



PINOLE PLANNING COMMISSION MEETING AGENDA

**February 24, 2025
7:00 PM**

**Attend in Person: PINOLE CITY COUNCIL CHAMBERS - 2131 PEAR STREET
OR**

Attend VIA ZOOM TELECONFERENCE – Details provided below

How to Submit Public Comments:

In Person:

Attend meeting at the Pinole City Council Chambers, fill out a yellow public comment card and submit it to the City Clerk.

Via Zoom:

Members of the public may submit a live remote public comment via Zoom video conferencing. Download the Zoom mobile app from the Apple Appstore or Google Play. If you are using a desktop computer, you can test your connection to Zoom by clicking [here](https://us02web.zoom.us/j/86505375301). Zoom also allows you to join the meeting by phone.

From a PC, Mac, iPad, iPhone or Android:

<https://us02web.zoom.us/j/86505375301>

Webinar ID: 865 0537 5301

By phone: +1 (669) 900-6833 or +1 (253) 215-8782 or +1 (346) 248-7799

- Speakers will be asked to provide their name and city of residence, although providing this is not required for participation.
- Each speaker will be afforded up to 5 minutes to speak
- Speakers will be muted until their opportunity to provide public comment.

When the Chair opens the comment period for the item you wish to speak on, please use the “raise hand” feature (or press *9 if connecting via telephone) which will alert staff that you have a comment to provide and press *6 to unmute. To comment with your video enabled, please let the City Clerk know you would like to turn your camera on once you are called to speak.

Written Comments:

Please submit public comments to Planning Staff before the meeting via email to ghanham@pinole.gov. Please include your full name, city of residence and agenda item you are commenting on.

OTHER WAYS TO WATCH THE MEETING

LIVE ON CHANNEL 26. They are retelecast the following week. The Community TV Channel 26 schedule is published on the city's website at www.pinoles.gov.

VIDEO-STREAMED LIVE ON THE CITY'S WEBSITE, www.pinoles.gov and remain archived on the site for five (5) years.

If none of these options are available to you, or you need assistance with public comment, please contact Planning Manager David Hanham at (510) 724-8912 or dhanham@pinoles.gov.

Americans With Disabilities Act: In compliance with the Americans With Disabilities Act of 1990, if you need special assistance to participate in a City Meeting or you need a copy of the agenda, or the agenda packet in an appropriate alternative format, please contact the City Clerk's Office at (510) 724-8928. Notification at least 48 hours prior to the meeting or time when services are needed will assist the City staff in assuring that reasonable arrangements can be made to provide accessibility to the meeting or service.

Note: Staff reports are available for inspection on the City Website at www.pinoles.gov. You may also contact the City Clerk via e-mail at hbelle@pinoles.gov.

CITIZEN PARTICIPATION:

Persons wishing to speak on an item listed on the Agenda may do so when the Chair asks for comments in favor of or in opposition to the item under consideration. After all of those persons wishing to speak have done so, the hearing will be closed and the matter will be discussed amongst the Commission prior to rendering a decision.

Any person may appeal an action of the Planning Commission or of the Planning Manager by filing an appeal with the City Clerk, in writing, within ten (10) days of such action. Following a Public Hearing, the City Council may act to confirm, modify or reverse the action of the Planning Commission and the Planning Commission may act to confirm, modify, or reverse the action of the Planning Manager. The cost to appeal a decision is \$500 and a minimum \$2,500 deposit fee.

Note: If you challenge a decision of the Commission regarding a project in court, you may be limited to raising only those issues you or someone else raised at the public hearing or in writing delivered to the City of Pinole at, or prior to, the public hearing.

Ralph M. Brown Act. Gov. Code § 54950. In enacting this chapter, the Legislature finds and declares that the public commissions, boards and councils and the other public agencies in this State exist to aid in the conduct of the people's business. It is the intent of the law that their actions be taken openly and that their deliberations be conducted openly. The people of this State do not yield their sovereignty to the agencies, which serve them. The people, in delegating authority, do not give their public servants the right to decide what is good for the people to know and what is not good for them to know. The people insist on remaining informed so that they may retain control over the instruments they have created.

A. CALL TO ORDER

B. PLEDGE OF ALLEGIANCE

C. LAND ACKNOWLEDGMENT

Before we begin, we would like to acknowledge the Ohlone people, who are the traditional custodians of this land. We pay our respects to the Ohlone elders, past, present, and future, who call this place, Ohlone Land, the land that Pinole sits upon, their home. We are proud to continue their tradition of coming together and growing as a community. We thank the Ohlone community for their stewardship and support, and we look forward to strengthening our ties as we continue our relationship of mutual respect and understanding.

D. ROLL CALL

E. CITIZENS TO BE HEARD

The public may address the Planning Commission on items that are within its jurisdiction and not otherwise listed on the agenda. Planning Commissioners may discuss the matter brought to their attention, but by State law (Ralph M. Brown Act), action must be deferred to a future meeting. Time allowed: five (5) minutes each.

F. MEETING MINUTES:

1. Planning Commission Meeting Minutes for January 27, 2025

G. PUBLIC HEARINGS

At the beginning of an item, the Chair will read the description of that item as stated on the Agenda. The City Staff will then give a brief presentation of the proposed project. The Commission may then ask Staff questions about the item.

For those items listed as Public Hearings, the Chair will open the public hearing and ask the applicant if they wish to make a presentation. Those persons in favor of the project will then be given an opportunity to speak followed by those who are opposed to the project. The applicant will then be given an opportunity for rebuttal.

The Public Hearing will then be closed and the Commission may discuss the item amongst themselves and ask questions of Staff. The Commission will then vote to approve, deny, approve in a modified form, or continue the matter to a later date for a decision. The Chair will announce the Commission's decision and advise the audience of the appeal procedure.

Note: No Public Hearings will begin after 11:00 p.m. Items still remaining on the agenda after 11:00 p.m. will be held over to the next meeting.

1. PA25-0002 Accessory Dwelling Unit Amnesty Program

H. OLD BUSINESS

I. NEW BUSINESS

J. CITY PLANNER'S/COMMISSIONER'S REPORT

K. COMMUNICATIONS

L. NEXT MEETING(S)

1. Planning Commission Regular Meeting on March 10, 2025 at 7:00PM

M. ADJOURNMENT

I hereby certify under the laws of the State of California that the foregoing Agenda was posted on the bulletin board at the main entrance of Pinole City Hall, 2131 Pear Street Pinole, CA, and on the City's website, not less than 72 hours prior to the meeting date set forth on this agenda.

David Hanham
Planning Manager
POSTED: _____

DRAFT

MINUTES OF THE REGULAR MEETING
PINOLE PLANNING COMMISSION

January 27, 2025

THIS MEETING WAS HELD IN A HYBRID FORMAT
BOTH IN-PERSON AND ZOOM TELECONFERENCE

A. **CALL TO ORDER:** 7:08 p.m.

B. **PLEDGE OF ALLEGIANCE**

C. **LAND ACKNOWLEDGEMENT:** *Before we begin, we would like to acknowledge the Ohlone people, who are the traditional custodians of this land. We pay our respects to the Ohlone elders, past, present and future, who call this place, Ohlone Land, the land that Pinole sits upon, their home. We are proud to continue their tradition of coming together and growing as a community. We thank the Ohlone community for their stewardship and support, and we look forward to strengthening our ties as we continue our relationship of mutual respect and understanding.*

D. **ROLL CALL**

Commissioners Present: Bender, Huey,* Lam-Julian, Sandoval, Uch, Chairperson Menis

*Via Teleconference Location

Commissioners Absent: Vice-Chairperson Martinez

Staff Present: David Hanham, Planning Manager
Justin Shiu, Senior Planner

Commissioner Huey reported she was participating via teleconference and there were no other individuals present in the same room.

Chairperson Menis reported he had ex parte communications having sent emails to his mailing list covering the items on the meeting agenda.

E. **CITIZENS TO BE HEARD**

Anthony Vossbrink asked for an update on the street light outages throughout the City, primarily along San Pablo Avenue and Pinole Valley Road, and suggested there was an inadequate number of lights to meet the City's infrastructure needs. Although the City Manager reported new lights would be installed, nothing had been done to date. Also, bumper/reflectors were needed in the median strips along the same routes. He added the spotlights at Marathon Gas Station shone onto San Pablo Avenue impacting the immediate neighborhood and drivers. He noted a former staff member and his associates used to drive around the City twice a year to check and maintain all street lights.

1 Mr. Vossbrink requested updates on the appointments of a new Public Works Director and
2 Police Chief, why new green recycling trash bins had not been installed at Pinole Valley
3 Park near the baseball diamond, and why the restrooms did not have plastic toilet seat
4 covers while newer parks in the City were routinely maintained and improved. He also
5 requested the Planning Commission discontinue making the Ohlone land
6 acknowledgment statement at the beginning of each meeting since the City had not done
7 anything to recognize the Ohlone, although the City Council Subcommittee on Memorials
8 comprised of Mayor Sasai and Council member Martinez-Rubin was supposed to
9 designate a location in Pinole in recognition of the Ohlone. He expressed concern Pinole
10 had not offered any recognition to the Ohlone as other communities in the Bay Area had
11 done.

12
13 Planning Manager David Hanham stated in response to the public comment, and as
14 reported during the last City Council meeting, the top candidates for Public Works Director
15 were being interviewed by the City Manager and the new Police Chief would start
16 employment the beginning of February. Staff would speak with the City's Code
17 Enforcement Officer regarding the lights at Marathon Gas Station. He also noted the light
18 situation along Pinole Valley Road and San Pablo Avenue was a Public Works
19 Department issue, but understood when the new high school had been built new lights
20 had been installed along Pinole Valley Road through Rule 28 Funds. The issue with the
21 trash bins at Pinole Valley Park were under the purview of the Public Works Department
22 and he would recommend the speaker contact that Department.

23
24 Mr. Hanham added he was unaware of the background of a commitment made by City
25 staff in the past for a biannual check of Citywide conditions in public corridors, which may
26 have involved the regular routine of a prior staff member.

27
28 **F. MEETING MINUTES**

- 29
30 1. Planning Commission Meeting Minutes for December 9, 2024

31
32 Chairperson Menis requested a revision to Lines 43 through 44 of Page 7, as follows:

33
34 *Mr. Hanham further commented that most corporate images and design features*
35 *were patented, with the actual signage to be maintained in that regard.*
36

37 **MOTION** with a Roll Call vote to approve the Planning Commission Meeting Minutes for
38 December 9, 2024, as amended.

