historic Preservation**

Oakland has a program for officially designating select landmarks and preservation districts, based on a set of a graduated system of ratings, designation programs, regulations, and incentives proportioned to each property's importance as established in the Historic Preservation Element. Landmarks and preservation districts—also referred to as S-7 and S-20 Zones—are nominated by owners, the City, or the public and are designated after public hearings by the Landmarks Board, Planning Commission, and City Council. Since the program began in 1973, about 140 individual landmarks have been designated, out of nearly 100,000 buildings in Oakland. There are currently nine designated preservation districts containing about 1,500 buildings. They include Preservation Park, Old Oakland-Victorian Row, and the Bellevue-Staten Apartment District along Lake Merritt in Adams Point, and Sheffield Village. Also included are Oak Center Historic District and 7th Street Commercial District in West Oakland.

The Landmarks Preservation Advisory Board or its staff reviews changes to any designated properties. The Board also advises on projects involving other historic properties. Design review for any modifications to these structures is conducted concurrently with the regular project review but may need to take into account the Board's monthly meeting schedule. A project that respects the historic character of the resource (e.g., by following the Secretary of the Interior's Standards for Rehabilitation) will have a faster and smoother review process. Design review fees are waived for Designated Historic Properties.

CEQA requires review of impacts on major historic resources. Demolition of a CEQA-level historic resource requires the preparation of an environmental impact review document. The City's requirements are consistent with State law. Many housing development projects use federal funds and require Section 106/National Historical Preservation Act review to avoid adverse effects on historic resources.

### **Conditional Use Permits (CUPs)**

The Planning Code allows two types of uses in each zoning district: permitted and conditional uses. CUPs help ensure the proper integration of uses and neighborhood compatibility and give the City flexibility if special conditions of approval are required. An application for a major CUP is considered by the Planning Commission at a noticed public hearing, while a minor CUP is subject to approval by the Director of City Planning. Minor CUP decisions can be appealed to the Planning Commission, while major CUP decisions can be appealed to the City Council. For a major CUP, the Commission decides whether the proposal is consistent with general use permit criteria, and has the authority to grant or deny the application. In order to grant a use permit, pursuant to Planning Code Section 17.134.050, the Planning Commission must make the following findings:

- That the location, size, design, and operating characteristics of the proposed development will be compatible with and will not adversely affect the livability or appropriate development of abutting properties and the surrounding neighborhood, with consideration to be given to harmony in scale, bulk, coverage, and density; to the availability of civic facilities and utilities; to harmful effect, if any, upon desirable neighborhood character; to the generation of traffic and the capacity of surrounding streets; and to any other relevant impact of the development;
- That the location, design, and site planning of the proposed development will provide a convenient and functional living, working, shopping, or civic environment, and will be as attractive as the nature of the use and its location and setting warrant;
- That the proposed development will enhance the successful operation of the surrounding area in its basic community functions, or will provide an essential service to the community or region;
- That the proposal conforms to all applicable regular design review criteria set forth in the regular design review procedure at Section 17.136.050;
- That the proposal conforms in all significant respects with the Oakland General Plan and with any other applicable guidelines or criteria, district plan or development control map which has been adopted by the Planning Commission or City Council; and
- For proposals involving a One- or Two-Family Residential Facility: If the CUP concerns a regulation governing maximum height, minimum yards, maximum lot coverage, or maximum FAR, the proposal also conforms with at least one of the following additional criteria:
  - The proposal when viewed in its entirety will not adversely impact abutting residences to the side, rear, or directly across the street with respect to solar access, view blockage and privacy to a degree greater than that which would be possible if the residence were built according to the applicable regulation, and, for CUPs that allow height increases, the proposal provides detailing, articulation or other design treatments that mitigate any bulk created by the additional height; or
  - At least sixty percent (60%) of the lots in the immediate context are already developed and the proposal would not exceed the corresponding as-built condition on these lots,

and, for CUPs that allow height increases, the proposal provides detailing, articulation or other design treatments that mitigate any bulk created by the additional height. The immediate context shall consist of the five (5) closest lots on each side of the project site plus the ten (10) closest lots on the opposite side of the street (see illustration I-4b); however, the Director of City Planning may make an alternative determination of immediate context based on specific site conditions. Such determination shall be in writing and included as part of any decision on any CUP.

As noted previously, most residential projects do not require a CUP in residential zoning districts. The requirement of a CUP for multifamily dwellings in the RM-2 and RM-3 districts, both of which permit small multifamily developments, is an identified constraint. The criteria for approval of a CUP in these districts is relatively subjective, which may especially prove a hinderance to affordable housing projects. Further, a CUP in the RM-3 district may only be granted upon determination that the proposal conforms to additional criteria involving impacts on the adjoining property and surrounding neighborhood, which include privacy, safety, and residential amenity considerations. The current CUP requirements for density in the RD and RM residential zoning districts pose a constraints for new housing development, and will be eliminated as part of the proposed code amendments.

### **Planned Unit Development (PUD)**

The planned unit development (PUD) procedure encourages design flexibility and offers varying special bonuses for worthwhile projects. This process is used to review a large integrated development that is appropriately designed for a single tract of land or contiguous parcels when there is one common owner.

PUDs require a development plan, which is considered for approval by the Planning Commission at a noticed public hearing. Commission findings are based on requirements set forth in Planning Code Section 17.140.080 and PUD regulations established in Planning Code Chapter 17.142. Applicants can appeal a Commission decision to the City Council within 10 calendar days. The PUD process applies to all rezone proposals, changes to the text of the Subdivision Ordinance, revisions to development control maps, or proposals affecting designated landmark or landmark sites.

### **Development Agreement**

An application for a ~~development agreement~~Development Agreement is heard by the City Planning Commission at a noticed public hearing. The Commission forwards its recommendations to the City Council ~~within ten days.~~ The City Council reviews the recommendation of the Planning Commission and may approve or disapprove the proposed ~~development agreement~~Development Agreement or approve it with changes and/or conditions. The decision of the Council is final.

### **Environmental Review**

Discretionary review of development projects, including residential development projects, are subject to CEQA. In general, CEQA requires the City to consider the potential environmental impacts of a development before approving the project. The process is intended to inform decisionmakers and the public about potential environmental impacts of proposed activities, and to identify ways to avoid or reduce those impacts. Projects that are required to prepare a comprehensive environmental evaluation, known as an Environmental Impact Report (EIR),

experience a prolonged approval time. Further, the potential for appeals of project under CEQA, and even CEQA lawsuits, create additional uncertainty for residential projects.

To the greatest extent possible, Oakland utilizes applicable categorical exemptions and streamlining provisions of CEQA for infill development projects that are consistent with existing land use general plan standards. Oakland has developed several specific plans, described above, and have prepared environmental impact reports for those plans that can be relied upon for residential projects that are proposed within the specific plan area. Categorical exemptions are available for the classes of projects generally considered not to have potential for impacts on the environment and are provided in CEQA Guidelines Sections 15300-15333. However, categorical exemptions are not available for projects when the project is located in a particularly sensitive environment, the cumulative impact of successive projects of the same time in the same place over time is significant, the project is located on a hazardous waste site, the project may cause a substantial adverse change in the significance of a historical resource, or where there is a reasonable possibility that the project will have significant effects on the environment due to other unusual circumstances.

