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HBX

HBX HOUSING AND BUSINESS MIX COMMERCIAL ZONE REGULATIONS

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17.65.010 Title, purpose, and applicability.

The provisions of this chapter shall be known as the Housing and Business Mix Commercial Zone Regulations. This chapter establishes land use regulations for the HBX-1, HBX-2 and HBX-3 zones.

The purposes of the Housing and Business Mix zones are to:

- Allow for mixed use districts that recognize both residential and business activities
- Establish development standards that allow residential and business activities to compatibly co-exist
- Provide a transition between industrial areas and residential neighborhoods
- Encourage development that respects environmental quality and historic patterns of development
- Foster a variety of small, entrepreneurial, and flexible home-based businesses.

Housing and Business Mix 1 (HBX-1) Zone. The HBX-1 zone is intended to provide development standards that provide for the compatible coexistence of industrial and heavy commercial activities and medium density residential development. This zone recognizes the equal importance of housing and business.

Housing and Business Mix 2 (HBX-2) Zone. The HBX-2 zone is intended to provide development standards for areas that have a mix of industrial, certain commercial and medium to high density residential development. This zone recognizes the equal importance of housing and business.

Housing and Business Mix 3 (HBX-3) Zone. The HBX-3 zone is intended to provide development standards for areas that have a mix of industrial, heavy commercial and higher density residential development. This zone is intended to promote housing with a strong presence of commercial and industrial activities. (Ord. 12772 § 1 (part), 2006)

17.65.020 Required design review process.

A. Except for projects that are exempt from design review as set forth in Section 17.136.025, no Building Facility, Telecommunications Facility, Sign, or other associated structure shall be constructed, established, or altered in exterior appearance, unless plans for the proposal have been approved pursuant to the design review procedure in Chapter 17.136, and when applicable, the Telecommunications regulations in Chapter 17.128, or the Sign regulations in Chapter 17.104.

B. Conformance to the “HBX Design Guideline Manual” is required for any change to the exterior of a building that requires a building permit in the HBX-1, HBX-2, HBX-3 zones.

C. Where there is a conflict between the design review criteria contained in Section 17.136.070 the design objectives contained in the “HBX Design Guideline Manual” the design objectives in the “HBX Design Guideline Manual” shall prevail.

17.65.030 Permitted, conditionally permitted and prohibited activities.

The following table lists the permitted, conditionally permitted, and prohibited activities in the HBX-1, HBX-2, and HBX-3 zones. The descriptions of these activities are contained in Chapter 17.10. A legally constructed facility shall be allowed to contain or be converted to contain any activities listed as permitted in the table below if they meet all applicable regulations.

“P” designates permitted activities in the corresponding zone.

“C” designates activities that are permitted only upon the granting of a conditional use permit (see Chapter 17.134) in the corresponding zone.

“L” designates activities subject to certain limitations listed at the bottom of the table.

“..” designates uses that are prohibited in the corresponding zone.

Activity	Regulations			Additional Regulations
	HBX-1	HBX-2	HBX-3	
<i>Residential Activities</i>				
Permanent Residential	P	P	P	
Residential Care occupying a One-Family Dwelling Residential Facility	P	P	P	17.102.212
Residential Care not occupying a One-Family Dwelling Residential Facility	C	C	C	17.102.212
Service-Enriched Permanent Housing	C	C	C	17.102.212