39
40 **MOTION: Menis**

SECONDED: Sandoval

APPROVED: 5-0-2

ABSTAIN: Huey

ABSENT: Martinez

41
42
43
44 **G. PUBLIC HEARING**

- 45
46 1. **PA25-001 Municipal Code Amendments for Housing Element**
47 **Implementation (Parking, Affordable Housing, General Application**
48 **Processing)**
49

1 Senior Planner Justin Shiu provided a PowerPoint presentation on PA25-001, Municipal
2 Code Amendments for Housing Element Implementation (Parking, Affordable Housing,
3 General Application Processing). He recommended the Planning Commission adopt
4 Resolution 25-01, recommending to the City Council the adoption of proposed Municipal
5 Code Amendments as provided in Resolution 25-01, Attachment A, Exhibit A, or with
6 additional recommendations for revisions provided by the Planning Commission.
7

8 PUBLIC HEARING OPENED 9

10 Responding to questions from the Planning Commission, Messieurs Hanham and Shiu
11 clarified the following:
12

- 13 • Program 12 of the Housing Element had described a number of options the City may
14 consider to reduce parking constraints, with several options listed. The removal of
15 guest or covered parking was one of the options. Staff chose those two options to
16 reduce parking constraints. This change had not been tied to the City's Prohousing
17 designation, but it would help to implement housing by reducing some of the parking
18 constraints. (Sandoval)
19
- 20 • Pages 31 and 32 of 56 of the agenda packet, Chapter 17.10 General Application
21 Processing Procedure, Section 17.10.060 Approving Authority, Table 17.10.060-1,
22 Approving Authority for Land Use Entitlements, staff amended the type of permit
23 or decision for Temporary Use Permit (1) and Administrative Design Review to (F)
24 Final Decision-Making Body, since the Zoning Administrator was not required for
25 these types of permits and the Community Development Director may provide final
26 approval, as described in the more detailed review procedures for the respective
27 permit types in Chapter 17.12 Entitlements. This change had been made to avoid
28 confusion. Oftentimes, the Zoning Administrator implied there was a public
29 hearing involved and those options do not require that on their own. Program 12
30 of the Housing Element also referenced the Zoning Administrator as the approval
31 authority, but the document had already been adopted and certified and staff
32 recommended no change to the Housing Element. (Sandoval)
33
- 34 • Page 42 of 56 of the agenda packet, Chapter 17.48 Parking and Loading
35 Requirements, clarified the recommendation to remove guest or covered parking
36 constraints, as reflected in Table 17.48.050-1. Clarified Americans with Disabilities
37 Act (ADA) parking spaces were counted together with other parking spaces.
38 Reference to a Certified Access Specialist in the Parking and Loading Requirements,
39 was something not done by the City but the applicant/developer would evaluate a
40 proposal to ensure the project met accessibility standards. (Lam-Julian)
41
- 42 • Page 42 of 56 of the agenda packet, Chapter 17.48, Parking and Loading
43 Requirements, whether Tina's Place and Pear Street Bistro as examples, may be
44 required to have delivery times during off-peak hours was not something mandated
45 by the Pinole Municipal Code (PMC) code, but applied with new development when
46 standards were set. The recommendation could be discussed with those businesses
47 along San Pablo and Tennant Avenues. (Lam-Julian)
48
49
50

- Page 42 of 56 of the agenda packet, Chapter 17.48, Parking and Loading Requirements, proposed amendments related to design and space and not location of the parking spaces. (Uch)
- Page 44 of 56 of the agenda packet, Chapter 17.48, Parking and Loading Requirements, Table 17.48.050-1, Parking Requirements by Land Use, Senior Units (Age 55 and Over), which read: *1 space per dwelling unit. The minimum parking requirement may be waived if affordable housing units are provided consistent with Chapter 17.32, and the proposed development has either paratransit service or unobstructed access within one-half mile, to fixed bus route service that operates at least eight times a day*, applied to senior housing only and was a special designation in State Density Bonus Law but there could be reductions in other standards. The regulation applied to “fixed bus route service,” and staff acknowledged a recommendation to amend the language to read: “transit service.” (Uch)
- Page 44 of 56 of the agenda packet, Chapter 17.48, Parking and Loading Requirements, Table 17.48.050-1, Parking Requirements by Land Use, acknowledged concern whether the reference to “eight-times a day” in this section would be sufficiently stringent of a requirement given the senior housing population with other areas of the PMC using the language “*within at least 30 or 45 minutes during peak commute times.*” Staff would look into whether this modification to the language could be considered since the language proposed had been drawn from State Density Bonus Law, and if the language was more restrictive there could be a constraint. If there was a language change from “fixed bus route service” to “transit service,” acknowledged a request that “transit” be defined. Also, acknowledged that if relying on transit, it be at least as reliable as a fixed bus route service, otherwise just changing the language to transit may be too vague. (Chairperson Menis)
- Chapter 17.32, Affordable Housing Requirements, Page 37 of 56 of the agenda packet, Table 17.32.020-1, Price Limits for Affordable Housing Units, clarified the language revisions as shown in the table to be more in line with what had been described in the table itself. Previously, the text had been too vague. The 40/60 split was on 15 percent affordable units and not the development as a whole. (Chairperson Menis)
- Page 36 of 56 of the agenda packet, Section 17.32.020, General Requirements for Affordable Housing, A. General Requirement, this section had been amended and included the following statement: *For projects proposing rental units, a minimum of 40 percent of the 15 percent of total units (i.e., at least 6% of total units excluding density bonus units) must be affordable to households at or below the very low-income level. The remaining affordable rental units must be affordable to households at or below the low-income level. For projects proposing ownership units, 100 percent of the affordable units must be affordable to households at or below the moderate income level.* Additional language could be included to clarify this statement. Acknowledged a recommendation for additional language stating: *The remaining affordable rental units of that 15 percent...* for the second clause and a similar statement should be considered for ownership units. (Chairperson Menis)

- Page 36 of 56 of the agenda packet, Section 17.32.020, General Requirements for Affordable Housing, B. Residential Parcel Maps and Subdivisions, clarified there may be a case where a Senate Bill (SB) 9 project may have to provide affordable units, and this clause was to provide clarification. The prior text that had been stricken in the redline version of Chapter 17.32, Affordable Housing Requirements, contemplated residential subdivisions only having one primary unit per subdivided lot, whereas SB 9 allowed up to two primary units per subdivided lot. As an example, a residential subdivision under SB 9 was entitled up to two primary units on each lot, and by doing an SB 9 project would permit the development of up to four primary units, but the thought was that was not the intent of the original language that contemplated the subdivision of four or more properties, to require an affordability component. (Chairperson Menis)
- Page 44 of 56 of the agenda packet, Table 17.48.050-1, Parking Requirements by Land Use, again staff had eliminated the requirement for guest parking in general and it was not included for single-family housing. Clarified the clause shown on Page 43 of 56 of the agenda packet, Section 17.48.050 Number of Parking Spaces Required, 5., which read: *Where private streets are proposed for residential development, resident and guest parking shall be provided as determined by the approving authority in conjunction with the required planning entitlement(s).* (Ord. 2010-02 § 1 (part), 2010), could be eliminated. (Chairperson Menis)
- Noted there was no general way to analyze the potential for impacts from the removal of the guest parking requirement on Level of Service (LOS) and Vehicle Miles Traveled (VMT), to be analyzed on a project-by-project basis. Most recent developments did not have guest parking and had used density bonus exemptions and waivers to reduce parking. In most cases, guest parking had been included as part of the parking requirements. (Chairperson Menis)
- Administrative use permits required a public hearing with the Community Development Director or his/her designee who would serve as the Zoning Administrator, with the meetings involving similar public noticing requirements as Planning Commission public hearings. (Chairperson Menis)
- Pages 31 and 32 of 56 of the agenda packet, Table 17.10.060-1, Approving Authority for Land Use Entitlements, which reference "F" which symbolized the Final Decision-Making Body, could be stricken for Temporary Use Permit (1). (Chairperson Menis)

PUBLIC HEARING OPENED

There were no comments from the public.

PUBLIC HEARING CLOSED

The Commission thanked staff for the great presentation.

1 Commissioner Bender identified a typographical error on Page 48 of 56 of the agenda packet,
2 Section 17.48.100 Parking and Driveway Design and Development Requirements B.3.
3 There were references in this section to Sections 17.48.090 B.1 and B.2, and he noted there
4 were no such sections in the document, although subsections B.1 and B.2 were shown under
5 Section 17.48.100. He was otherwise troubled by the reduction of the guest parking
6 requirement but could not imagine a developer not wanting to go through the density bonus
7 route and start that process.

8
9 Commissioner Uch referenced Page 49 of 56 of the agenda packet, Table 17.48.120-1,
10 Required Bicycle Parking, and asked whether the table was new, to which Mr. Shiu explained
11 that the table was an existing table.