### **Building Permits**

The time between entitlement and applying for a building permit generally depends on the size of a project. Typically, this timeline is six months for a one- to four-unit project, nine months for a five- to 99-unit project, and one year for a project over 100 units. A review of residential projects that received planning approvals between January 2018 and January 2022 shows that building permits for those projects were approved on average about 279 days after receiving the planning approval. Multifamily and single-family projects had similar timelines – 286 days and 260 days, respectively. Affordable projects had significantly longer timelines compared to market-rate projects (941 days and 251 days, respectively), which reflects both the length of time required to secure financing and the complexity associated with the generally higher-density nature of such projects in Oakland.

As discussed above, there are multiple steps involved in the building permit approval process, including Plan Check and Fire Prevention Bureau review. Review times vary depending on the complexity of the project. Developers can check their permit status on the City's Online Permit Center.<sup>17</sup> Average permit processing turnaround times are provided in Table F-18 below.

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<sup>17</sup> <https://aca-prod.accela.com/OAKLAND/Default.aspx>

**Table F-18: Average Permit Processing Turnaround Times, 2022**

<i>Permit/Review Type</i>	<i>Typical Processing Time</i>
Planning and Zoning Counter Review <sup>1</sup>	2 weeks
Over the Counter (OTC) Permits <sup>2</sup>	2-3 weeks
Permits with assigned Plan Check	Up to 8 weeks
Windows, Kitchen/Bath Remodels <sup>3</sup>	Up to 5 days for review
Mechanical, Electrical, or Plumbing Permits (MEPs)	Up to 5 days for review
Solar Energy Systems	Up to 10 days for review
ADUs with assigned Plan Check	Up to 3 weeks for creation and submittal review
Final Plan Check <sup>4</sup>	5-7 weeks
Issuance of Permit <sup>5</sup>	Up to 5 days

1. Processing times apply to the creation and review for most application types (DRX, ZC, DET, DS).

2. OTC Permits that require Plan Check take up to 7 weeks.

3. No wall change, water heater replacement, and no Plan Check required (requires no appointments).

4. After Plan Check approval.

5. Once payment is received, final plan check is completed, signed declarations have been returned, and fire and construction and recycling is completed.

Source: City of Oakland, Planning and Building Department, January 7, 2022

### **Consistency with the Housing Accountability Act**

The California Housing Accountability Act was enacted in 1982 with the goal of “meaningfully and effectively curbing the capability of local governments to deny, reduce the density for, or render infeasible housing development projects.” The Act has been amended in recent years with the goal of clarifying its requirements, achieving broader compliance and imposing greater consequences for noncompliance. Among the new requirements is that the City review completed housing applications for consistency with applicable objective development standards within 30 days after an application for a discretionary action has been deemed complete if the proposed project has less than 150 units, or within 60 days if the project has more than 150 units. If the City does not provide an applicant with written documentation explaining how the project is inconsistent with objective standards, then the project is deemed consistent with that requirement. The City has incorporated this practice into its project review.

### **Consistency with the Housing Crisis Act**

The Housing Crisis Act of 2019 amended existing State planning and zoning laws with the objectives of increasing housing production of housing, preserving existing units, and protecting current tenants. Oakland has taken a number of steps to implement SB 330. First, Oakland Planning has created a Vesting Preliminary Application form to implement the Vesting Preliminary Application process, a State-mandated application process available to all housing development projects intended to provide certainty to an applicant by locking in the development requirements, standards, and fees applicable to a project at the time a Vesting Preliminary Application is submitted. Second, Oakland Planning has updated its Basic Application for Development Review to require that applicants include information regarding existing tenants and protected units at the site proposed for development and to include supporting documentation. Satisfaction of the

replacement unit and obligations is implemented through City of Oakland Standard Conditions of Approval in a manner substantially similar to the condition imposed on density bonus projects. Finally, Planning has created a standard operating procedure bulletin providing staff with background on the additional requirements newly created under the Housing Crisis Act to ensure consistency in implementation.

### **Typical Residential Densities**

Pursuant to State law, jurisdictions must assess requests to develop housing at lower than anticipated densities. Based on the survey of recently approved projects between 2018 and 2021 included in Appendix C, most projects in Oakland develop near or above the maximum permitted density. On average, projects that received a building permit during this period developed at 92.7 percent of permitted density by zone and building height area. Further, projects that received planning approvals but have not yet developed were approved to develop at 215.9 percent of permitted density by zone and building height area – largely due to the use of density bonus provisions.

### **PERMIT AND DEVELOPMENT FEES**

The City of Oakland and other public agencies charge a number of planning, building, and engineering fees to cover the cost of processing development requests and providing public facilities and services to new development. Payment of these fees can have an impact on the cost of housing, particularly affordable housing. Fees are limited by State law, which requires that “a public agency may not charge applicants a fee that exceeds the amount reasonably necessary” to provide basic permit processing services (California Government Code Sec. 65943 (e)).

### **Typical Fees**

On May 3, 2016, the City Council adopted the Affordable Housing Impact Fees Ordinance. Development projects submitting building permit applications on or after September 1, 2016, are subject to the fees. Fees for water and sewer services are charged by the East Bay Municipal Utility District (EBMUD). Although the City has no direct responsibility for the fees or services provided, Oakland does work with EBMUD on its development review processes to ensure that fees are reasonable, are related to the impacts created by new development, and that new development can be served by EBMUD.

Three example developments are used in Table F-19 to illustrate the total cost of fees for planning, building and infrastructure. The market value for these developments is derived from the applicable Zillow Home Value Index (ZHVI) as discussed in Appendix B, and all units are assumed to be market rate. These example developments are defined as follows:

- Single-family: One 1,850 square-foot, three-bedroom, two-bath, and two-story home with one parking space and an assumed market value of \$966,329.
- Small Multifamily: A five-unit, 4,250 square-foot, and two-story development with two parking spaces and an assumed total market value of \$2,867,505; each unit is assumed to be an 850 square-foot, one-bedroom, and one-bath dwelling unit with an assumed market value of \$573,501.

- Large Multifamily: A 40-unit, 34,000 square-foot, and five-story development with 22 parking spaces and an assumed total market value of \$22,940,040; each unit is assumed to be an 850 square-foot, one-bedroom, and one-bath dwelling unit with an assumed market value of \$573,501.

Table F-19 below summarizes the major local costs that a developer would have to bear in undertaking a new residential development in Oakland. It should be noted that this is not a comprehensive list of all fees, but rather a reflection of fees that are typically required.

Depending on the Impact Fee Zone, typical fees for a single-family project would be between \$95,927 to \$114,881 including utility service charges. Typical fees (including utilities) for a large multifamily project would be between \$2,319,365 to \$2,782,685, or \$57,984 to \$69,567 per unit. For a small multifamily project, these fees would be between \$345,033 to \$402,948, or \$69,007 to \$80,590 per unit.

