



Mayor Libby Schaaf and Councilmembers Dan Kalb & Sheng Thao
Construction Innovation and Expanded Housing Options
Proposed Ordinance
Revised 10-15-21

EXECUTIVE SUMMARY

Oakland Mayor Libby Schaaf, District 1 Councilmember Dan Kalb, and District 4 Councilmember Sheng Thao are proposing legislation to promote construction innovation in Oakland and expand the types of housing options available to residents to reduce the cost of housing in the city. The Innovative Construction and Expanded Housing Options Ordinance would:

1. Amend the Oakland Planning Code to (a) allow residential occupancy of recreational vehicles (RVs), mobile homes, and manufactured homes in all zoning districts where residential uses are allowed, (b) establish density and open space regulations for efficiency dwelling units, and (c) establish height regulations for modular construction;
2. Amend the Oakland Building Construction Code to adopt voluntary Appendix R to the California Residential Code (Light Straw-Clay Construction);
3. Make conforming amendments to the Blight Ordinance, Building Maintenance Code, Affordable Housing Impact Fee Ordinance, and Transportation and Capital Improvements Impact Fees Ordinance;
4. Stay enforcement of provisions of the Blight Ordinance prohibiting residential occupancy of RVs for 120 days to allow property owners with existing citations time to apply for approval under the new regulations; and
5. Exempt RV parks owned, operated, and maintained by non-profit organizations for permanent, temporary, or emergency use from the State Special Occupancy Parks Act.

In addition to the Innovative Construction and Expanded Housing Options Ordinance, the Mayor and Councilmembers are proposing related but separate ordinances to (a) amend to Rent Adjustment Ordinance to include Vehicular Residential Facilities and (b) terminate the existing Recreational Vehicle (RV) On Undeveloped Property Pilot Program.

BACKGROUND

On May 14, 2021, Mayor Schaaf and Councilmembers Kalb and Thao released a draft summary of the proposed legislation (see original proposal dated May 14, 2021).

On June 2, 2021, the City Planning Commission conducted a public hearing on the proposed amendments to the Planning Code and voted unanimously to recommend that the City Council approve the proposed amendments and find that the proposed ordinance is exempt from further review under the California Environmental Quality Act. In addition, the Planning



Commission also recommended the following:

- More information be provided on utility connections for RVs authorized for residential use and that the new regulations should promote utility connection flexibility while maintaining public and environmental health and safety; and
- More information be provided on how the City’s various tenant protection laws apply to RVs being used for residential purposes.

KEY CHANGES TO PROPOSAL

The following key changes have been made to the proposal compared to the May 14th summary and June 2nd Planning Commission hearing:

1. **Residential occupancy of RVs – expanded options for utility connections.** The previous proposal required each RV to be connected to municipal utilities for potable water supply, wastewater disposal, and power supply, except that sites with only one RV could be served by on-site alternatives. The revised proposal expands the eligibility for on-site alternatives to sites containing any number of RVs as long as sites containing two or more RVs (RV parks) are exempt from State RV Park rules, which are parks where no rent is paid to occupy the space or the unit and parks owned, operated, and maintained by nonprofit entities. See Table 2 below for more information on utility connections.
2. **Residential occupancy of RVs – new operation and maintenance inspection.** The previous proposal required newly installed RVs to be inspected to verify compliance with the regulations. No additional inspections were required. The revised proposal adds operation and maintenance inspections. On an annual basis, the City would inspect a subset of previously installed RVs to verify ongoing compliance with operation and maintenance requirements.
3. **Residential occupancy of RVs – added tenant protections.** A separate ordinance is now being proposed to amend the City’s Rent Adjustment Ordinance (i.e., rent control law) so that it applies to RVs used for residential occupancy, including newly installed RVs. Both the rental of an RV to a tenant and the rental of the land upon which an RV is located would be covered. The City’s Just Cause for Eviction Ordinance and Tenant Protection Ordinance would also apply.
4. **Residential occupancy of RVs – existing code enforcement cases.** There are a number of existing code enforcement cases against properties with people living in RVs in violation of the Blight Ordinance. It is hoped that many of these situations will be brought into conformance with the new regulations. The proposed ordinance would provide property owners with existing citations a 120-day stay on enforcement to allow



time to apply for approval under the new regulations as long as City approvals are obtained and implemented within one year and imminent hazards are corrected immediately. The applicant must demonstrate that there will be adequate disposal of wastewater throughout the application process (e.g., evidence of prepaid service contracts).

