



**PLANNING AND BUILDING DEPARTMENT**  
250 FRANK H. OGAWA PLAZA. SECOND FLOOR. OAKLAND CA. 94612

**Enforcement of Oakland Housing Maintenance Code 15.08 Article XIV, Section 15.08.720(D)-  
ADU Delay of Enforcement**

**BUILDING SERVICES DIRECTIVE B24-001**

**REFERENCE: 15.08. 720 (B) (D)**

**DATE: April 3, 2024**

This directive is intended to provide direction and definitions as it relates to enforcement of Oakland Housing Maintenance Code 15.08 Article XIV, Delay of Enforcement, Section 15.08.720 (D). **Any work undertaken under this directive shall not construe approval of the ADU as a permitted unit nor construe issuance of a Certificate of Occupancy. This directive only applies to projects that are pursuing an ADU Delay of Enforcement.**

*15.08.720 (D) Application for delay of enforcement*

*D.A delay of enforcement shall not be granted if the accessory dwelling unit has any of the following conditions:*

- 1.Significant structural damage or defects due to deterioration, such as tilting walls or sagging roofs;*
- 2.Lack of a direct exit from the unit to the outside;*
- 3.Lack of an emergency escape window in rooms used for sleeping purposes;*
- 4.Any gas-fired appliance in a sleeping room including, but not limited to, water heaters, furnaces, or stoves;*
- 5.Lack of adequate fire separation between dwelling units;*
- 6.Lack of properly installed code compliant smoke alarms and carbon monoxide detectors.*

During the course of a field check inspection to verify if the subject unpermitted accessory dwelling unit built before January 1, 2020 may be considered safe for occupancy **pending eventual full compliance with all applicable code requirements and subsequent issuance of a Certificate of Occupancy to be undertaken under issued permits and inspections not more than five (5) years from the date of delay of enforcement** approval and if the age of original construction or initial occupancy date of the unpermitted unit cannot be verified under the provisions established by State Law AB1226 "[Retroactive Permitting](#)", the project shall at minimum meet the six items above and specific requirements for items 2, 3 and 5 as per below:

**2.Lack of a direct exit from the unit to the outside;**

Exits or escape openings shall be provided directly to a yard or public way.

A minimum 36"x 80" door, the minimum ceiling height or egress path height must be as required per California Residential Code or California Building Code, as applicable.



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**3.Lack of an emergency escape and rescue openings in rooms used for sleeping purposes:**

Emergency escape and rescue openings shall be provided from every sleeping room and shall open to a public way or to a yard that opens to a public way. Emergency escape and rescue openings shall have a minimum clear height of 24 inches, a minimum clear width of 20 inches, and a minimum operable area of 5.7 square feet (5.0 square feet for grade floor openings). The bottom of the emergency escape and rescue opening shall not be greater than 44 inches above the finished floor.

**5.Lack of adequate fire separation between dwelling units**

**Floor-Ceiling separation:** One layer of 5/8 Type X gypsum board installed on the bottom of the floor-ceiling assembly for the entirety of the ceiling between the unpermitted unit and the unit above.

**Adjacent interior wall separation:** One layer of 5/8 Type X gypsum board installed for the entirety of the wall height on top of the existing wall materials for the entire height and length of the wall on both the existing unit and the unpermitted ADU.

**Interior Side of Exterior Walls less than five (5) feet from property lines:** One layer of 5/8 Type X gypsum board installed for the entirety of the wall height on top of the existing wall materials for the entire height and length of the wall.

**Interior Side of Exterior Walls Supporting the floor-ceiling above:** Regardless of distance from a property line. All interior perimeter supporting walls shall have one layer of 5/8 Type X gypsum board installed for the entirety of the wall height on top of the existing wall materials for the entire height and length of the wall, as required by California Residential Code R302.3.1

**Structural Elements Supporting the floor-ceiling above:** All structural elements (e.g. posts and beams) supporting the floor-ceiling above shall have one layer of 5/8 Type X gypsum board installed for the entirety of the exposed surface area of such structural elements in the unpermitted ADU, as required by California Residential Code R302.3.1

**Penetrations:** Radiation dampers shall be installed in any connecting vents or HVAC that penetrates both habitable spaces. Other penetrations fire caulked with approved materials.

**Ceiling lighting:** 1-hour fire-rated required. Options include: Fire rated recessed lights (housing and trim), fire-rated covers or "hats" that surround recessed fixture, fire-rated junction/outlet boxes(s) in ceiling with retrofit LED or surface mounted fixture.

**Exterior map of location of unpermitted ADU:** A site map indicating where the unpermitted ADU is located shall be placed in a readily accessible location such as at the electrical service meter or mailbox, noting the location and path to the unpermitted ADU for use by emergency response personnel. The site map shall be phenolic where exposed to



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sunlight, weather resistant, and suitable for the environment. The site map shall be red background with white lettering/drawing.

**Nothing in this directive shall construe approval of the ADU as a permitted unit nor construe issuance of a Certificate of Occupancy. Prior to the conclusion of the five-year (5) delay of enforcement, the subject unpermitted unit shall be required to obtain all required permits and meet all building and Oakland Housing Maintenance code requirements and may be required to remove any or all temporary items installed as part of qualifying for the ADU Delay of Enforcement.**

**The City of Oakland, Planning and Building Department, Building Bureau reserves the right to deny or rescind any ADU Delay of Enforcement approval due to any substandard condition that may be present or arise during the period granted under the Delay of Enforcement as per the Building Official's direction.**

*Alain Placido*

Alain Placido (Apr 3, 2024 14:53 PDT)

Alain G. Placido  
City of Oakland Acting Building Official






# Code Directive B24-001 ADU Delay of Enforcement

Final Audit Report

2024-04-03

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