**Table F-19: Typical Permit and Development Fees, 2022**

<i>Fee Type</i>	<i>Single-Family<sup>1</sup></i>	<i>Small Multifamily<sup>1</sup></i>	<i>Large Multifamily<sup>1</sup></i>
<b>Building Plan Check, Permit, and Inspection Fees</b>			
Inspection Fee	\$7,582	\$19,406	\$144,260
Plan Check Routed	\$9,477	\$24,257	\$180,325
General Plan Update	\$5,798	\$17,205	\$137,640
SMIP	\$271	\$803	\$6,423
Process Coordination	\$227	\$582	\$4,328
Zoning Conditions	\$1,855	\$6,890	\$17,640
Zoning Inspections	\$1,180	\$3,251	\$10,000
Site Plan Review; Parking Review; Site Monitoring	\$1,645	\$1,645	\$1,915
Certificate of Occupancy	\$762	\$762	\$762
Address Fee	\$53	\$53	\$53
Bedroom Tax (OA -08721)	\$300	\$500	\$4,000
Application Fee	\$76	\$76	\$76
Field Check	\$218	\$218	\$218
CBSC	\$38	\$114	\$917
Plumbing Inspections	\$1,137	\$2,911	\$21,639
Electrical Inspections	\$1,137	\$2,911	\$21,639
Mechanical Inspections	\$1,137	\$2,911	\$21,639
<b>Infrastructure, Impact, and District Fees</b>			
City Impact Fee—Records Management & Technology Enhancement 14.75%	\$5,965	\$15,021	\$105,048
City Impact Fee—Affordable Housing <sup>2</sup>	\$8,424 – \$24,219	\$63,180 – \$115,830	\$505,440 – \$926,640
City Impact Fee—Capital Improvement <sup>2</sup>	\$1,053 – \$4,212	\$1,315 – \$6,580	\$10,520 – \$52,640
City Impact Fee—Transportation	\$1,053	\$3,950	\$31,600
City Impact Fee—School Tax (School Tax 97% + School Tax City 3%)	\$6,438	\$17,340	\$118,320
City Sewer Laterals—New Building Connection including tap inspection	\$1,043	\$1,043	\$1,043
EBMUD—Installation Fee <sup>3</sup>	\$14,898	\$74,490	\$595,920
EBMUD—System Capacity Charge <sup>3</sup>	\$21,250	\$73,900	\$295,600



**Table F-19: Typical Permit and Development Fees, 2022**

<i>Fee Type</i>	<i>Single-Family<sup>1</sup></i>	<i>Small Multifamily<sup>1</sup></i>	<i>Large Multifamily<sup>1</sup></i>
EBMUD—Wastewater Capacity Fee <sup>3</sup>	\$2,850	\$10,000	\$80,000
EBMUD—Account Fee <sup>3</sup>	\$60	\$300	\$2,400
<b>Total Project Fees</b>	<b>\$95,927 – \$114,881</b>	<b>\$345,033 – \$402,948</b>	<b>\$2,319,365 – \$2,782,685</b>
<b>Total Fees per Unit</b>	<b>\$95,927 – \$114,881</b>	<b>\$69,007 – \$80,690</b>	<b>\$57,583 – \$69,166</b>

1. Fees are rounded to the nearest dollar.

2. Total fees depend on which Impact Fee Zone the project is located in.

3. Assumes a paved 1-1/2" lateral, calculated for Principal Region I. One meter per unit, and fees are per unit.

Source: City of Oakland, *Master Fee Schedule and Fee Estimator with Impact Fees, January 2022*; EBMUD, *Water and Wastewater System Schedules of Rates and Charges, Capacity Charges and Other Fees, July 2021*

## Assessment of City Fees

See Table F-20 for a comparison of typical planning and impact fees between Oakland and other Bay Area cities, including Berkeley, Emeryville, Richmond, San Francisco, and San Jose.<sup>18</sup> The project types assessed are equivalent to those assumed for Table F-19 above. Utilities and environmental review costs are not considered in this comparison. It should be noted that the estimates provided in Table F-20 do not provide a comprehensive overview of all fees but rather a comparison of typical fees.

**Table F-20: Bay Area Residential Fees, 2021**

City	Typical Single-Family		Typical Small Multifamily		Typical Large Multifamily	
	Total Project	Fees per Unit	Total Project	Fees per Unit	Total Project	Fees per Unit
Oakland <sup>1</sup>	\$64,782	\$64,782	\$210,453	\$21,045	\$1,570,564	\$39,264
Berkeley <sup>2</sup>	\$85,078	\$85,078	\$531,787	\$53,179	\$2,663,761	\$66,594
Emeryville <sup>3</sup>	\$38,766	\$38,766	\$459,138	\$45,914	\$2,191,520	\$54,788
Richmond <sup>4</sup>	\$79,474	\$79,474	\$246,449	\$24,645	\$1,702,559	\$42,564
San Francisco <sup>5</sup>	\$32,122	\$32,122	\$268,271	\$26,827	\$2,983,884	\$74,597
San Jose <sup>6</sup>	\$67,291	\$67,291	\$257,428	\$25,743	\$2,487,047	\$62,176

1. Does not include utilities (i.e., EBMUD and sewer fees) and assumes the average fee across the three Impact Zones.
2. Includes the following fees: Permit Fee, Plan Check Fee, Fire Plan Check Fee, Title 24 Disabled Access Fee, Title 24 Energy Compliance Fee, Community Planning Fee, Sustainable Development Fee, Technology Enhancement Fee, Building Standards Fee, Strong Motion Instrumentation Fee, Filing Fee, Affordable Housing Mitigation Fee.
3. Includes the following fees: Building Permit, General Plan Maintenance, Technology Fee, Plan Check, Energy Conservation, Electrical/Plumbing/Mechanical Permits, SMIP, School Fees, CBSC Fees, Impact Fees (Affordable Housing, Park and Recreation Facility, and Transportation Facility).
4. Includes the following fees: Inclusionary Housing Fee (In-Lieu Fee), Park Land Dedication Fee, STMP Fee, CBSC Fee, SMIP Fee, Public Art Fee, Residential Rental Dwelling Unit Inspection and Maintenance Fee, Code Compliance Inspection Fee, Building Permit Fees – Filing, Building Permit Tech Fee, Building Permit, Comprehensive Planning Fee, Plan Check, Electrical Permit Fees, Plumbing Permit Fees, Mechanical Permit Fees.
5. Includes the following fees: Building Permit Planning Review, Preliminary Project Assessment, Pre-Application Meeting, Transportation Demand Management (TDM) Program, Inclusionary Affordable Housing Fee, Child Care Fee, School Impact Fee, Transportation Sustainability Fee (TSF).
6. Includes the following fees: Residential Site or Planned Development Permit or Amendment, Planning Permit Conformance, Zoning and Use Conformance, Plot Plan Review, Single-Family House Permits, Building Permit Fees, Electrical/Plumbing/Mechanical Permit Fees, Commercial/Residential/Mobile Home Park Construction Tax, Building and Structure Construction Tax, Residential Construction Tax, Construction Tax, SMIPA, BSARF, Inclusionary Housing Ordinance (IHO).