Activity	Regulations			Additional Regulations
	HBX-1	HBX-2	HBX-3	
Transitional Housing	C	C	C	17.102.212
Emergency Shelter	C	C	C	17.102.212
Semi-Transient Residential	C	C	C	17.102.212
<i>Civic Activities</i>				
Essential Service	C	C	C	
Limited Child-Care	P	P	P	
Community Assembly	P(L1)	P(L1)	P(L1)	
Community Education	C	C	C	
Nonassembly Cultural	P(L2)	P(L2)	P(L2)	
Administrative	P(L2)	P(L2)	P(L2)	
Health Care	C	C	C	
Special Health Care	C	C	C	17.102.410
Utility and Vehicular	C	C	C	
Extensive Impact	C	C	C	
Telecommunications	P	P	P	17.128
<i>Commercial Activities</i>				
General Food Sales	P(L3)	P(L3)	P(L3)	
Convenience Market	C	C	C	17.102.210
Fast-Food Restaurant	--	--	--	17.102.210
Alcoholic Beverage Sales	C	C	C	17.102.210
Convenience Sales and Service	P	P	P	
Mechanical or Electronic Games	C	C	C	17.102.210
Medical Service	P(L2)	P(L2)	P(L2)	
General Retail Sales	P	P	P	
Large-Scale Combined Retail and Grocery Sales	--	--	--	
General Personal Service	P	P	P	
Consultative and Financial Service	P(L2)	P(L2)	P(L2)	
Check Cashier and Check Cashing	--	--	--	17.102.430
Consumer Laundry and Repair Service	C	C	C	
Group Assembly	C	C	C	
Administrative	P(L2)	P(L2)	P(L2)	
Business and Communication Service	P	P	P	
Retail Business Supply	P	P	P	
Research Service	P(L2)(L4)	P(L2)(L4)	P(L2)(L4)	
General Wholesale Sales	P(L2)	P(L2)	P(L2)	
Transient Habitation	--	--	--	17.102.370
Construction Sales and Service	P(L5)	P(L5)	P(L5)	
Automotive Sales, Rental and Delivery	--	--	--	
Automotive Servicing	--(L6)	--	--	
Automotive Repair and Cleaning	--(L6)	--	--	
Automotive Fee Parking	--	--	--	

Activity	Regulations			Additional Regulations
	HBX-1	HBX-2	HBX-3	
Transport and Warehousing	P(L7)	P(L7)	P(L7)	
Animal Care	C(L8)	C(L8)	C(L8)	
Undertaking Service	--	--	--	
Scrap Operation	--	--	--	17.102.210
<i>Manufacturing Activities</i>				
Custom Manufacturing	P(L2)	P(L2)	P(L2)	17.120
Light Manufacturing	P(L2)(L4)	P(L2)(L4)	P(L2)(L4)	17.120
General Manufacturing	--	--	--	
Heavy Manufacturing	--	--	--	
Small Scale Transfer and Storage Hazardous Waste Management	--	--	--	
Industrial Transfer/Storage Hazardous Waste Management	--	--	--	
Residuals Repositories Hazardous Waste Management	--	--	--	
<i>Agricultural and Extractive Activities</i>				
Plant Nursery	C	C	C	
Crop and Animal Raising	--	--	--	
Mining and Quarrying Extractive	--	--	--	
<i>Accessory off-street parking serving prohibited activities</i>	C	C	C	17.102.110
<i>Additional activities which are permitted or conditionally permitted in an adjacent zone, on lots near the boundary thereof</i>	C	C	C	17.102.110

Limitations:

- L1-** The total floor area devoted to these activities by a single establishment shall only exceed ten thousand (10,000) square feet upon the granting of a conditional use permit (see Chapter 17.134).
- L2-** The total floor area devoted to these activities by a single establishment shall only exceed twenty-five thousand (25,000) square feet upon the granting of a conditional use permit (see Chapter 17.134).
- L3-** The total floor area devoted to a grocery store shall only exceed twenty-five thousand (25,000) square feet upon the granting of a conditional use permit (see Chapter 17.134). The total floor area devoted to a restaurant shall only exceed three thousand (3,000) square feet upon the granting of a conditional use permit (see Chapter 17.134).
- L4-** Not including accessory activities, this activity shall take place entirely within an enclosed building. Other outdoor activities shall only be permitted upon the granting of a conditional use permit (see Chapter 17.134).
- L5-** This activity shall be only permitted upon the granting of a conditional use permit (see Chapter 17.134) if it is the principal activity on a lot that is 25,000 square feet or larger or covers 25,000 square feet or more of lot area.
- L6-** Except on Lowell Street, a nonconforming Automotive Servicing or Automotive Repair and Cleaning Commercial Activity in the HBX-1 zone may be extended, and the facilities accommodating or serving such activity may be altered or otherwise changed upon the granting of a conditional use permit (see Chapter 17.134) and approval pursuant to the regular design review procedure (see Chapter 17.136). This conditional use permit and regular design review approval may be granted only upon determination that the proposal is adequately buffered from the street and surrounding residential activities through landscaping and fencing. See 17.114 for general regulations regarding nonconforming uses.
- L7-** Warehousing is permitted if the total floor area by a single establishment does not exceed twenty-five thousand (25,000) square feet. Floor areas over twenty-five thousand (25,000) square feet are only permitted upon the granting of a conditional use permit (see Chapter 17.134). Outdoor storage as a principal activity is only permitted upon the granting of a conditional use permit (see Chapter 17.134). Container storage, oil and gas storage, freight terminals, corporation yards, truck terminals, and truck services as primary activities are not permitted. Also, see Section 17.65.050 for special regulations regarding self storage establishments.