12
13 Chairperson Menis offered the following comments on the Municipal Code Amendments, as
14 follows:

- 15
16 - Page 36 of 56 of the agenda packet, Section 17.32.020, General Requirements for
17 Affordable Housing, A. General Requirement, asked that SB 9 projects be clarified, with
18 staff to craft language to reflect *except for SB 9 lot split projects*.
- 19
20 - Pages 44 and 45 of 56 of the agenda packet, Table 17.48.050-1 Parking Requirements
21 by Land Use, understood the City was not allowed generally to reduce flexibility in the
22 state requirements but suggested as a matter of public policy, fixed bus route service that
23 operated at least eight times a day did not meet the standard of readily available frequent
24 transit service as listed elsewhere in the PMC and other State law and was insufficient,
25 particularly for senior developments.
- 26
27 - Page 48 of 56 of the agenda packet, Section 17.48.110 Loading Area Requirements,
28 inquired of the number of businesses in Pinole based on business licenses that had a
29 floor area of less than 10,000 square feet. Staff noted along Fitzgerald Drive sizes
30 exceeded 10,000 square feet as did most of San Pablo Avenue. The loading
31 requirements were based off the size and multi-tenant buildings (large shopping centers)
32 were based off the entire square footage of the building. For the downtown area, as an
33 example, the buildings were less than 10,000 square feet in size, which was why loading
34 was off of an off-street area. Staff also acknowledged that delivery trucks had upsized
35 over the years since they were likely serving multiple businesses along their routes.
- 36
37 - Page 48 of 56 of the agenda packet, Section 17.48.100 Parking and Driveway Design
38 and Development Requirements, B. Driveway Location Standards (3), clarified with staff
39 there was, in fact, a typographical error, with the section to be so amended.
- 40
41 - Page 38 of 56 of the agenda packet, Section 17.32.050 Affordable Housing
42 Requirements, B. Size (2) which read: *The square footage of an affordable unit shall*
43 *be no less than ninety percent (90%) of the median square footage of the market rate*
44 *units with the same number of bedrooms, and B.3 which read: If the affordable unit is*
45 *alienable separate from the title to any other dwelling unit, the parcel on which the*
46 *affordable unit is located shall be no less than ninety percent (90%) of the median*
47 *square footage of the parcels on which market rate units with the same number of*
48 *bedrooms are located* and expressed concern with the trends in housing in some cities
49 with decreasing bedroom sizes.
50

1 The language, as shown, required the units to have the same square footage but not
2 the number of bedrooms. Based on his interpretation of the language, as long as there
3 was something that could be called a bedroom, there was no limitation on the size of
4 the bedroom. It could be a box or a closet, which would be permissible as long as the
5 unit as a whole was *ninety percent (90%) of the median square footage of the parcels*
6 *on which market rate units with the same number of bedrooms are located.*
7

8 Commissioner Bender commented his interpretation of this section was if there was a low-
9 income unit with two bedrooms, as an example, and a market rate at two bedrooms, the total
10 square footage of the low-income unit could not be less than 90 percent of the market rate
11 unit. It was not saying someone would have a substandard bedroom since developers must
12 aim the development to who they were marketing the project and the bedrooms would
13 typically be 8 x 10 or 10 x 10 in size or larger. He understood the intent of the language was
14 to prevent horrible downsizing of the low-income unit.
15

16 Mr. Hanham confirmed that was the way this section had been written and he offered
17 additional example scenarios.
18

19 Chairperson Menis was not convinced developers could be trusted to provide the same
20 quality for the affordable unit as the market units and referenced Section 17.32.050 A, which
21 read: *Affordable units shall have the same exterior appearance and quality of construction*
22 *as the market-rate units. Appliances and finishes in the affordable units shall be the same*
23 *as in the market rate units with the same number of bedrooms.* He appreciated the staff
24 comment that the standard and practice of development was usually not to reduce the
25 size of the bedrooms and subsection A would mandate that; however, he would more
26 comfortable if there was language added that explicitly stated the size of the bedroom
27 must be at least 80 percent of the size of the comparable market rate units.
28

29 Mr. Shiu suggested such language could be crafted and noted the language, as shown in
30 Section 17.32.050, came from the City's updated Density Bonus Ordinance and staff
31 would have to ensure consistency if some minimum references were established.
32

33 Chairperson Menis continued his comments, as follows:
34

- 35 - Page 37 of 56 of the agenda packet, Section 17.32.040, Incentives for On-Site Housing,
36 asked whether that was impacted by Section 17.32.020, General Requirements for
37 Affordable Housing, and the requirements of SB 9, with SB 9 lot splits exempt from the
38 future development of affordable units and since exemption of park fee waivers for
39 additional units had been included in Section 17.32.040 Incentives for On-Site Housing,
40 (4) which read: *Park Fee Waivers for Additional Affordable Units. Additional deed-*
41 *restricted affordable units beyond the minimum fifteen (15) percent inclusionary unit*
42 *requirement, as described under Section 17.32.020, are eligible for waiver of park*
43 *impact fees.*
44

45 Mr. Shiu advised staff could further specify that Section 17.32.020 be sectioned, with the lot
46 split itself exempt, and if there were four primary units the affordable housing incentives would
47 apply.
48

1 Mr. Hanham noted that SB 9 was just the splitting of the lots and not the units, and that the
2 lot splits did not provide all of the incentives. Only when there were more units on the two
3 properties would the concessions and waivers come into play.
4

5 Chairperson Menis continued his comments:
6

- 7 - Page 39 of 56 of the agenda packet, Section 17.32.070 Affordable Housing Plan
8 Processing, C. Required Plan Elements, (9), which read: *Except when prohibited by*
9 *state or federal law, the plan shall require that preference shall be given to households*
10 *that live or work in Pinole when selling or leasing affordable units within a development,*
11 *and he clarified with staff the intent of this section.*
12
- 13 - Page 38 of 56 of the agenda packet, Section 17.32.050, Affordable Housing
14 Development Requirements, E. Affordable Housing Agreement, recognized pursuant to
15 the language proposed that the agreement would be reviewed and approved by the City
16 Manager and was considered an administrative task, but expressed concern that
17 currently an Affordable Housing Agreement was reviewed and approved by the City
18 Council and available to the public to review. If the agreement went only to the City
19 Manager the public would not be able to provide feedback. Staff noted the agreement
20 was typically already flushed out as part of the project approval process and examples
21 were offered. Staff clarified the City Council, not the City Manager, may change the
22 duration of the period of the agreement.
23
- 24 - Page 46 of 56 of the agenda packet, Section 17.48.060, Reductions in Parking
25 Requirements, clarified with staff the reduction in parking requirements may be further
26 reduced by concessions and waivers based on State Density Bonus Law. From an
27 administrative perspective, staff had dropped the number to be consistent with State law
28 for affordable housing projects, but a developer may through waivers and concessions
29 reduce the parking requirement further. Recognized an appeal of a decision of the
30 Zoning Administrator would go through the Planning Commission, appeal of a decision
31 of the Planning Commission would go through the City Council and Comprehensive
32 Design Review would still go to the Planning Commission for review and approval.
33
- 34 - Page 47 of 56 of the agenda packet, Section 17.48.070 Special Parking Standards for
35 Old Town, D. Parking Capacity Assessment, D.1, Assessment Frequency, clarified with
36 staff pursuant to this section: *The city will evaluate and monitor parking supply and*
37 *demand on a regular basis. A parking capacity assessment shall be conducted the*
38 *sooner of every two (2) years or after every fifth new use, that would require ten (10)*
39 *or more parking spaces as outlined in Table 17.48.050-1 (Parking Requirements by*
40 *Land Use).* Staff clarified the last time a parking assessment of Old Town had been
41 done was in 2020. Staff was uncertain whether the assessment could be done at the
42 staff level and whether the time period could be changed to every five years, which
43 would have to be researched further
44

45 Mr. Shiu spoke to the concerns with the senior unit parking waiver section of Chapter 17.48,
46 Parking and Loading Requirements, Table 17.48.050-1, Parking Requirements by Land Use,
47 and the language for a fixed bus route service operating eight times a day.
48

1 Mr. Shiu suggested that phrase could be eliminated and if people wanted to use that waiver
2 they could use State law instead. The additional language was not required but had been
3 included to highlight the fact that the waiver existed in State law.
4

5 Whether State law may change making that condition match with other segments of State
6 law with respect to 30 to 45-minute headway requirements, and in response to the Chair,
7 Commissioner Sandoval stated he could not comment about upcoming legislation but was
8 not opposed to making the statement vague, such as reasonable frequency of transit with an
9 emphasis on public service transit operators rather than fixed bus routes.
10

11 Chairperson Menis suggested the consideration of language to read: *Public transit service*
12 *that meets state requirement for frequency headways*, as an example, or similar language
13 elsewhere in the PMC. If it was just a general rule, he would not be pushing as hard, but
14 since it was related to senior units in particular, he was concerned.
15

16 Mr. Shiu suggested Chapter 17.48, Parking and Loading Requirements, Table 17.48.050-1,
17 Parking Requirements by Land Use, Senior Units, Required Parking Spaces, could be
18 amended to read: *1 space per dwelling unit. The minimum parking requirement may be*
19 *waived for affordable units provided consistency with Chapter 17.32 and that meets state*
20 *requirements for transit service serving affordable units.*
21

22 Chairperson Menis agreed that could work and would take into account future changes in
23 State law.
24

25 Commissioner Sandoval understood that would impact the City's bus service providers if
26 an area did not have frequent bus service.
27

28 Mr. Shiu noted this was an incentive, a waiver that could be requested, and should be
29 okay.
30

31 Chairperson Menis stated WestCAT was not under the jurisdiction of the Planning
32 Commission.
33

34 Mr. Shiu summarized the changes proposed by the Planning Commission, as follows:
35

- 36 • Page 32 of 56 of the agenda packet, Table 17.10.060-1, Approving Authority for
37 Land Use Entitlements, strike footnote 1 next to Temporary Use Permits;
38
- 39 • Page 36 of 56, Section 17.32.020 General Requirements for Affordable Housing,
40 A., revise the bold underline text which read: *The remaining affordable rental units*
41 *must be affordable to households at or below the low-income level. For projects*
42 *proposing ownership units, 100 percent of the affordable units must be affordable*
43 *to households at or below the moderate-income level, to read: The remaining*
44 *affordable rental units must be affordable to households at or below the low-*
45 *income level of the 15 percent must be affordable to households at or below the*
46 *low-income level. For projects proposing ownership units, 100 percent of the 15*
47 *percent of affordable units must be affordable to households at or below the*
48 *moderate income level.*
49

- Page 36 of 56, Section 17.32.020 General Requirements for Affordable Housing, B., Residential Parcel Maps and Subdivisions, revise the first sentence to read: *For all residential subdivisions except for SB 9 lot split projects under Chapter 17.71 (SB 9 Urban Lot Split and Unit Development) where the lots to be approved would permit the eventual development of four (4) or more dwelling units, the applicant shall either agree to future development of affordable units under an affordable housing plan, or shall propose an alternative method of compliance to meet the affordable housing requirements, pursuant to the requirements as established in Section 17.32.060 (Alternative Methods of Compliance).* Staff noted the exception to this exception would be if the developer provided four primary units as part of the project.
- Page 38 of 56 of the agenda packet, Section 17.32.050 Affordable Housing Development Requirements, B.2, add specificity to reflect that the square footage of the bedroom shall be at least 90 percent the size of the market rate bedrooms.
- Page 43 and 44 of 56 of the agenda packet, Section 17.48.050 Number of Parking Spaces Required, A.5, revised to read: *Where private streets are proposed for residential development, parking shall be provided as determined by the approving authority in conjunction with the required planning entitlement(s). (Ord. 2010-02 § 1 (part), 2010)*
- Page 44 and 45 of 56 of the agenda packet, Table 17.48.050-1, Parking Requirements by Land Use, revise the parking requirements for Senior Units to read: *1 space per dwelling unit. The minimum parking requirement may be waived if affordable housing units are provided consistent with Chapter 17.32 and the parking for affordable units meets state requirements for transit service serving the affordable units.* (Language to be further defined by staff prior to presentation to the City Council); and
- Page 48 of 56 of the agenda packet, Section 17.48.100 Parking and Driveway Design and Development Requirements, B.3, correct the typos to reference instead Section 17.48.100 B.1 and B.2, which referenced the standards directly above this section.