Source: City of Oakland, Master Fee Schedule and Fee Estimator with Impact Fees, July 2021; City of Berkeley, Building Permit Fee Estimator, 2022 and Affordable Housing Mitigation Fee Ordinance, October 2020; City of Emeryville, Master Fee Schedule, July 2021 and Development Impact Fees, FY 2020-2021; City of Richmond, Master Fee Schedule, July 2020; City of San Francisco, Development Impact Fee Register, December 2021 and Planning Department Fee Schedule, August 2021; City of San Jose, Planning Application Filing Fee Schedule, August 2021, Building and Structure Permits Fee Schedule, August 2021, and Inclusionary Housing Ordinance Schedule of Fees, April 2021

<sup>18</sup> Comparison fees are based on Oakland’s July 2021 Master Fee Schedule—which differs from estimates provided in Table F-19—to provide a more accurate comparison across jurisdictions.

Oakland fees are comparable to those of neighboring jurisdictions, and for typical small and large multifamily development, the lowest of the neighboring or larger regional cities, as shown Table F-20. In Oakland, ADUs and affordable housing projects are exempt from Affordable Housing Impact Fees and the Capital Improvements Impact Fee, while ADUs are also exempt from the Transportation Impact Fee. The City provides financial assistance to affordable housing projects by paying fees from one or more housing fund sources, such as Community Development Block Grant (CDBG) funds or HOME program funds. Permit and other development fees are eligible costs that can be funded through these sources.

### **Cumulative Analysis**

A number of the City’s land use policies and regulations currently present barriers to developing housing units affordable to people with lower incomes. As described above, Oakland’s residential land is currently zoned to maintain single-family development. Housing Action Plan action 3.2.1 encourage “missing middle” housing types and zoning standards for two, three, and four units on parcels in these single family zones. Action 3.4.1 revises development standards to allow for increased height and densities in transit-proximate and resource-rich areas, and Action 3.4.3 revises conditional use permit requirements to permit multi-unit buildings by-right in RD and RM zones. Other revised standards, such as parking (action 3.4.4), open space (action 3.4.5) further reduce constraints.

See Appendix J for more information on these zoning actions. It is expected that these changes will help address land use policy and regulation constraints that currently limit affordable housing production and promote more integrated neighborhoods.

### **TRANSPARENCY IN DEVELOPMENT REGULATIONS**

Under State Government Code Section 65940.1, the City is obligated to provide transparency in publicizing land use controls and fees. The City’s website provides a variety of resources to assist interested parties in navigating the development process. Planning and building permit fees, including the Master Fee Schedule, as well as project requirements are posted under the Planning and Building Department’s webpage.<sup>19</sup> This page also provides access to other zoning and City plan requirements, design guidelines, forms and codes, and impact fee reports. Contact information, including a phone number and email address, is also provided at the bottom of the page.

The City actively solicits input and feedback on ways to improve planning, land use and zoning practices from practitioners and stakeholders. This has been very effective in the past, and the City will continue to engage in such outreach.

## **F.2 Non-Governmental Constraints**

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Fundamentally, the City is only one of many actors involved in the development of housing with limited control. While the City plans for sites and provides programs, the actual production, availability, and cost of housing in Oakland is significantly impacted by non-governmental factors, many of which are common to other similar cities in the Bay Area, including the high cost of

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<sup>19</sup> <https://www.oaklandca.gov/topics/planning-and-building-permit-fees>

construction and greater difficulties of producing housing through redevelopment in an already-developed, central city such as Oakland.

## **ENVIRONMENTAL CONSTRAINTS**

The most noteworthy environmental constraints in Oakland include the following:

- **Geology/seismicity.** The Hayward Fault, located at the base of the hills on the eastern edge of the City, has a 31.0 percent chance of producing a major earthquake within the next 30 years and would cause significant damage.<sup>20</sup> The Fault Zone is along the hills and does not include significant development sites and is thus not a major constraint to housing. In the event of an earthquake, soil liquefaction is also a major concern in Oakland. The flat-land areas of Oakland are at the highest risk of liquefaction.
- **Sea-level rise.** Low-lying coastal residential areas, the Port of Oakland, the former Oakland Army Base, and a variety of low-lying areas near the Coliseum, Oakland International Airport, and Interstate 880 are most at risk of coastal flooding. According to the Bay Conservation and Development Commission, Oakland is expected to experience 12 to 24 inches of sea level rise by 2050 and 36 to 66 inches of sea level rise by the year 2100. Almost all areas that would be subject to sea level rise are zoned for industrial rather than residential use; thus sea level rise is not a significant constraint for housing.
- **Hydrology and flooding.** The combination of higher tides due to sea level rise and larger storms with Oakland's aging stormwater drainage systems may lead to significant increases in both coastal and urban flooding and flood damage. Low-lying areas, such as the Coliseum, West Oakland, and Jack London neighborhoods, are particularly vulnerable to coastal (Bay) and urban floods. However, the vast majority of land located within the Federal Emergency Management Agency's (FEMA) 100-year flood zone does not permit residential uses; thus flooding is not a significant constraint for housing.
- **Air and noise quality.** Through Community Air Risk Evaluation (CARE) Program, the Bay Area Air Quality Management District (BAAQMD) identified East and West Oakland as communities disproportionately impacted by air pollution in the Bay Area. Residential areas adjacent to industrial areas or major highways tend to experience worse air quality impacts. Title 24 and City regulations require air filtering and other methods to promote indoor air quality in new construction, and development adjacent to freeways would also require noise insulation to ensure indoor noise levels in compliance with the State Building Code. While these are not constraints to development, they do result in increased development costs. Poor air and noise quality also results in lower appeal to some potential buyers or renters. While not necessarily a development constraint, poor air and noise quality have significant severe health disparities in existing Environmental Justice (EJ) neighborhoods, which is explored further in the EJ Element and Safety Element.

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<sup>20</sup> *Resilient Oakland Playbook*, October 10, 2016. See report at <https://cao-94612.s3.amazonaws.com/documents/OAK061006.pdf>

- **Wildfire.** Wildfire hazards are particularly acute in the Oakland Hills, and the Oakland Hills Firestorm of 1991 was the most destructive fire in California history. Oakland is at extreme risk for future wildfires due to the increased frequency of droughts and higher heats caused by climate change. Virtually the entirety of the Oakland Hills has been designated as a Very High Fire Hazard Severity Zone (VHFSV). Due to the danger posed by wildfires, including blocked evacuation routes, the hills are generally not a suitable location for higher density housing.
- **Airport hazards.** Land adjacent to the Oakland International Airport is governed by the development restrictions laid out in the Oakland International Airport Land Use Compatibility Plan (ALUCP). Residential development criteria depends upon the applicable Safety Zone, and the maximum community noise equivalent level (CNEL) considered acceptable for new residential uses in the vicinity of the airport is anything less than 65 CNEL. Further, any proposed development taller than 200 feet is subject to review pursuant to the ALUCP. No sites included in the 2023-2031 Housing Sites Inventory are located within an Airport Safety Zone.
- **Hazardous materials.** As a dense urban center with long-established industrial areas in West and East Oakland, and extensive freeway and rail networks, Oakland faces the risk of a transportation-related or other hazardous materials incident, such as a fire, explosion, spill or accidental gas release. While hazardous material incidents can happen anywhere, certain areas of the City are particularly vulnerable to these hazards, particularly residents near industrial zones and along interstate highways. Sites, especially those where formerly industrial or other uses (such as gas stations) may have caused ground contamination, would require expensive mitigation efforts prior to development.