L8- Dog or cat kennels are not permitted.

17.65.040 Permitted and conditionally permitted facilities.

The following table lists regulations relating to certain facilities. The descriptions of these facilities are contained in Chapter 17.10.

“P” indicates that the facility is permitted in the corresponding zone.

“C” indicates that the facility is only permitted upon the granting of a conditional use permit (see Chapter 17.134) in the corresponding zone.

“--” designates uses that are prohibited in the corresponding zone.

Facility Types	Zone			Additional Regulations
	HBX-1	HBX-2	HBX-3	
<i>Residential Facilities</i>				
One-Family Dwellings	P	P	P	
One-Family Dwelling with Secondary Unit	P	P	P	17.102.360
Two-Family Dwelling	P	P	P	
Multifamily Dwelling	P	P	P	
Rooming House	P	P	P	
Mobile Home	--	--	--	
<i>Nonresidential Facilities</i>				
Enclosed Nonresidential	P	P	P	
Open Nonresidential	C	C	C	
Sidewalk Café	P	P	P	17.102.335
Drive-In Nonresidential	P	P	P	
Drive-Through Nonresidential	C	C	C	17.102.290
Shopping Center	--	--	--	
<i>Telecommunications Facilities</i>				
Micro Telecommunications	P	P	P	17.128
Mini Telecommunications	P	P	P	17.128
Macro Telecommunications	C	C	C	17.128
Monopole Telecommunications	C	C	C	17.128
Tower Telecommunications	--	--	--	17.128
<i>Sign Facilities</i>				
Residential Signs	P	P	P	17.104
Special Signs	P	P	P	17.104
Development Signs	P	P	P	17.104
Realty Signs	P	P	P	17.104
Civic Signs	P	P	P	17.104
Business Signs	P	P	P	17.104
Advertising Signs	--	--	--	17.104

17.65.050 Special regulations for self storage establishments.

A. For the purposes of this Chapter, a “self storage establishment” means an establishment that provides storage in small individual spaces that are exclusively and directly accessible to a specific tenant, offered on a monthly or other limited basis, and available to the general public. Generally, the individual storage spaces are 400 square feet or less.

B. No more than twenty percent of the total floor area on a lot shall be occupied by self storage establishments.

C. No project that includes a self storage establishment shall have any floor area devoted to self storage within 20 feet of the building frontage.

D. Projects that include self storage establishments shall have a minimum fifty (50) percent of lot frontage occupied by Convenience Sales and Service, General Food Sales, General Retail Sales, and/or General Personal Service Commercial Activities on the ground floor. These ground floor activities shall not be directly associated with the self storage establishment at the site.

17.65.060 Minimum lot area width and frontage.

The following table contains the minimum lot area, width, and frontage requirements for the zones in this chapter.

Standard	Zone		
	HBX-1	HBX-2	HBX-3
Minimum lot area	4,000 sf	4,000 sf	4,000 sf
Minimum lot width	35 ft	35 ft	35 ft
Minimum lot frontage	35 ft	35 ft	35 ft

Note:

See Sections 17.106.010 and 17.106.020 for exceptions to lot area, width and street frontage regulations. Lots that do not meet the standards described above may be developed if they meet the requirements described in Subsection 17.106.010A and all other applicable requirements.

(Ord. 12772 § 1 (part), 2006)

17.65.070 Maximum density.

The following table contains the maximum number of living units allowed per lot for the zones in this chapter.