MOTION with a Roll Call vote to adopt Resolution 25-01, recommending to City Council the adoption of proposed Municipal Code Amendments as provided in Resolution 25-01, Attachment A, Exhibit A, subject to the revisions suggested by the Planning Commission, as identified by staff.

MOTION: Menis

SECONDED: Uch

APPROVED: 6-0

ABSENT: Martinez

Chairperson Menis identified the 10-day appeal period of a decision of the Planning Commission in writing to the City Clerk.

H. OLD BUSINESS: None

1 **I. NEW BUSINESS:** None

2
3 **J. CITY PLANNER'S/COMMISSIONER'S REPORT**

4
5 1. Staff Updates

6
7 Mr. Hanham provided the following updates:

- 8
9
 - 10 ○ Staff was getting close to finalizing Vista Woods and SAHA and providing full
 - 11 Certificates of Occupancy.
 - 12 ○ Staff was making headway with the Objective Development Design Standards and
 - 13 the Parklet Outdoor Dining Regulations, anticipated to be presented to the Planning
 - 14 Commission in the next few months.
 - 15 ○ Staff continued to work with the developers of Appian 80.
 - 16 ○ The developer hoped to submit building plans for Pinole Shores II soon.
 - 17 ○ Staff was finalizing the Final Map for Appian Village and had finalized the Affordable
 - 18 Housing Agreement for the project.
 - 19 ○ Staff was working with both developers for the BCRE and Pinole Vista projects to get
 - 20 the projects started. Staff was working with the developer for the Pinole Vista project
 - 21 to get the former Kmart building demolished and BCRE was working on grading
 - 22 plans.
 - 23 ○ Staff hoped to present the Safety and Environmental Justice Elements of the General
 - 24 Plan to the Planning Commission in the next month. The Safety Element would be
 - 25 presented to the Contra Costa County Fire Protection District (CCCFPD) for review
 - 26 and feedback. Any changes to the document would be made prior to a presentation
 - 27 to the Planning Commission and City Council.
 - 28 ○ Staff completed the annex portion of the Local Hazard Mitigation Plan (LHMP) with
 - 29 the document approved by the County, to be presented for review and approval by
 - 30 the City Council.
 - 31
 - 32
 - 33
 - 34
 - 35
 - 36
 - 37

38 Chairperson Menis asked for more details on the LHMP.

39
40 Mr. Hanham described the LHMP as a plan put together through the Countywide Office of
41 Emergency Services (OES), with participating cities having an annex, which identified major
42 natural disaster mitigations and programs to help alleviate some of the impacts. The County
43 adopted a LHMP in 2014 but the City of Pinole was not part of that program at that time. The
44 City of Hercules adopted its own LHMP and the City of Pinole had relied on its Safety
45 Element. In 2019-2020, the County reopened and amended the LHMP, and at that time the
46 City of Pinole expressed interest in participating. In the event of a natural disaster, the LHMP
47 would allow the City to access funds from the state and federal level for disaster relief.

48
49 PUBLIC COMMENTS OPENED

1 Anthony Vossbrink asked the status of the Tara Hills Safeway build out; sale of the Faria
2 House and other vacant available properties that were either for sale or should be for sale;
3 Pinole Valley Shopping Center ingress/egress issues and corrections being made to the
4 cement sidewalk at multiple businesses; and asked whether there was a lawsuit and whether
5 the City was liable, particularly related to the grade and width of wheelchair access to the
6 parking lot curb. He further asked whether the City had approved the corrections being made
7 and asked about the status of the use of the former Animal Services building, which was
8 occupied and whether the occupant had received approval from the City to operate.
9

10 Mr. Vossbrink also referenced Rule 28 Funds and asked for more details as it related to the
11 number of telephone poles up and down Pinole Valley Road. He reported in one area
12 ingress/egress had been obstructed with two poles banded together with wires and tape.
13 Former Council member Pete Murray had mentioned during a City Council meeting, the City
14 had an agreement with AT&T or Pacific Bell to bury electric pole lines and remove poles to
15 prevent issues with ADA access and address the unattractive appearance on Pinole Valley
16 Road. Many of those issues had been raised on more than one occasion at City Council
17 meetings. In addition, he described the duties of a former Public Works Department staff
18 member who had conducted regular checks on Citywide conditions, which he understood
19 had been halted due to the pandemic but which he suggested should be revisited and
20 reinstated by the Public Works Department. Further, there were Caltrans issues that should
21 be handled directly by the City rather than by private citizens.
22

23 PUBLIC COMMENTS CLOSED

24

25 Mr. Hanham responded to the public comment and explained all of the City's properties that
26 had been listed for sale were City-owned and handled by a consulting firm the City had used
27 in the past. He had no update on the status of the Faria House and was uncertain whether
28 the property was on the market for sale. The consultant was working with the Community
29 Development Director on that matter.
30

31 As to the Pinole Valley Shopping Center, Mr. Hanham explained that anything inside the
32 development was under the purview of the landlord and the City had no liability. If the
33 property owner encroached into the public right-of-way (ROW), an encroachment permit
34 would be required by the City and he would have to check with the Public Works Department
35 whether or not that was the case.
36

37 As to the status of the former Animal Shelter, Mr. Hanham was unaware the County had
38 opened the building officially, although Mr. Shiu understood tenant improvements had been
39 made to the building and a final inspection would be required before any business could
40 open.
41

42 Mr. Hanham also clarified Rule 28 Funds were used for underground work and in discussions
43 with the Public Works Department he understood they were working with AT&T to get some
44 utilities underground. He understood most of the lines were AT&T poles and not necessarily
45 street lights. When this issue had been raised with the City Council, the matter had been
46 referred to the Public Works Department which was continuing to address the issue and he
47 would have to check with the Department to learn the status of the project. He was also
48 uncertain when any poles would be removed, to be determined between AT&T and the City.
49
50

1 Mr. Hanham reiterated staff hoped to hold a meeting soon with the property owner of Appian
2 80 to learn the status of any plans. He understood the existing fence had blocked off
3 additional truck parking and staff was following up with any code enforcement issues on the
4 property.
5

6 **K. COMMUNICATIONS**
7

8 Chairperson Menis reported there would be a Senior Center Food Distribution on January
9 28, 2025 from 10:00 to 11:00 a.m., with sign-ups available on the City website; the Active
10 Transportation Plan (ATP) was still available for comment through January 31, 2025; the
11 City had a survey on what events people wanted to have over the summer, which was
12 open through January 31, 2025; and there was a broader survey on vegan food options,
13 all of which were available on the City website or through Pinole Pulse.
14

15 Commissioner Uch reported the Contra Costa Transportation Authority (CCTA) recently
16 put out a survey on how to better improve transit in the County and he recommended the
17 Planning Commission and the public participate in that process.
18

19 Commissioner Lam-Julian reported the CCTA survey included an opportunity to enter to
20 win a \$500 gift card, which was a nice incentive. She otherwise reported the start of Lunar
21 New Year would be January 29, 2025, with the event the most celebrated holiday in the
22 Asian Diaspora and that 2025 was the Year of the Snake, which represents resilience.
23 She wished everyone a Happy Lunar New Year.
24

25 **PUBLIC COMMENTS OPENED**
26

27 There were no comments from the public.
28

29 **PUBLIC COMMENTS CLOSED**
30

31 **L. NEXT MEETING(S)**
32

33 The next meeting of the Planning Commission to be a Regular Planning Commission
34 meeting scheduled for February 10, 2025 at 7:00 p.m.
35

36 **M. ADJOURNMENT: 9:35 p.m.**
37

38 Transcribed by:
39

40 Sherri D. Lewis
41

Transcriber



PLANNING COMMISSION REPORT

G.1.

DATE: FEBRUARY 24, 2025
TO: PLANNING COMMISSION
FROM: JUSTIN SHIU, CONSULTANT PLANNER
LILLY WHALEN, COMMUNITY DEVELOPMENT DIRECTOR
SUBJECT: PA25-0002 ACCESSORY DWELLING UNIT AMNESTY PROGRAM

RECOMMENDATION

Adopt Resolution 25-02 (**Attachment A**) recommending to City Council the adoption of proposed Municipal Code amendments as provided in Resolution 25-02 Attachment A, Exhibit A, or with additional recommendations for revisions provided by Planning Commission.

BACKGROUND

The City of Pinole's proposed ADU/JADU Amnesty Program aligns with California Assembly Bill (AB) 2533, which revised Government Code Section 66332, and supports the City's Housing Element Program 4: ADU Amnesty Program. This initiative is a vital component of the City's strategy to ensure safe and adequate housing by providing a pathway for legalizing unpermitted Accessory Dwelling Units (ADUs) and Junior Accessory Dwelling Units (JADUs).

Key Provisions of AB 2533:

1. Eligibility Extension: Applies to units constructed before January 1, 2020.
2. Health and Safety Focus: Limits enforcement to violations that pose risks under Health and Safety Code §17920.3.
3. Amnesty Pathway: Requires local jurisdictions to offer programs that include public notification, optional third-party inspections, and reduced penalties.
4. Enforcement Delay Option: Grants up to five years for property owners to address code violations for eligible units.

Housing Element Program 4: The ADU Amnesty Program is an essential strategy to ensure safe and adequate housing in Pinole (**Attachment B**). The program enables inspections and brings unpermitted ADUs and JADUs into compliance with City codes without the risk of code enforcement actions. It includes significant fee reductions and provides assistance to property owners in determining necessary improvements to achieve compliance.