The City proactively addresses problems associated with environmental hazards, including providing assistance in financing and cleanup activities to interested developers. The City's 2021-2026 Local Hazard Mitigation Plan (LHMP) both assessed the risks to the City and people of Oakland from both natural and human-caused hazards, and provided an implementation plan to reduce those risks. The City's Safety Element is also being updated in parallel with the Housing Element to ensure that environmental conditions are fully reflected in planning for housing, and ensuring public health and safety.

## INFRASTRUCTURE CONSTRAINTS

### Water and Sewer Services

EBMUD provides water services for Alameda and Contra Costa counties, and charges fees for water and sewer services. According to EBMUD's 2020 Water Shortage Contingency Plan (WSCP), under base condition assumptions, EBMUD can meet customer demand (including residential demand) out to 2050 during normal years and single dry years; however, during multi-year droughts, even with customer demand reduction measures in place, EBMUD will need to obtain supplemental supplies to meet customer demands. Growth projections in EBMUD's future water demand reflects residential need projections provided by the Association of Bay Area Governments (ABAG), Plan Bay Area, and local land use agencies.

Oakland Public Work's Bureau of Design and Construction and Bureau of Maintenance and Internal Services owns and operates over 934 miles of sewer mains, 28,554 sewer structures, and 11 pump stations. Most of the system is more than 50 years old, and some parts are as old as 100 years. Oakland does not own or operate wastewater treatment facilities. Wastewater from homes and businesses is collected through the City's sewer collection system and flows into EBMUD's interceptor system, where it is conveyed to their treatment plant.

The development of the City's Sanitary Sewer Master Plan is currently underway, which seeks to repair aged sanitary sewer infrastructures (mainly pipes and maintenance holes) and to reduce stormwater intrusion and sanitary sewer overflows to protect public health. The master plan will provide technical guidance to both the sanitary sewer rehabilitation capital improvement program (CIP) and the sanitary sewer operation and maintenance program (O&M) in compliance with the 2014 Consent Decree for the next 17 years. The master plan project incorporates equity factors into the prioritization plan, applies risk-based analytical approach while mitigating inflow/infiltration issues effectively and efficiently, and updates the sewer hydraulic model from large to small diameter pipes.

The draft Housing Element was provided to EBMUD on May 12th, 2022 to solicit input and coordinate efforts prior to adoption per HCD guidance. In accordance with Section 65589.7 of the California Government Code, the adopted Housing Element will also be delivered to EBMUD. Per the 2020 Urban Water Management Plan (UWMP), EBMUD's Board of Directors approved Policy 3.07 which ensures that priority for new water service connections during restrictive periods is given to proposed developments within EBMUD's existing service area that include housing units affordable to lower-income households in accordance with California Government Code 65589.7. Policy 3.07 also states that EBMUD will not deny an application for services to a proposed development that includes affordable housing unless certain specific conditions are met which could include a water shortage emergency condition, or if EBMUD is subject to a compliance order by the Department of Public Health that prohibits new water connections. Based on the requirement to provide priority to developments that include housing units affordable to lower-income households, Policy 3.07 assures that the portion of overall water demands for lower-income households can be met.

Under typical conditions, there is sufficient water and sewer capacity to meet Oakland's future housing needs.

### **Dry Utilities**

Oakland, as well as the entire nine-county Bay Area, is served by the Pacific Gas and Electric Company (PG&E), an investor-owned utility company that provides electricity and natural gas supplies and services throughout a vast service area in Northern California. East Bay Community Energy (EBCE) is a community-governed, local power supplier that provides low-carbon electricity to Oakland residents and businesses under Alameda County's community choice energy (CCE) program at rates that are lower or comparable to PG&E's rates. EBCE's standard electricity product that has a higher renewable energy content than PG&E at rates marginally lower than PG&E's base offering. It also provides a 100 percent renewable product at a rate equivalent to PG&E's base offering. Further, internet connections in the city are provided by Comcast.

## MARKET CONSTRAINTS

### Land Costs

Market prices for land are high in the desirable, high-cost San Francisco Bay Area. As evidenced in Appendix B, housing costs have continued to dramatically increase since recovering from the 2008 financial crisis. The desirability and acceptability of locations in Oakland and other inner cities has increased within the region. Demand is increasing for housing close to employment centers such as Oakland and San Francisco and is likely to continue to be relatively strong given the demand for locations near urban centers. Additionally, Oakland's urban character and comparatively lower costs have made the city an increasingly desirable alternative to higher-cost areas nearby, particularly to San Francisco across the bay – Oakland has the second fastest population increase (behind Bakersfield) of the 12 most populous California cities between 2010 and 2021.<sup>21</sup> Finally, there are efforts by ABAG to encourage infill development in cities such as Oakland.

It is important to note that there are significant variations in the price of land within Oakland. The city has some of the highest residential land values in the Bay region (such as in older desirable neighborhoods such as Rockridge and the Oakland hills with views of San Francisco Bay) and some of the lowest as well (such as in older, working-class neighborhoods in the vicinity of the I-880 freeway and older industrial areas).

Land acquisition cost estimates for the development of affordable housing in Oakland are available from recent California Tax Credit Allocation Committee (TCAC) project tax credit applications. Estimates include projects that applied for a tax credit between 2017 and 2020, and are provided in Table F-21. Overall, land acquisition costs for new construction are about \$40 per square foot. This remains similar to estimates from the City's previous Housing Element, which estimated costs between \$13 to \$47 per square foot (2014 values). While new construction land costs have remained stable across the period, the per square foot costs for acquisition and rehabilitation projects has continued to increase. During the period, land/acquisition costs accounted for about 27.5 percent of total project costs for all project types.

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<sup>21</sup> Based on California Department of Finance E-5 Population and Housing Estimates, 2010-2021.