5. **Residential occupancy of RVs – termination of existing RV Pilot Program.** The existing RV Pilot Program, created in 2020, allows one RV on a vacant lot with an annual permit. The new ordinance is intended to replace the Pilot Program so a separate ordinance is now proposed to end the Pilot Program at the end of 2021.

6. **Amendments to the Oakland Building Construction Code – certain appendices no longer proposed for adoption.** The previous proposal included adopting the following appendices to the California Residential Code regarding tiny houses and alternative building materials: Appendix Q (Tiny Houses); Appendix R (Light Straw-Clay Construction); and Appendix S (Strawbale Construction). In 2019, the City adopted the 2019 California Residential Code, including Appendix Q and Appendix S, both of which are mandatory adoption. The revised proposal no longer includes Appendix Q and Appendix S because they have already been adopted. The revised proposal includes the adoption of voluntary Appendix R (Light Straw-Clay Construction).

SUMMARY TABLES PERTAINING TO RVS / VEHICULAR RESIDENTIAL FACILITIES

Table 1: Summary of Proposed Regulations Pertaining to Vehicular Residential Facilities	
Topic	Proposal
Overview	Allow residential occupancy of one or more recreational vehicles or tiny homes on wheels on vacant or developed private property. Residential use of structures on a vehicle chassis is currently prohibited. Residential occupancy of recreational vehicles and tiny homes on wheels would be allowed similar to the existing allowance for residential use of non-traditional structures on permanent foundations (e.g., tiny houses, shipping containers, factory-built housing).
Zoning category	Create a new facility type in the zoning regulations for “Vehicular Residential Facilities.”

<p>Types of structures included</p>	<p>Recreational vehicles: motorhomes and trailers (representative photos)</p>  <p>Tiny homes on wheels (representative photo)</p> 
<p>Definition</p>	<p>Vehicular Residential Facilities would be defined as recreational vehicles under State law. Recreational vehicles are defined in California Health and Safety Code Section 18010.</p>
<p>Where allowed</p>	<p>Vehicular Residential Facilities would be allowed in all zoning districts where residential facilities are currently allowed.</p>
<p>Density</p>	<p>Each Vehicular Residential Facility would be considered one residential unit for density purposes and would be subject to the same density restrictions of the underlying zone.</p>
<p>Relationship to Accessory Dwelling Units (ADUs)</p>	<p>Vehicular Residential Facilities would not be subject to the State Accessory Dwelling Unit (ADU) laws because State law does not consider them ADUs. However, a Vehicular Residential Facility could be considered an ADU under Oakland’s ADU rules.</p> <p>Vehicular Residential Facilities would be exempt from the City’s ADU development standards because they would be subject to special development standards for Vehicular Residential Facilities (as described in this table), except Vehicular Residential Facilities considered ADUs would need to comply with ADU regulations pertaining to density and restrictions on ADUs in certain locations for life safety reasons.</p> <p>Oakland’s ADU rules prohibit Category 2 ADUs (i.e., stand-alone ADUs) in the S-9 Combining Zone (Very High Fire Hazard Severity Zone in the Oakland Hills) for life safety reasons so in situations where a Vehicular Residential Facility is considered an ADU, it would not be allowed in the S-9 Combining Zone.</p>



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Minimum required setbacks	No requirement for front, side, or rear setback. Vehicular Residential Facilities located within the normally required front yard setback must be located on an existing driveway and not extend over the property line or adjacent sidewalk. (See also separation and site design requirements below.)
Minimum required separation	6 feet minimum required between one Vehicular Residential Facility and another Vehicular Residential Facility or a building on the same lot or adjacent lot.
Site design requirements	Site plan review would be required. In residential zones, no special site design standards would apply, except the setback and separation requirements described above would apply. In commercial zones and special districts, Vehicular Residential Facilities must be set back 30 feet from the street or located behind a building, in addition to the separation requirement described above.
Ground surface	All-weather surface required (e.g., asphalt, concrete, pavers, decomposed granite, gravel) under each Vehicular Residential Facility and pedestrian pathways.
Off-Street Parking	Self-propelled Vehicular Residential Facilities (e.g., motorhome): No requirement Other Vehicular Residential Facilities (e.g., trailer, tiny home on wheels): Same requirement as ADUs (not required within ½-mile of a transit stop)
Habitability	Vehicular Residential Facilities must comply with State and local habitability and tenantability standards related to dwelling units including California Civil Code Section 1941.1. Among other things, the facilities must be structurally sound, protect occupants against the weather, include permanent provisions for living and sleeping, include heating and lighting, and provide occupants with 24-hour on-site access to potable water, a kitchen, and clean, lighted, code-compliant toilet, bathing facilities, and lavatory sink under the occupants’ control. For Vehicular Residential Facilities subject to the State RV park rules (see below), potable water, kitchens, toilets, bathing facilities, and lavatory sinks must be provided within each unit. For Vehicular Residential Facilities not subject to the State RV park rules that do not contain in-unit toilets, bathing facilities, or lavatory sinks, a minimum of 1 toilet, 1 bathing facility, and 1 lavatory sink would be required for every 5 Vehicular Residential Facilities.