By implementing Housing Element Program 4, this ordinance reinforces the City's commitment to addressing housing needs and improving safety.

REVIEW AND ANALYSIS

The municipal code amendment (**Attachment A, Exhibit A**) complies with state law

and provides a structured framework for the legalization of unpermitted ADUs and JADUs in Pinole and aligns with both state law and Pinole's housing goals by limiting amnesty eligibility to units built and occupied before January 1, 2020. Under the revised state law, the City cannot deny a permit for an unpermitted ADU or JADU constructed before January 1, 2020, based upon a determination that the ADU or JADU is in violation of state or local building standards that apply to ADUs and/or JADUs, unless the City makes a finding that correcting the violation is necessary to comply with conditions that would otherwise deem a building substandard as defined by Health and Safety Code Section 17920.3.

To prioritize public safety, enforcement delays are only granted when correcting the violation is unnecessary to protect public health and safety, as defined under Health and Safety Code §17920.3. An example of a violation that would be unnecessary to correct under this standard might include a ceiling height slightly below the minimum required by local building codes (e.g., 7 feet instead of 7 feet 6 inches). If the reduced height does not compromise safety, structural integrity, or habitability, it would not be classified as substandard. In contrast, violations such as faulty wiring, inadequate fire egress, or unsafe plumbing would require correction immediately as they pose direct threats to health and safety.

To assist homeowners, the program provides comprehensive support, including a self-assessment checklist, online resources, confidential consultations, and notification of optional third-party inspections to help property owners address potential issues before submitting an application. By doing so, it also advances the City's Housing Element goals of promoting safe, legal, and affordable housing options. A draft checklist is being prepared and will be maintained by the Building Official. An example of the type of the checklist is included as **Attachment C**. The Building Official will have the discretion to amend the checklist from time to time. Consistent with standard Public Works requirements, owners applying for ADU Amnesty will also be required to demonstrate compliance with the City's sewer lateral inspection program.

The ordinance introduces specific features designed to simplify and encourage participation. The Amnesty Permit includes two City inspections to assess compliance with health and safety standards. If corrections are needed, owners will receive clear guidance on the required improvements and must file permits (if required) to complete these upgrades. Additionally, enforcement delays of up to five years are offered to allow non-compliant units time to meet standards without facing immediate penalties or displacement, although delays will be revoked if additional violations occur. To further support compliance, the City will provide free consultations, online tools, and a detailed checklist to guide property owners through the process.

The program's implementation is structured to ensure broad accessibility and understanding. Public outreach will inform residents of their rights and program benefits, including the availability of pre-application third-party inspections and enforcement delay options. To participate, property owners must provide documentation proving construction and occupancy, such as utility bills or rental agreements, along with site and floor plans. Applications will be accepted until January 1, 2030, and all enforcement delays will conclude by January 1, 2035. New state housing laws concerning ADU amnesty (AB 2533) took effect on January 1, 2025. Any

application submitted before the effective date of this proposed ordinance update will be processed in compliance with the effective date of State law.

By legalizing unpermitted units, the program brings substantial benefits to the City and its residents. It increases the availability of affordable housing by incorporating previously unpermitted units into the City's housing inventory. It enhances safety by ensuring compliance with health and safety standards, reducing risks to occupants and neighbors. Furthermore, it encourages voluntary compliance, minimizing the need for costly enforcement actions and fostering collaboration between the City and property owners.

ADU/JADU Amnesty Program Process

The following provides a step-by-step guide to the draft Ordinance's requirements.

Step 1: Owner Determines Eligibility

- **Verify Construction Date:** The unpermitted ADU/JADU must have been constructed before January 1, 2020.
- **Confirm Use and Safety Standards:** The unit must currently function as a dwelling (e.g., includes a kitchen, bathroom, and sleeping area) and must not pose a risk to public health or safety as defined by Health and Safety Code §17920.3.

Step 2: Owner conducts Self-Assessment

- Complete the Self-Assessment Checklist to evaluate eligibility and identify potential health and safety concerns. The checklist helps owners determine whether the unit meets program criteria before submitting an application to the City.

Step 3: Optional Third-Party Inspection

- Property owners may hire a licensed contractor or inspector to perform a confidential, third-party inspection of the unit. The report can help address potential issues before submitting an application.

Step 4: Request a Free Consultation

- Schedule a confidential meeting with City staff in the Planning Division to review eligibility, gather program information, and receive guidance on the application process.

Step 5: Submit an Application

- Complete the Amnesty Permit Application and provide required documentation, including:
 - o Proof of construction and occupancy (e.g., utility bills, rental contracts, or notarized affidavits).
 - o Site plan showing the unit's location on the property.
 - o Floor plan of the unit with dimensions, entrances, and windows.
- Pay the administrative fees as established by the City Council.

Step 6: City Inspections

- The Amnesty Permit includes two inspections by a City Building Inspector:
 - o Inspection 1: An initial review of the unit to identify health and safety violations.
 - o Inspection 2: A follow-up inspection after corrections have been completed, if necessary.
 - o Additional inspections are available at the City's hourly inspection rate.

Step 7: Address Violations (If Applicable)

- If corrections are needed to meet health and safety standards:
 - o File appropriate building permits with the City.
 - o Complete required improvements under the guidance of City staff.

Step 8: Enforcement Delay (If Requested)

- If additional time is needed to complete corrections:
 - o Submit a Request for Enforcement Delay for up to five years.
 - o The City will grant delays only if violations do not pose immediate health or safety risks.

Step 9: Final Approval

- Once all requirements are met, the unit will be granted amnesty and deemed compliant with applicable City and state standards.

Step 10: Program Deadlines

- Applications must be submitted by January 1, 2030.
- All enforcement delays will end by January 1, 2035.

In conclusion, the draft ADU/JADU Amnesty Program is a vital initiative that aligns with state law and the City's Housing Element Program 4. It ensures safe, legal housing while supporting the City's broader goals of affordability and community well-being.

ATTACHMENTS

- A. Attachment A. Resolution 25-02 with Exhibit A
- B. Attachment B. Housing Element Programs Associated with ADU Amnesty
- C. Attachment C. Checklist Example

**PLANNING COMMISSION RESOLUTION 25-02
WITH EXHIBIT A: MUNICIPAL CODE AMENDMENTS**

RESOLUTION OF THE CITY OF PINOLE PLANNING COMMISSION RECOMMENDING THAT THE CITY COUNCIL ADOPT AN ORDINANCE AMENDING CHAPTERS 17.70 TO ADD AN ACCESSORY DWELLING UNIT (ADU) AMNESTY PROGRAM TO THE PINOLE MUNICIPAL CODE.

WHEREAS, Pinole Municipal Code (“PMC”) Title 17 Zoning Code establishes general regulations on land uses and development standards within the City; and

WHEREAS, the City of Pinole 2023-2031 Housing Element contains programs identifying various zoning ordinance amendments; and

WHEREAS, implementation of Housing Element programs requires amendments revising text in the PMC; and

WHEREAS, AB2533 became effective January 1, 2025, amending Government Code Section 66332, and updated regulations that local agencies must abide by in dealing with unpermitted accessory dwelling units (ADUs) or unpermitted junior accessory dwelling units (JADUs), including requirements for permitting and enforcement; and

WHEREAS, PMC Chapter 17.70 regulates ADUs and JADUs; and

WHEREAS, amendments to PMC Chapter 17.70 are proposed to codify procedures for regulating unpermitted ADUs and JADUs consistent with State Law and implementing Housing Element Program 4; and

WHEREAS, the proposed revisions to amend the Zoning Code are attached hereto as Exhibit A; and

WHEREAS, the Planning Commission held a duly noticed public hearing related to the proposed Zoning Code amendment on February 24, 2025; and

WHEREAS, after close of the public hearing, the Planning Commission considered all public comments received both before and during the public hearing, the presentation by city staff, the staff report, and all other pertinent documents regarding the proposed zoning code amendment; and

WHEREAS, the proposed ordinance amendments are exempt from the California Environmental Quality Act (CEQA) based on the rule set forth in CEQA Guidelines Section 15061(b)(3)

that CEQA applies only to projects which have the potential for causing a significant effect on the environment.

NOW THEREFORE, BE IT RESOLVED, that the above recitals are true and correct and made part of this Resolution.

BE IT FURTHER RESOLVED, that the Planning Commission of the City of Pinole hereby recommends that the City Council adopt an ordinance amending Chapter 17.70 of the Pinole Municipal Code, as set forth in Exhibit A, attached hereto and incorporated herein.

PASSED AND ADOPTED by the Planning Commission of the City of Pinole on this 24th day of February, 2025, by the following vote:

- AYES:**
- NOES:**
- ABSTAIN:**
- ABSENT:**

Rafael Menis, Chair, 2024-2025

ATTEST:

David Hanham, Planning Manager

ATTACHMENT A, EXHIBIT A. MUNICIPAL CODE AMENDMENTS

1. Pinole Municipal Code Chapter 17.70 Accessory Dwelling Units and Junior Accessory Dwelling Units [Amendment]

1. Pinole Municipal Code Chapter 17.70 Accessory Dwelling Units and Junior Accessory Dwelling Units [Amendment]

Section 17.70.010, Section 17.70.020, and New Section 17.70.070 are included (excerpt of Chapter 17.70 Accessory Dwelling Units and Junior Accessory Dwelling Units).

Text to be removed shown in ~~strikeout text~~.

Text to be added shown in **bold and underline**.

CHAPTER 17.70

ACCESSORY DWELLING UNITS AND JUNIOR ACCESSORY DWELLING UNITS

Sections:

- 17.70.010 Purpose.
- 17.70.020 Applicability.
- 17.70.030 Permit requirements.
- 17.70.040 Performance standards.
- 17.70.050 Declaration of restrictions
- 17.70.060 Affordable housing incentive.

17.70.070 Amnesty and Enforcement Delay Ordinance for Unpermitted ADUs and JADUs

17.70.010 PURPOSE.

The purpose of this chapter is to establish procedures for reviewing the placement of accessory dwelling units and junior accessory dwelling units in residential and mixed-use zoning districts, address the state's accessory dwelling unit (ADU) and junior accessory dwelling unit (JADU) requirements, as set forth in California Government Code § ~~66310 to 66342~~ **65852.2- and 65852.22**, **provide a pathway for amnesty for unpermitted JADUs and ADUs**, and implement the general plan policies which encourage more affordable rental housing, while maintaining the quality of existing residential neighborhoods.