**Table F-21: Land Costs for Affordable Housing Projects in Oakland, 2017-2020**

Project Year	Average Total Land/Acquisition Cost <sup>1</sup>		Average Land/Acquisition Cost Per Sq. Ft.	
	Acquisition & Rehab	New Construction	Acquisition & Rehab	New Construction
2017	\$16,438,358	\$928,967	\$291	\$20
2018	\$31,136,874	\$2,910,464	\$343	\$38
2019	\$55,317,500	\$2,654,171	\$536	\$71
2020	\$32,895,737	\$1,695,021	\$577	\$25
<b>Total</b>	<b>\$31,870,897</b>	<b>\$2,121,702</b>	<b>\$415</b>	<b>\$40</b>

1. Land/acquisition costs include project costs related to land costs or value, demolition, legal, land lease rent prepayment, existing improvements value, and off-site improvements.

Source: California Tax Credit Allocation Committee, Project Staff Reports 2017-2020; Dyett & Bhatia, 2022

If land costs remain at current levels or continue to increase, the City can do little to directly affect the cost of land other than continue to provide opportunities for increased residential densities, housing on underutilized sites and locations with potential for mixed-use development, and housing on infill properties. Regardless, these measures will not lead to actual construction if the higher construction costs associated with more dense and taller development is not recoverable in the form of higher rents or sale prices.

### **Costs for Urban Infill**

Oakland does not have large, vacant, unconstrained parcels, and must rely on infill development strategies to accommodate its ABAG-assigned regional housing allocation. There are a variety of uncertainties, difficulties, and additional costs associated with development of these types of sites that pose constraints for new housing development. Some of these include:

- **Redevelopment Difficulty and Costs.** The total cost of “land” for developing infill sites or redeveloping under-used sites includes not only land acquisition, but also additional costs of demolishing existing structures and site clean-up. Costs for relocating existing uses and/or compensating existing users are also frequently a required expense in the calculation of the total cost of land development in Oakland. Thus, total “land” costs for urban infill development are generally greater than the land/site acquisition costs alone.
- **Parcel Sizes and Achievable Densities.** Oakland has only a few moderate-sized commercial sites that could be repurposed to housing or mixed-use development. Notably, Oakland lacks any large suburban-size malls. The corridor with some of the largest commercial sites—the former “auto-row” along Broadway has been significantly redeveloped with housing over the past decade, with several developments achieving over 100 units per acre densities. Other corridors—such as San Pablo Avenue, International Boulevard, and Macarthur Boulevard—have generally smaller parcels, and lot consolidation would be needed to achieve high densities.



## Construction Costs

The costs of constructing housing in the Bay Area are high. Construction costs can be separated into “hard” and “soft” costs. Hard costs include construction line items such as labor, demolition, building materials and installed components. Soft costs include items such as architectural and engineering, planning approvals and permits, taxes and insurance, financing and carrying costs, and marketing costs. The hard construction costs typically represent about 50 to 60 percent of total development costs. Thus, they have a significant effect on development feasibility. Land and soft costs can represent another 40 to 50 percent of the total cost of building housing.

Construction costs for higher-rise concrete and steel-frame multifamily buildings are higher than for wood-frame construction. In fact, the higher costs for steel- and concrete-frame construction are a significant factor limiting the feasibility of high-density housing development in Oakland. This continues to be the case for Oakland as concrete- and steel-frame buildings are only being built in Oakland at locations that can attract the highest housing prices and rents (such as on the shores of Lake Merritt, Jack London District, and the Broadway Valdez area, north of downtown). There are also a few examples of concrete- and steel-frame construction for more affordable, higher density senior housing. For all types of construction, structured or underground parking would result in still higher construction costs.

The Incentive Program Feasibility Study<sup>22</sup> prepared for the Downtown Oakland Specific Plan in July 2020 provides estimates of more recent market-rate construction costs. Building construction costs range from \$290 to \$400 per gross square foot, not including parking construction costs of about \$60,000 per space. Table F-22 summarizes development cost assumptions as identified in the Study. For the Study, eight mixed-use development prototypes were selected and a “static” (i.e., stabilized year) pro forma financial feasibility model was prepared for each. A description of each prototype is as follows:

- Prototype 1: Base zoning office high-rise upzoned to a higher density office high-rise
- Prototype 2: Base zoning residential high-rise upzoned to higher density residential
- Prototype 3: Base zoning residential mid-rise upzoned to residential high-rise
- Prototype 4: Base zoning residential low-rise upzoned to residential high-rise
- Prototype 5: Base zoning residential mid-rise upzoned to higher density residential midrise
- Prototype 6: Base zoning low-rise office upzoned to residential high-rise
- Prototype 7: Base zoning low-rise office upzoned to residential high-rise
- Prototype 8: Base zoning low-rise office upzoned to residential high-rise

<sup>22</sup> *Downtown Oakland Specific Plan: Incentive Program Feasibility Study*, July 10, 2020. See report at <https://www.oaklandca.gov/documents/zoning-incentive-feasibility-study>

**Table F-22: Downtown Oakland Specific Plan Development Cost Assumptions, 2020**

Prototype No.	Neighborhood	Assumed Construction Type <sup>1,2</sup>	Building Cost (per gross sq. ft.) <sup>2</sup>
Prototype 1	Uptown Office	Type I	\$370
Prototype 2	Uptown Residential	Type I	\$400
Prototype 3	KONO Residential	Type III	\$320
Prototype 4	Jack London Residential	Type V	\$290
Prototype 5	KONO Residential	Type III	\$350
Prototype 6	Jack London “Office” to Res.	Type III	\$320
Prototype 7	Jack London “Office” to Res.	Type III	\$320
Prototype 8	Victory Court “Office” to Res.	Type III	\$320

1. Type I – Fire resistive (concrete and steel structure); Type III – Ordinary (Brick-and-joist structure); Type V – Wood-framed

2. Estimates derived from Base Zoning scenario.

Source: Economic & Planning Systems, Inc., Downtown Oakland Specific Plan: Incentive Program Feasibility Study, July 2020

Estimated construction costs for affordable housing in Oakland are available from recent TCAC project tax credit applications. Estimates include projects that applied for a tax credit between 2017 and 2020, and are provided in Table F-23. Overall, construction costs for affordable projects are about \$340 per square foot. On average, construction costs accounted for about 42.9 percent of total project costs during the period.

**Table F-23: Construction Costs for Affordable Housing Projects in Oakland, 2017-2020**

Project Year	Average Total Construction Cost <sup>1</sup>	Average Construction Cost Per Sq. Ft.
2017	\$14,804,026	\$261
2018	\$32,503,149	\$362
2019	\$20,405,105	\$439
2020	\$27,351,394	\$295
<b>Total</b>	<b>\$24,830,103</b>	<b>\$340</b>

1. Includes new construction and rehab projects.

Source: California Tax Credit Allocation Committee, Project Staff Reports, 2017-2020

The construction costs and total costs of developing housing in Oakland, while not different from those in other Bay Area communities, present serious constraints to the availability of housing, particularly housing affordable to lower-income households. Even with the adoption of an Affordable Housing Impact Fee, it remains difficult to raise enough funding to build affordable housing, especially housing for extremely-low-income households. To address these constraints,

there are several housing programs in Oakland to support affordable housing development, including loans and grants to developers of low- and moderate-income housing. See Appendix E for a discussion of available housing resources.