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Utility connections	<i>See Utility Connections table.</i>
Health and safety certification	Vehicular Residential Facilities must comply with State-required health and safety certification standards. The structure can be built in a certified factory or certified by a third-party inspector and must bear a label or insignia indicating compliance with American National Standards Institute (ANSI) A119.2 or A119.5 standards or National Fire Protection Association (NFPA) 1192 standards.
Fire safety	In addition to the above health and safety standards, Vehicular Residential Facilities would be subject to fire safety requirements related to heating systems and propane storage and require smoke detectors and street numbers visible from the street to identify the property address.
Refuse and trash	Properties containing Vehicular Residential Facilities would be subject to all applicable laws regarding blight, odors, and trash. Refuse collection service would be required.
Zoning approval process	1-4 Vehicular Residential Units: Design review exemption – no public notice, over-the-counter staff approval (similar to an ADU) 5+ Vehicular Residential Units: Regular Design Review – discretionary review, public notice, staff approval, appealable to the Planning Commission (similar to a new house)
Building permit	Vehicular Residential Facilities are considered vehicles, not buildings, and are not regulated under the Building Code. No building permit would be required.
Utility permits	Electrical and plumbing permits would be required for utility connections.
Inspections	All Vehicular Residential Facilities would require an initial installation inspection by the Zoning Inspection Unit of the Building Bureau in the Planning and Building Department. Vehicular Residential Facilities with utility connections would also require an inspection under the utility permits. On an annual basis, the City would inspect a subset of previously installed Vehicular Residential facilities to verify ongoing compliance with operation and maintenance requirements. The fee to cover the first operation and maintenance inspection would be paid at the time of initial approval.



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<p>Approximate City approval/permitting fees</p>	<p>1-4 Vehicular Residential Facility without utility connections: \$294 zoning approval (design review exemption) \$324 installation inspection \$324 operation and maintenance inspection <u>\$56 address fee</u> \$998 approximate total</p> <p>1-4 Vehicular Residential Facility with utility connections: \$294 zoning approval (design review exemption) \$217 plumbing permit \$217 electrical permit \$324 installation inspection \$324 operation and maintenance inspection <u>\$56 address fee</u> \$1,432 approximate total</p> <p>5+ Vehicular Residential Facilities (utility connections required): \$3,549 zoning approval (regular design review) \$(varies) plumbing permit (depends on number of connections) \$(varies) electrical permit (depends on number of connections) \$465 installation inspection \$465 installation inspection <u>\$56 address fee</u> \$4,535 approximate total + plumbing & electrical permits</p> <p><i>Note: Additional City permits/fees may apply depending on the site and project. The fees above do not include fees that may be charged by other agencies.</i></p>
<p>Recreational vehicle parks & State law</p>	<p>Two or more Vehicular Residential Facilities on a site would be considered a “Special Occupancy Park” under State law and would need to comply with the State RV park rules contained in the Special Occupancy Parks Act and the Special Occupancy Park Regulations. New parks would be required to obtain a permit from the State to construct and operate after obtaining zoning approval from the City of Oakland. Sites with only one Vehicular Residential Facility, and sites with two or more Vehicular Residential Facilities where no rent</p>