(Ord. 2020-04 § 2, 2020; Ord. 2017-08 § 2 (part), 2017; Ord. 2010-02 § 1 (part), 2010)

17.70.020 APPLICABILITY.

The regulations and standards contained in this chapter shall apply to all new accessory dwelling units (ADU) and junior accessory dwelling units (JADU) in the city, including previously unpermitted ADUs **and junior accessory dwelling units (JADU)) in the city, including previously unpermitted ADUs and JADUs constructed prior to January 1, 2020**, that are legalized, and shall be in addition to any other development standards and regulations contained elsewhere within Title 17 Zoning Code that apply to primary dwelling units (e.g., lighting). ADUs are permitted on all lots zoned to allow single-family and multi-family residences that have an existing or proposed single-family or multi-family residence. JADUs are permitted on lots with an existing or proposed single-family residence. For the purposes of this title, ADUs and JADUs are not considered accessory structures as otherwise regulated in Chapter 17.30.

(Ord. 2020-04 § 2, 2020; Ord. 2017-08 § 2 (part), 2017; Ord. 2010-02 § 1 (part), 2010)

...

17.70.070 AMNESTY AND ENFORCEMENT DELAY ORDINANCE FOR UNPERMITTED ADUS AND JADUS

- A. Definitions. For the purposes of this Section, "Unpermitted Junior/Accessory Dwelling Units" shall mean JADUs and ADUs built without prior approval pursuant to the requirements of Section 17.12.030 (Plan Check).**
B. Eligibility and Owner Rights. The owner of an Unpermitted Junior/Accessory Dwelling Unit has a right to request:

1. The owner of an Unpermitted Junior/Accessory Dwelling Unit has a right to request:

- a. Amnesty from any violation of a performance standard in PMC Section 17.70.40 if the Unpermitted Junior/Accessory Dwelling Unit was constructed prior to January 1, 2020; and**
b. Delay in enforcement of the Building Code, and local amendments thereof, as adopted under PMC Title 15 if the Unpermitted Junior/Accessory Dwelling Unit was built prior to the effective date of this Section.

To qualify for amnesty or enforcement delay, owners must submit an application as prescribed by the Community Development Director or their designee.

C. Application Process.

- 1. Amnesty JADU/ADU. The owner of an Unpermitted Junior/Accessory Dwelling Unit that can provide suitable proof that said unit was constructed prior to January 1, 2020, may submit an Amnesty JADU/ADU Permit application in the form and manner prescribed by the Community Development Director or their designee. Suitable proof includes but is not limited to:**

a. Assessor's records;

b. Rental contracts and/or receipts;

c. Income tax records;

d. Utility bills;

e. Contractor's bills; and/or

f. Written affidavits from former owners, tenants, or neighbors, signed and notarized under penalty of perjury.

2. Enforcement Delay. Owners may request a delay in enforcement for Building Code violations for units built prior to the effective date of this Section in the form and manner prescribed by the Community Development Director or their designee. The Building Code enforcement delay shall be for a period of no more than five (5) years on the basis that correcting the violation is not necessary to protect the public health and safety. The Community Development Director or their designee shall grant the owner's Building Code enforcement delay request unless the Community Development Director or their designee makes a finding that correcting the violation is necessary to comply with conditions that would otherwise deem a building "substandard" housing as defined by Health and Safety Code Section 17920.3. Any future violations by owners or tenants will result in revocation of the delay.

3. Sewer Lateral Compliance. Owners applying for ADU Amnesty shall demonstrate compliance with the City's sewer lateral inspection program.

D. Fees and Administrative Costs. Applicants shall pay administrative fees, established by City Council resolution, to process Amnesty JADU/ADU Permit applications and enforcement delay requests.

E. City Support and Resources. To support a pathway to amnesty and increase program participation, the City shall provide:

1. Accessible public information regarding:

a. The conditions that constitute substandard housing under Health and Safety Code §17920.3; and

b. The right of property owners to obtain a confidential, third-party inspection from a licensed contractor before submitting an Amnesty ADU/JADU Permit application.

2. An online self-assessment checklist for owners of Unpermitted Junior/Accessory Dwelling Units interested in pursuing an Amnesty JADU/ADU Permit.

3. Free and confidential staff consultations to discuss amnesty options.

F. Enforcement Actions.

1. Notice and Compliance Requirements. When issuing notices of violation for Unpermitted Junior/Accessory Dwelling Units built before the effective date of this Section, the City shall, until January 1, 2030, include a statement of the owner's rights to:

a. Request amnesty for performance standard violations in PMC Section 17.70.40 for units established and occupied before January 1, 2020;

b. Request a delay in enforcement of the Building Code and related local amendments for units built before the effective date of this Section.

c. Hire a licensed contractor to conduct a confidential third-party inspection before submitting an Amnesty JADU/ADU Permit application to the City.

2. Penalties. Penalties related to zoning or building violations shall be waived during the amnesty and enforcement delay periods. The burden of proof lies with the applicant to demonstrate the date of establishment and occupancy or construction of the unit.

G. Sunset Provisions

1. Applications for Amnesty JADU/ADU Permits and enforcement delays will not be approved after January 1, 2030.

2. No enforcement delays shall extend beyond January 1, 2035, at which point this Section shall be repealed.

Attachment B. Housing Element Programs Associated with ADU Amnesty Program

[Highlighted text was addressed in the revisions]

Program 4. Facilitate ADU Production

To encourage and increase ADU production in the City, a number of efforts are included. The programs are intended to help the City meet its target projection of three ADUs per year. This program works in conjunction with Program 23, ADU, JADU, and SB 9 Education. If annual production and affordability rates do not match the estimates included in the Housing Resources Section, the City will update the ADU strategy to ensure that the City continues to maintain adequate capacity for all income levels.

- **Updated ADU Ordinance.** The City has submitted its ADU ordinance to the State and the State acknowledge that the ordinance was received. Should the State require revisions to the ordinance, it will be modified to reflect the requested revisions within one year upon receipt of the comments.

- **ADU Tracking.** The City will track and monitor its ADU production to ensure that annual production achieves the RHNA projections (3 ADUs/year). The City will begin to request information about ADU rents from applicants to better track the affordability of proposed ADUs. As a part of ADU tracking, the City will analyze geographic distribution of ADUs biennially to understand which neighborhoods are building ADUs.

- **ADU Fast Track Program.** The City will develop a process to fast track ADU applications through plan check by moving them to the top of the queue and reducing plan check turnaround times.

- **ADU Amnesty Program.** To ensure safe and adequate housing, the City will develop an ADU amnesty program for existing, unpermitted ADUs to receive inspections and bring units into compliance with code and permits without risk of code enforcement action, significant fee reductions and assistance in determining necessary improvements.

- **Fee Waivers for Affordable ADUs.** Current successor funds require an affordability covenant length of 55 years. The City will modify Zoning Ordinance Section 17.70.060 to shorten the required ADU covenant length (for example, for 5 – 15 years) pending alternate funding to offset the fee waivers for ADUs over 750 square feet that are made available to lower or moderate income households for a shorter period of time. The City will pursue funding sources, such as PLHA or in-lieu fees, funds for this effort.

Attachment C. Example Pre-Submittal ADU Amnesty Checklist



Building & Safety Division
Planning & Development

Amnesty Program for Unpermitted Dwelling Units

OWNER'S PRE-SUBMITTAL QUESTIONNAIRE AND CHECKLIST

This pre-submittal checklist is provided to you, the owner of an unpermitted dwelling unit, for self-assessment of your property. It will assist you in exploring the possibility of legalization of your unit under the Amnesty Program for Unpermitted Dwelling Units. Please complete this checklist to identify possible code issues and to assess the possibility of pursuing legalization of your unit. Once completed, you may choose to schedule a free and confidential consultation with program staff to discuss possible pathways to legalization of your unit.

Note: The City of Berkeley cannot ignore any conditions that present an immediate danger to life safety. Applicants must be aware of this risk before submitting an Amnesty Program Application and having your unpermitted unit inspected by a City Inspector. Any fire and/or life safety violations observed during the initial Housing Inspection must be corrected within 30 calendar days. Violations determined to be an immediate danger that are not corrected may be subject to code enforcement proceedings including assessment of fees.

Your Unit's Information

Estimated Date of Construction/Conversion:

Unit Square Feet:

Zoning District:

Fire Zone: 1 2 3

Types of Unpermitted Dwelling Units

Attached ADU: An attached secondary unit with independent access, permanent spaces for living and sleeping, and a complete kitchen and bathroom. This includes converted ADUs from existing garages, basements, attics or other existing habitable or non-habitable spaces.

Detached ADU: A detached secondary unit with independent access, permanent spaces for living and sleeping, and a complete kitchen and bathroom. This includes converted ADUs from existing garages or other detached accessory structures serving the primary dwelling.

Converted JADU: A JADU that is contained entirely within the floor area of a Single Family Dwelling with a separate exterior entrance. JADUs may be converted garage or attic spaces with separate sanitation facilities or may share sanitary facilities with the Single Family Dwelling. JADUs may also have efficiency kitchens as their permanent cooking facility.

Other:

1947 Center St. 3rd Floor, Berkeley, CA 94704
(510) 981-5444 TTY 6903
buildingandsafety@berkeleyca.gov

Eligibility Criteria Checklist

Y N

Was the existing unpermitted dwelling unit constructed/converted prior to January 1, 2020?
Property owners will be required to provide documentation for construction/conversion date.
See Program Rules for acceptable documentation types.

Does the owner occupy the primary dwelling or the secondary unit if the unpermitted unit is a Junior ADU (JADU)?

Is the unpermitted dwelling unit located in an area zoned for residential use?
Unpermitted dwelling units located in an area other than what is zoned for residential use are not eligible for the amnesty program.

Does the number of dwelling units to be legalized exceed the allowances for the Single-Family Dwelling maximum per lot, which is 1 ADU and 1 JADU?

Pathways to Legalization:

The City of Berkeley's Amnesty Program for Unpermitted Dwelling Units provides 2 pathways to legalization:

Path 1: Legalization through the standard building permit process and issuance of a Certificate of Occupancy

Path 2: Legalization through issuance of a Housing Certificate of Compliance.