### **Labor Costs**

As noted above, labor costs are a portion of the hard costs of construction. Market factors resulting in high construction costs are further compounded for affordable housing providers because they must pay “prevailing wages.” The City imposes additional Contract Compliance requirements beyond prevailing wages as well. For instance, construction contracts greater than \$100,000 must achieve 50 percent participation in the Local and Small Local Business Enterprise Program (S/LBE), which increases project costs. Generally, the cost of labor in Oakland remains high and can often constitute a significant portion of total project costs. Rising labor costs may make certain housing developments—both market rate and affordable—not feasible in the city.

A shortage of labor can significantly increase construction costs, as it increases both labor costs and the time necessary to complete the development of a project. The 2015-2019 American Community Survey (ACS) estimates that there are 13,630 persons employed in the construction industry in Oakland, representing 6.0 percent of the labor force that year. This was higher than the county (5.3 percent) and wider Bay Area (5.6 percent). In Oakland, this also represents an increase from 5.6 percent in 2014, per the 2010-2014 ACS.

The California Employment Development Department (EDD) estimates that the annual average unemployment rate in 2020 for Oakland was 10.5 percent, while it was 8.8 percent for the large Oakland-Hayward-Berkeley Metropolitan Division (MD). These unusually high employment rates were caused by the COVID-19 health emergency and economic crisis. Table F-24 below shows that while these rates approach those seen in 2010 following the 2008 financial collapse, they have since returned to pre-COVID levels. As employment rates have largely recovered, this indicates that labor is generally available in the city and metropolitan region.

**Table F-24: Unemployment Rates, 2010-2021**

<i>Jurisdiction</i>	<i>2010</i>	<i>2015</i>	<i>2020</i>	<i>October 2021</i>
Oakland	13.6%	5.9%	10.5%	6.1%
Oakland-Hayward-Berkeley Metropolitan Division	11.2%	4.9%	8.8%	5.1%

*Source: California Employment Development Department, Local Area Unemployment Statistics, Annual Average 2010-2020 and October 2021*

### **Availability of Financing**

The availability and cost of financing influence housing supply, including both financing for real estate development and financing for homeownership. This section discusses potential obstacles to financing real estate development and ownership in the city during the planning period. A discussion of inequities in lending practices is provided in Appendix D.

### ***Financing for Real Estate Development***

As discussed previously, Oakland has approved about 16,789 building permits during the 2015 to 2021 period. While this exceeded the 5th cycle RHNA of 14,765 units, this is due to the approval of above-moderate-income projects; lower- and moderate-income projects have not kept pace with regional need. The City still faces a remaining need of 5,126 units at the lower- and moderate-income levels. This illustrates that while the development feasibility of market-rate projects—including higher-density projects—remains high, it is limited for affordable housing projects.

The City's efforts in the last two decades to revitalize and invest in the central city, especially through specific plans, have spurred increased interest in residential investment by large-scale institutional lenders. As noted in the previous Housing Element, market factors and conditions—including dramatic demand for Bay Area housing and a lack of urban developable land options in proximity to San Francisco and Silicon Valley—have increased the acceptability of Oakland neighborhoods that have formerly been passed over for residential development. Oakland rents are showing dramatic increases and there is a high demand for housing as evidenced in Appendix B. This indicates a strong likelihood of future residential investment in the city especially given its strategic location near job centers and transit. [However, rising interest rates adversely impact the economic feasibility of construction.](#)

### ***Financing for Homeownership***

The cost of borrowing money to buy a home is another factor affecting the cost of housing and overall housing affordability. The higher the interest rate and other financing costs charged for borrowing money to purchase a home, the higher the total cost of the home and the higher the household income required to pay that cost. With increased interest rates, the amount of public subsidy required to provide affordable homeownership opportunities to median-income households also increases.

At the national level, interest rates have remained relatively low since 2015 and experienced a significant decline during the COVID-19 pandemic. However, rates have started to increase over the course of 2021. See Chart F-2 for the change in 30-year fixed rate mortgages since 2015. As of January 2022, according to Freddie Mac, higher inflation, promising economic growth, and a tight labor market indicates that mortgage rates will continue to increase. The impact of higher rates on purchase demand remains modest so far given the current first-time homebuyer growth.

Despite relatively low interest rates, financing costs are still significant and many households have difficulty purchasing a home. To address these costs, Oakland has several first-time homebuyer programs, though some are currently suspended due to a lack of funds. The City also hosts HUD-certified first-time homebuyer workshops. Additional discussion of resources and opportunities related to homeownership is provided in Appendix E.

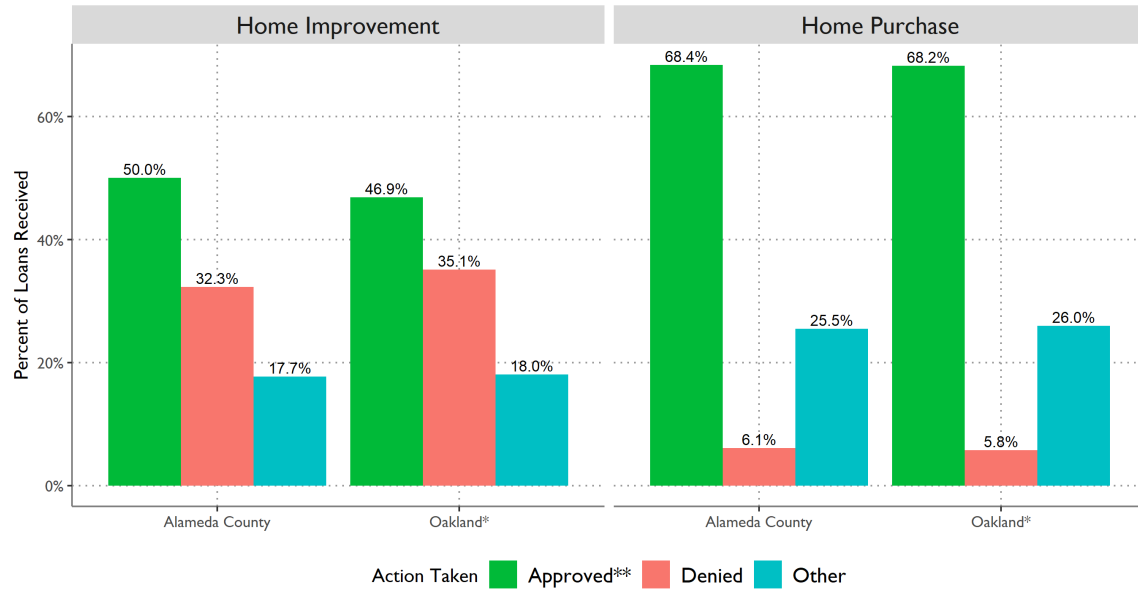
**Chart F-2: National 30-Year Fixed Rate Mortgages, 2015-2021**

Source: Freddie Mac, Historical Weekly Mortgage Rates Data, 2015-2021

Under the Home Mortgage Disclosure Act (HMDA), lending institutions are required to disclose information on the disposition of loan applications. During 2020, a total of 6,822 home purchase loan applications were submitted in Oakland and 393 were denied, about 5.8 percent. This is slightly lower than the county, which experienced a 6.1 percent denial rate during the same year, see Chart F-3.