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	<p>is paid to occupy the space or the unit, are not subject to the state requirements for parks. Pursuant to California Health and Safety Code Section 18865.4, the proposed ordinance would also exempt RV parks owned, operated, and maintained by nonprofit entities from the State requirements for parks. More information about State RV park rules can be found at: https://www.hcd.ca.gov/manufactured-mobile-home/mobile-home-parks/laws-and-regulations.shtml. For RV parks that are exempt from State RV park rules, the applicant would be required to record a notice of limitation with the Alameda County Recorder stating that State law requirements will apply in the event rent is later charged or the park is no longer owned, operated, and maintained by a non-profit entity.</p>
Blight, nuisance, and maintenance standards	<p>The Oakland blight, nuisance, and maintenance standards would apply. The blight standards would change to allow residential occupancy of a recreational vehicle (which is currently prohibited). The maintenance standards would be amended to clarify they apply to Vehicular Residential Facilities and that room dimension standards do not apply to Vehicular Residential Facilities.</p>
Development impact fees	<p>Vehicular Residential Facilities would not be subject to the Affordable Housing Impact Fee, Transportation Impact Fee, or Capital Improvements Impact Fee.</p>
Tenant protections	<p>A separate ordinance is proposed to amend the City’s Rent Adjustment Ordinance so that it applies to Vehicular Residential Facilities, including newly installed Vehicular Residential Facilities. Both the rental of an RV to a tenant and the rental of the land upon which an RV is located would be covered. The City’s Just Cause for Eviction Ordinance and Tenant Protection Ordinance would also apply to Vehicular Residential Facilities.</p>
Existing RV Pilot Program	<p>The existing RV Pilot Program, created in 2020, allows 1 recreational vehicle on a vacant lot with an annual permit. The proposal is intended to replace the Pilot Program so a separate ordinance is proposed to end the Pilot Program.</p>
Existing emergency housing standards	<p>Vehicular Residential Facilities are currently allowed for emergency housing for the homeless on City-owned or leased property pursuant to the City’s shelter crisis declaration under State law. In those cases, Emergency Housing Standards apply. Those standards would remain in effect.</p>



Relationship to streets and the public right-of-way	The proposed amendments only address Vehicular Residential Facilities on parcels of land; they would not alter any laws or regulations regarding recreational vehicles located on the street or public right-of-way.
Three-year review	The proposed ordinance would direct City staff to conduct a review of the implementation of the ordinance within three years and report back to City Council with information concerning the number, type, and compliance related to Vehicular Residential Facilities in the city and any recommended changes to the regulations.

Table 2: Proposed Utility Connection Requirements for Vehicular Residential Facilities		
<p>Habitability standards: Each Vehicular Residential Facility (VRF) must have adequate heating and lighting within the unit and occupants must have access to potable water, a kitchen, and a bathroom either within the unit or elsewhere on the property. For VRFs subject to the State RV park rules, potable water, a kitchen, and a bathroom must be provided within each unit. For VRFs not subject to the State RV park rules, potable water, a kitchen, and a bathroom may be provided elsewhere on the property (not required to be provided within the unit) but any plumbing facilities within the unit must be connected to the public water and sewer systems.</p> <p>✓ = Utility connection meets minimum standards X = Utility connection does not meet minimum standards</p>		
	<p>VRFs exempt from State RV Park Rules</p> <ul style="list-style-type: none"> • 1 VRF • 2+ VRFs operated by non-profits or public agencies • 2+ VRFs where no rent is charged 	<p>VRFs covered by State RV Park Rules</p> <ul style="list-style-type: none"> • 2+ VRFs
Potable Water		
VRF connected to public water system	✓	✓



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Water provided in separate on-site building (e.g., house, stand-alone kitchen, restroom building) connected to public water system	✓	X
Water provided via outdoor faucet connected to public water system	✓	X
Water delivered from off-site and stored on-site	X	X
Wastewater Disposal		
VRF connected to public sewer system	✓	✓
Plumbing in separate on-site building (e.g., house, stand-alone kitchen, restroom building) connected to public sewer system	✓	X
VRF wastewater tank serviced on-site (e.g., pumping service)	X	X
Plumbing in separate on-site building (e.g., house, stand-alone kitchen, restroom building) connected to on-site wastewater containment unit (e.g., underground vault) and emptied by a pumping service	X	X
VRF connected to on-site wastewater containment unit (e.g., underground vault) and emptied on-site by a pumping service	X	X
On-site wastewater disposal and treatment systems (e.g., septic systems)	X	X
Temporary portable toilets and wash stations	X	X
VRF sewage tank emptied off-site at dump station	X	X
Graywater discharged as landscape irrigation pursuant to State and City codes (bathtubs, showers, bathroom sinks, and clothes washing machines, but not toilets, kitchen sinks or dishwashers)	✓	✓
Power Supply		
VRF connected to electrical and/or gas grid system	✓	✓
VRF connected to on-site wind power with battery storage	✓	✓
VRF connected to on-site solar power with battery storage	✓	✓



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VRF connected to on-site propane tank	✓	✓
VRF connected to fuel-powered generator	X	X