See the Amnesty Program for Unpermitted Dwelling Units Program Rules for more information on pathways to legalization and compliance.

Construction/Conversion Date:

Only unpermitted dwelling units constructed or converted prior to January 1, 2020 are eligible for participation under the Amnesty Program for Unpermitted Dwelling Units.

Applicants seeking legalization under the Amnesty Program for Unpermitted Dwelling Units may request their construction documents and plans be reviewed under the building codes that were in effect at the time when the unit was first constructed or converted by providing documentation to verify the construction or conversion date of the unpermitted dwelling unit. All documentation is subject to review and approval by program staff. California Building Standards applied to the unit are subject to review and approval at the discretion of the Building Official.

Please indicate which type/types of documentation will be used to confirm the construction/conversion date of the unit:

A signed/stamped letter from a licensed professional

The County Assessor's initial date recognizing the unpermitted dwelling unit

Escrow documents identifying the unit and the year of construction

Prior Official Building, Planning, or Code Enforcement records of the unpermitted dwelling unit

Real estate transfer disclosure forms for unpermitted dwelling unit

If the above information is not available, then a combination of the following can be utilized to establish the construction/conversion date:

Insurance documents

Notarized letters from previous owners or tenants

Photos (if available) Dated, showing approximate time of construction

Other documents will be considered on a case-by-case basis

Construction of the Unpermitted Dwelling Unit:

Fill in as much information as available.

**Construction
Performed
by:**

Contractor

Owner

Other:

Structural:

Check all
that apply

Concrete Slab

Raised: 2x floor joists at " o.c.

Unknown

Other:

Wall Type:

2 x 4 studs at 16" o.c.

2 x 4 studs at 24" o.c.

Other:

Roof Type:

2 x at " o.c. roof rafters

2 x at " o.c. ceiling joisters

Other:

Attic:

Vented

Not Vented

Roofing:

Asphalt Shingle

Tile Metal Flat

Other:

**Electrical
Wiring:**

Check all
that apply

Y N

Is all of the existing electrical wiring serving the unpermitted dwelling unit from the original primary building?

If not, please describe the unpermitted alterations:

**Plumbing
and
Mechanical
Amenities:**

Check all
that apply

Y N

Are all of the fixtures and plumbing systems serving the unpermitted dwelling from the original primary building?

If not, please describe the unpermitted alterations:

For the following plumbing fixtures and/or mechanical elements, please indicate which were added, altered or replaced without an approved building permit:

Plumbing - *Hot and cold water piping, sanitary piping*

Toilet

Lavatory - *including faucets*

Tub - *including controls, spout, and drain*

Shower - *including shower faucets, head, and drain*

Dishwasher

Clothes Washer Infrastructure

Clothes Dryer Infrastructure

Kitchen Sink

Water Heater

Heating System

Fire and Life Safety Criteria Questionnaire

Amnesty Program for Unpermitted Dwelling Units applicants will be required to address, at a minimum, all of the fire and life safety requirements listed below in order to be considered for legalization. If your unit does not meet one or more of these requirements, they will be considered violations. Applicants who do not address minimum life safety violations will be subject to code enforcement. Under no circumstances can a 5-year delay of code enforcement proceedings be requested for abatement of fire, life, and health safety violations. For each question, a "No" answer may indicate that a remediation, repair, or a degree of reconstruction is needed.

On the following questions, please select **Yes**, **No** or **N/A** (not applicable) for each question. If **N/A** is not listed after a question, then you must select **Yes** or **No**.

If there is an * before the question and your answer to the question is **No**, then the item must be corrected before you can request a reprieve from code enforcement proceedings and continue to Certificate of Occupancy or Certificate of Compliance. A building permit may be required.

Answering "No" to questions with an ** will require the unit to be legalized through the standard building permit process (Path 1) and not through the issuance of a Housing Certificate of Compliance (Path 2).

Structure related

Overall condition

Y N

- ** Is the unit free of significant structural damage or defects due to deterioration, such as tilting walls or sagging roofs that present hazards?
- Is the unit free of any tripping hazards such as loose carpets, buckling and loose floor boards, delaminated floor finishing, or nails popping up?
- ** Is the ceiling height inside the unit at least 7 feet clear?

Interior walls

Y N N/A

- * Are all interior walls straight and sound?
- Are all interior walls finished with paint or with materials having protective qualities?
- Are all interior walls free from loose plaster?
- Do bathroom walls, including shower enclosures, have the required seal to prevent moisture intrusion into the building elements?

Interior walls (continued)

Y N N/A

- e. Are all interior walls free from holes allowing air or rodent intrusion?
- f. Are all interior walls free from visible mold?
- g. Are all interior walls free of peeling paint? (See lead based paint notation)
- h. Does the ADU have common walls, ceilings and/or floors with the primary unit?
- i. * To your knowledge, is there an existing 1-hour firewall separation at all common walls and ceilings?
- j. If existing, are the fire separation walls and ceiling between dwelling units free of damage, holes and leaks?

Exterior walls (walls not common with the primary dwelling)

Y N N/A

- a. * Are all exterior walls straight and sound?
- b. Are all walls finished with paint or with materials having weather-resistant protective qualities on the exterior?
- c. Are all wooden trims and sidings protected or have natural protective qualities?
- d. Are all walls free from loose stucco?
- e. Are all walls free from holes or other damage allowing air or rodent intrusion?
- f. Are all walls free from peeling paint hazards?
- g. ** If the ADU is detached from the primary dwelling or if the ADU was added to the primary dwelling increasing the ground footprint, are the ADU exterior walls within 3 feet of property lines?
- h. ** Are there existing windows along the exterior walls that are located less than 36" from the property line?
- i. * Does the exterior wall facing the property line have the required 1-hour fire wall separation?
- j. If the ADU is detached from the primary dwelling, is the ADU less than 10 feet apart from the primary dwelling building?
- k. * If less than 10 feet apart from the primary dwelling, does the ADU exterior wall facing the primary dwelling have the required 1-hour fire wall separation?

Stairways, Landings and Balconies

Y N N/A

- a. * Are stairs accessing the unit, decks serving the unit and balconies serving the unit in good working condition? *Please note ship's ladders, alternating tread stairs or other types of elevation change components are not considered stairs. If answer is N/A skip questions b through h below and continue with Exterior Elevated Elements.*
 - 1. What is the current width of the stairs?
 - 2. Does the measurement from the stair nosing (leading edge of the stair tread) to the ceiling directly above provide at least 6'8" headroom?
 - 3. What is the current height of the stair risers?
 - 4. What is the current width of the stair treads?

Stairways, Landings and Balconies (continued)

Y	N	N/A
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- | | | | |
|--|--|--|---|
| | | | b. Are all handrails and guardrails in good condition? |
| | | | c. * Are all handrails and guardrails secure in their attachments? |
| | | | d. Do all balusters and guard openings serving stairways, decks and balconies meet the minimum approved max openings which would not allow a sphere of 4" diameter? |
| | | | e. * Are all treads or steps in good condition free of tripping hazards? |
| | | | f. Are all structural supports of the stairways, decks and balconies in good condition? |
| | | | g. Are all materials protected from weathering and damage or have natural protective features? |
| | | | h. Is any point of the standing surface of the deck, balcony, and/or stair landing more than 30" above the adjacent ground level? |

Exterior Elevated Elements [E3]

Y	N	N/A
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- | | | | |
|--|--|--|---|
| | | | a. * Is the dwelling served by any Exterior Elevated Elements such as exterior stairs, balconies or decks more than 6 feet above the adjacent ground surface as described in BMC Section 19.40.040? |
|--|--|--|---|

Doors and Windows**Entry Doors**

Y	N	N/A
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- | | | | |
|--|--|--|---|
| | | | a. Do all entry doors meet the following minimum required safety requirements: |
| | | | 1. Is the entry door in good working condition? |
| | | | 2. Does the entry door(s) have a locking latch keyed from the outside with the ability to unlock from the inside without the use of a key or special knowledge? |
| | | | 3. Does the entry door(s) have a dead bolt keyed from the outside with ability to unlock from the inside without the use of a key or special knowledge? |
| | | | 4. Are the hardware/hinges in good working condition and operate without difficulty? |
| | | | 5. Is the door frame and body in good condition without delamination, damaged or peeling paint? |
| | | | 6. On a door leading to and from a garage into the unit, does it have a self-closing/latching device? |

Interior Doors

Y	N	N/A
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- | | | | |
|--|--|--|---|
| | | | a. Do all interior doors meet the following minimum required safety requirements: |
| | | | 1. Are all the interior doors in good working condition? |
| | | | 2. Privacy Locks – if the interior door is equipped with a privacy lock, is the locking mechanism working properly? |

Interior Doors (continued)

Y	N	N/A
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3. Are the hardware/hinges in good working condition and operate without difficulty?

4. Is the door frame and body in good condition without delamination, damaged or peeling paint?

Sliding Doors

Y	N	N/A
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a. Do all sliding doors meet the following ?

1. Are all the slider doors in good working condition?

2. Locks – are the locks in good operating condition?

3. Are the rollers and slides of the sliding door in good working condition and able to operate without difficulty?

4. Is the door frame and body in good condition without delamination, damaged or peeling paint?

Windows

Y	N	N/A
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a. ** Do all sleeping rooms have an emergency egress window or an exterior door that opens to a yard or other exterior space that is accessible to the public right of way?

b. * Do the emergency egress windows serving sleeping room(s) meet the minimum clear opening requirements of 24 inches in height, 20 inches in width, and a minimum clear opening area of 5.7 square feet (5.0 square feet for ground level windows)?

Safety/Tempered Glass Requirement Other Than Windows

Y	N	N/A
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a. Is the glass in any swinging, sliding or bifold doors tempered glass?

b. Is the glass in any walls along stairways and ramps tempered glass?

c. Is any glass within 24 inches of a doors edge and less than 60 inches above the walking surface tempered glass?

d. Is the exposed area of any pane of glass larger than 9 square feet, bottom edge of the glass less than 18 inches above the floor, the top edge of the glass higher than 36 inches above the floor and located less than 36" measured horizontally from a walking surface tempered glass?

e. If your property is in Fire Zone 2 or 3, do all of the windows have at least one pane of tempered glass?

f. In bathrooms, is there glass located in or within 60 inches of a tub and/or shower and within 60 inches of the walking or standing surface?

g. Is any glass in wall enclosures containing bathtubs, showers saunas, steam rooms or spas tempered glass?