Home improvement loans have generally lower approval rates than home purchase loans within the city and the county. While denial rates for improvement loans are higher in Oakland than in the county, home purchase loan denial rates are slightly lower. This may indicate a gap between those households wanting to improve their homes and those who were able to obtain conventional financing to complete those improvements. This indicates a need for the City to continue to offer financial assistance and rehabilitation programs to households that may not qualify for a conventional home improvement loan.

**Chart F-3: Oakland and Alameda County Loan Applications, 2020**



\*Includes data from census tracts within city borders, which does not align with Census-designated place boundaries.  
 \*\*Approved loans include: loans originated and applications approved, but not accepted.

Source: HMDA, 2020

**Other Economic Constraints**

Oakland is part of the San Francisco Bay Area regional economy, which is prone to occasional recessions and contractions. Given large income disparities and the City’s revenue structure, these economic crises have a tendency to impact the most vulnerable residents while simultaneously reducing City resources to serve those residents. The city and region are also vulnerable to shocks related to international trade, travel, tourism, logistics, and manufacturing. Following the 2008 financial crisis, the City’s discretionary revenues were reduced by nearly 12.0 percent, while the demands for City services dramatically increased.

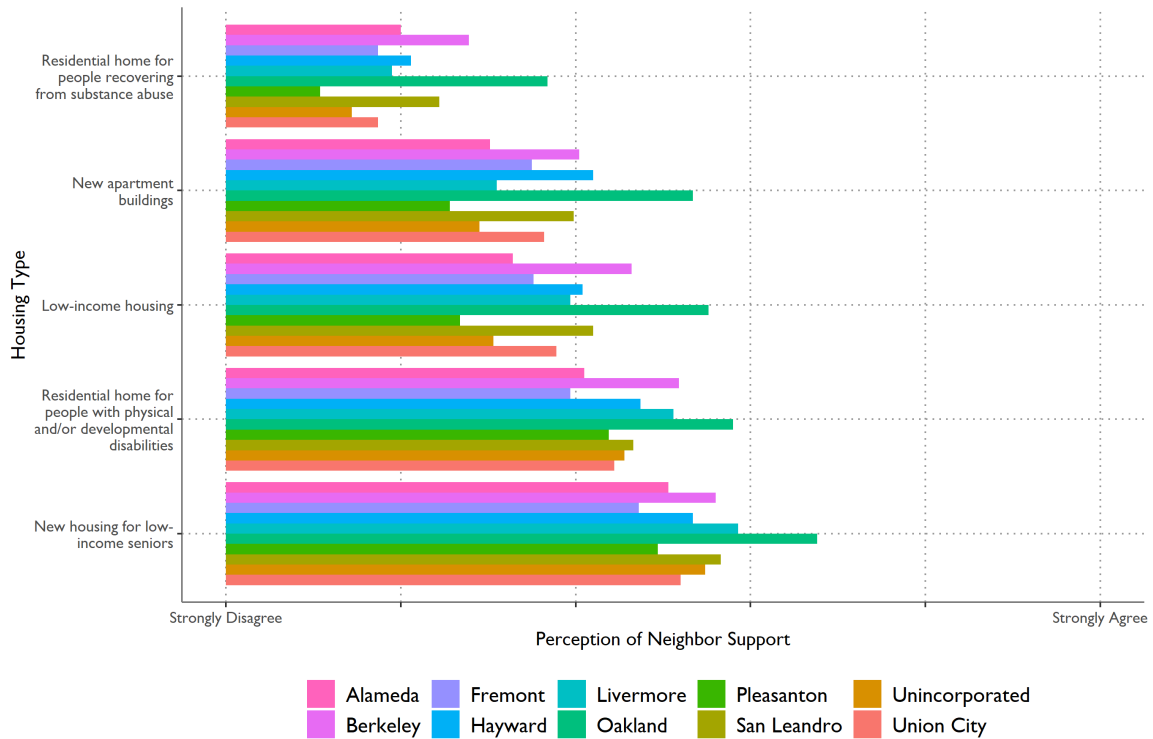
Similarly, the economic crisis caused by the COVID-19 pandemic is likely to have a lasting impact on available City resources and housing needs throughout Oakland. Among other things, future building patterns and preferences may be impacted, which could increase costs of development. While the City has little control over broader economic conditions, it does provide resources to Oakland residents to prevent and/or mitigate some of the worst impacts of the pandemic. Available resources are provided in Appendix E.

**NEIGHBORHOOD SENTIMENT**

While neighborhood concerns and opposition to higher-density developments and to affordable housing developments may hamper efforts to construct new housing, Oakland is one of the most pro-housing and pro-affordable housing communities in the Bay Area. In the community workshops conducted for the Housing Element update—where hundreds of residents participated—participants were almost unanimously pro-housing. Further, according to the 2020-2024 Regional Analysis of Impediments to Fair Housing Choice (AI), Oakland has the highest perceived neighbor support for all affordable housing projects. See Chart F-4 below for the

perceived neighbor support of different types of affordable housing, based on responses to the 2019 Alameda County Regional Housing Survey (3,296 total responses).<sup>23</sup> In Oakland and the county overall, support for low-income senior housing is the highest and support for supportive housing for those recovering from substance abuse is the lowest.

**Chart F-4: Perceived Neighbor Support for Affordable Housing, 2020**



Source: County of Alameda, *Regional Analysis of Impediments to Fair Housing Choice*, February 2020

The City actively works with developers and provides information on affordable housing for use at public meetings. The City encourages local non-profit organizations, affordable housing proponents, the business community, the real estate industry and other policy makers to join in efforts to advocate for the provisions of affordable housing in communities throughout Oakland and the Bay Area. Public comments received as part of Specific Planning efforts have generally been supportive of [promoting more](#) housing affordable to Oakland residents, given the rising costs of rent in the City. Additionally, the completion and occupancy of several attractive and affordable housing developments, and the rebuilding and rehabilitation of older public housing projects,

<sup>23</sup> The Regional Housing Survey prompted respondents to rank their agreement with five statements from strongly disagree (0) to strongly agree (5). The questions included the following: “My neighbors would be supportive of locating low-income housing in my neighborhood,” “My neighbors would be supportive of locating new apartment buildings in my neighborhood,” “My neighbors would be supportive of locating new housing for low-income seniors in my neighborhood,” “My neighbors would be supportive of locating a residential home for people recovering from substance abuse in my neighborhood,” and “My neighbors would be supportive of locating a residential home for people with physical and/or developmental disabilities in my neighborhood.”

continue to improve the quality, image, and acceptability of affordable housing in Oakland. Successful, new low-income housing developments now enhance many Oakland neighborhoods and blend unnoticed into others. The update to the General Plan will continue to encourage higher-density affordable housing in areas with ample access to opportunity.