Alarm and Fire Protection Systems

Fire Safety and Access:

Y N N/A

- a. ** Is the ADU located within 150 ft of the Public Right of Way curb?

Smoke Detectors

Y N N/A

- a. * Are smoke detectors installed in the following required locations:
1. In hallways or spaces outside each sleeping area, in the immediate vicinity of the bedrooms?
 2. In each bedroom?
 3. On every level/floor including basement?
 4. Is a detector located within 3 feet of a bathroom door, forced air registers, or the tip of a ceiling fan blade? (if yes, then that detector must be moved)

Carbon Monoxide

(carbon monoxide alarms are required when the dwelling has natural gas service, has a wood burning or natural gas fireplace or is directly connected to a garage or carport)

Y N N/A

- a. * Does the dwelling have natural gas appliances, a wood or natural gas fireplace or is it connected to a garage or carport?
- b. If the answer above is Yes, are carbon monoxide alarms installed in the following required locations:
1. On every level/floor in the immediate vicinity of each sleeping area?
 2. In every sleeping room where a fuel-burning appliance is located within a bedroom or in an attached bathroom.
 3. In basements?

Fire Alarm System *(for properties located in Fire Zone 3 only)*

Y N N/A

- a. Is an audible exterior alarm installed as required and approved by the Fire Marshal?

Electrical, Mechanical and Plumbing systems serving the ADU/JADU

Electrical

Y N N/A

- a. Is the unit free of any exposed electrical wiring?
- b. Do all the outlets and switches have cover-plates?
- c. Are the existing coverplates in good condition that are not cracked or deteriorated?

Electrical (continued)

Y	N	N/A
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- | | | | |
|--|--|--|---|
| | | | d. Are all electrical receptacles in the following locations GFCI (ground fault circuit interrupters) protected? |
| | | | 1. In the kitchen? |
| | | | 2. In the bathroom(s)? |
| | | | 3. In the basement? |
| | | | 4. At the exterior outlet locations? |
| | | | 5. In the attic? |
| | | | 6. In the garage? |
| | | | e. Are all three-prong receptacles grounded? |
| | | | f. Is the electrical service panel readily accessible and in safe operating condition? |
| | | | g. Does the panel have a required dead front cover allowing only the exposure of circuit breaker handles? |
| | | | h. Are any open slots in the dead front cover covered with a proper device? |
| | | | i. Are all circuit breakers in good and operating condition? |
| | | | j. Are all circuit breakers labeled with proper amperage? |
| | | | k. Are all circuit breakers identified and labeled to their corresponding location or equipment? |
| | | | l. Is there a dedicated and separate electrical shut off for the dwelling unit? |
| | | | m. Is all metal piping serving the unit properly bonded? |
| | | | <i>The following pipes shall be properly bonded if they are metal:</i> |
| | | | <i>i. Gas Pipe,</i> |
| | | | <i>ii. Hot and Cold water pipes</i> |
| | | | <i>iii. Piping adjacent to the water heater</i> |
| | | | <i>iv. Fire Sprinkler pipes</i> |

Heating and Ventilating Mechanical Systems

Y	N	N/A
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- | | | | |
|--|--|--|--|
| | | | a. * Does the unit have its own heating system with a thermostat or is the unit connected to a heating system that is capable of maintaining a minimum of 68 degrees Fahrenheit within any and all portions of the unit? |
| | | | b. Does the unit have a thermostat in good working condition? |
| | | | <i>(Exceptions: For units that do not have a thermostat or controlling devices, the temperature inside the habitable spaces shall be maintained at 68 degrees Fahrenheit)</i> |
| | | | c. Do all supply and return air vents have a vent cover? |

Heating and Ventilating Mechanical Systems (continued)

Y N N/A

- d. Does the bathroom(s) have an exhaust fan in good working condition?
(Exceptions: In dwelling units built/converted prior to 2010, bathrooms with an operable window are not required to have an exhaust fan)
- e. Does the Kitchen have an exhaust fan in good working condition?
- f. Are the connections of the ducts free of screws? Yes No N/A (In other words, no screws are used to connect sections of duct together)
- g. Are the exhaust ducts equipped with an approved termination with a damper in good working order?
- h. Is the kitchen exhaust duct a smooth-wall type (not corrugated or flex-type)?

Built-In Appliances

Y N N/A

- a. Are the built-in appliances such as ranges, ovens, refrigerators, etc in good operating condition with no missing knobs and handles?

Plumbing System

Piping

Y N

- a. Is all existing water piping free from leaks?

Cold Water System

Y N N/A

- a. Are all plumbing fixtures able to deliver adequate amount of cold water?

Hot Water System

Y N N/A

- a. Are all plumbing fixtures required to deliver hot water able to deliver adequate amount of hot water with a minimum temperature of 110 degrees?

Sanitary System

Y N N/A

- a. * Overall, is the sanitary system in good working order?
- b. Is all sanitary drainage piping free from leaks and properly installed?
- c. Does the sanitary drainage piping have the correct minimum slope of ¼ inch per foot towards the public sewer main?
- d. Are there proper clean-outs installed at the following required locations:
 - 1. Within 24 inches from exterior of building?
 - 2. At every straight run of pipe exceeding 100 feet?
 - 3. Is there a cleanout at each aggregate horizontal change in direction exceeding 135 degrees?

Plumbing Fixtures

Y N N/A

- a. Are the toilets in good working order?
- b. Are the toilet anchor screws tight?
- c. Does the toilet's flush valve completely shut off the flow of water into the tank?
- d. Are the bathroom lavatory(s) in good working order, free of leaks and rust?
- e. Are the lavatory faucets free of leaks and the valves and handles in good working order?
- f. Is the lavatory properly set, caulked and sealed at the countertop to prevent water intrusion into walls and/or cabinets below?
- g. Are bathtub and/or shower faucets and handles in good working order free of leaks and rust?
- h. Is the kitchen sink in good working order, free of leaks and rust?
- i. Is the kitchen sink faucet free of leaks and the valves and handles in good working order?
- j. Is the kitchen sink properly set, caulked and sealed at the countertop to prevent water intrusion into walls and/or cabinets below?

Water Heater

Y N N/A

- a. * Is there a dedicated water heater serving the dwelling unit?
- b. What type of water heater is it? I.e. gas, electric, tank, tankless, heat pump, etc.
- c. To your knowledge, when was current water heater installed?
- d. If the water heater is a tank type water heater, does the water heater have state approved seismic straps installed?
 1. If seismic straps are installed, is there a strap installed on the upper and lower 1/3 of the water heater and a minimum of 4" above the water heater controls?
- e. Is there a drain pan under the water heater with the drain piping daylighting to the outside of the unit or garage? *(A drain pan is required where damaged can occur in the event of a leak or malfunction. An Overflow Sensor may be installed in lieu of the drain piping.)*
- f. Is there a temperature/pressure relief valve (TPRV) for the water heater?
- g. Does the drainage piping from the TPRV terminate outside the unit or garage between 6 and 24 inches from grade? *(Please note: The termination cannot be threaded or capped.)*

Water Heater (continued)

Y	N	N/A
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e. Regarding the Water Heater Venting:

1. Is the Water Heater properly vented?
2. Is the venting properly secured and fastened in place?
3. Is any horizontal vent pipe sloping upwards with a minimum of ¼ inch per foot?
4. Is there a minimum of three screws connecting the vent flue to the vent hood?
5. Does the vent terminate properly above the roof? (24 inches above any object within 10 feet horizontally.)

Any additional information regarding the unpermitted dwelling unit you may want to provide?

Once you have completed this checklist, assess whether you want to proceed. You may contact our offices for an additional confidential meeting to discuss what you have assessed and to answer any questions you may have. If you decide not to continue, please be aware of the fire and life safety issues you have discovered and it is our hope that you address these items in the near future for the safety of the occupants of the unpermitted dwelling unit. As the property owner, it is your responsibility to ensure your property meets habitability standards adopted by the City of Berkeley. By completing this form and contacting our offices in regards to your findings of unpermitted conditions you agree to defend, indemnify and hold harmless the City of Berkeley and it's officers and employees from any and all claims arising from discovery of safety violations.

Path 1: Certificate of Occupancy - Site Plan Requirements

For applicants seeking the full legalization of an unpermitted dwelling unit, a building permit and construction documents must be submitted. Site plans, floor plans and other drawings are required during the permit process, as if the project were new construction. After a permit is issued, an approved final inspection is required to obtain a Certificate of Occupancy and to fully legalize the unit.

It is recommended that you retain an experienced consultant to draft plans for your unpermitted unit. The consultant does not have to be a licensed professional as long as the structure is not structurally unusual. The plans must include the following drawings at a minimum:

1. Site Plan
2. Existing floor plan before the unpermitted unit was constructed if the unit is attached or converted.
3. New floor plan with the unpermitted unit addition, including electrical, plumbing, and mechanical systems in the same floor plan drawing or as a separate plan.
4. Reflected Ceiling Plan
5. Roof Plan
6. Building Section(s)
7. Building Elevations
8. Window and door schedules
9. Building details such as an eave details, wall details, floor details, etc.
10. Structural notes and specifications
11. Foundation Plan
12. Floor Framing Plan
13. Ceiling-Roof Framing Plan
14. Structural Details
15. Structural Calculations (by a licensed professional)
16. Setback dimensions to property lines and/or other structures on the same property.

Fire Separation Wall Construction Assemblies

For examples of fire separation wall construction assemblies, see the GA-600 Fire Resistance and Sound Control Design Manual.

- For 1-hour exterior walls see GA File No. WP 8105.
- For 1-hour interior walls see GA File No. WP 3242, GA File No. WP 3243, GA File No. WP 3244, GA File No. WP 3245, GA File No. WP 3430, GA File No. WP 3510, Ga File No. WP 3520, FA File No. WP 3605, or GA File No. WP 3614.
- For 1-hour ceiling assemblies see GA File No. FC 5241, GA File No. FC 5242, GA File No. FC 5250, GA File No. FC 5300, GA File No. FC 5410, GA File No. FC 5420, or GA File No. FC 5503.

A hard copy of the GA-600 Fire Resistance and Sound Control Design Manual is available for reference at the City of Berkeley Permit Service Center.