Living Unit Type	Zone		
	HBX-1	HBX-2	HBX-3
Dwelling Unit	1,000 sf of lot area per unit	930 sf of lot area per unit	730 sf of lot area per unit
Rooming Unit	500 sf of lot area per unit	465 sf of lot area per unit	365 sf of lot area per unit

Notes:

See (1) Chapter 102.360 for regulations regarding secondary units; (2) Chapter 17.107 for affordable housing density incentives; and (3) Section 17.106.060 for increased density for senior housing.

2. New construction on a vacant lot that is greater than five thousand (5,000) square feet shall only result in a total of one unit on the lot upon the granting of a conditional use permit (see 17.134) in the HBX-2 and HBX-3 zones. This requirement does not apply to the expansion of the floor area or other alteration of an existing Single Family Dwelling.

3. See Section 17.65.090 for how to calculate density in mixed use projects.

(Ord. 12772 § 1 (part), 2006)

17.65.080 Maximum floor area ratio.

A. The following table contains the maximum floor area ratios (FARs) for all structures for the zones in this chapter.

Standard	Zone		
	HBX-1	HBX-2	HBX-3
Maximum FAR	1.75	2.5 when lot abutting street right-of-way is less than 80 ft. wide; 3.0 otherwise.	2.5 permitted; 3.0 permitted upon the granting of a conditional use permit:

Notes:

1. Under no circumstances shall a project exceed these FARs for all structures or the nonresidential FARs listed in subsection B.
2. See Section 17.65.090 for how to calculate FAR in mixed use projects.
3. A conditional use permit for an FAR of 3.0 in the HBX-3 zone may only be granted only upon determination that the proposal conforms to the general use permit criteria set forth in the conditional use permit procedure in Chapter 17.134 and to the following additional use permit criteria:
 - A. That the scale of buildings is reduced through the articulation and massing of street facing façades into a series of smaller forms.
 - B. That the additional floor area ratio does not significantly decrease the solar access of existing adjacent single family homes or duplexes to a degree greater than would be created if the facility were built according to the base FAR.

B. The following table contains the maximum floor area ratios (FARs) for nonresidential facilities for the zones in this chapter.

Standard	Zone		
	HBX-1	HBX-2	HBX-3
Nonresidential FAR	1.75	3.0	1.0

Notes:

1. Under no circumstances shall a project exceed the nonresidential FAR listed in this table or the FAR for all structures in subsection A.
2. See Section 17.65.090 for how to calculate FAR in mixed use projects.

(Ord. 12772 § 1 (part), 2006)

17.65.100 Maximum height.

A. The following table contains the maximum heights for the zones in this chapter.

Standard	Zone		
	HBX-1	HBX-2	HBX-3
Maximum height	35 ft.*	45 ft. when the lot abuts a street right of way that is less than 80 ft. wide; 55 ft. when the lot abuts a street right of way that is 80 ft. wide or more.	55 ft.

Notes:

1. Buildings shall have a thirty (30) foot maximum height at the setback line associated with any rear or interior side lot line that abut a lot in the R-1 through R-50 zones. This maximum height shall increase one foot for every foot of distance from this setback line. Also, see Section 17.108.030 for allowed projections above height limits and Section 17.108.020 for increased height limits for civic buildings.
2. See subsection (B) for situations when exceeding these maximum heights may be permitted.
- 3.* On Lowell Street, any building height over thirty feet requires the granting of a conditional use permit (see 17.134).

B. Structures that are: 1) on lots adjacent to, or directly across the street from a freeway right of way or Bay Area Rapid Transit (BART) right of way that contains above-ground tracks; and 2) located within the closest 125 feet of the lot from the freeway or BART right of way are eligible for a seventy five (75) foot height limit. This additional height is permitted only upon the granting of a conditional use permit (see Chapter 17.134) and approval pursuant to the regular design review procedure (see Chapter 17.136) and in conformance with the “Design Guidelines for the HBX zones” as a whole. In particular, the project shall conform to Guideline 4.6 of that document.(Ord. 12776 § 3, Exh. A (part), 2006: Ord. 12772 § 1 (part), 2006)

17.65.110 Minimum yards and courts.

- A. Minimum yards shall be consistent with the “Design Guidelines for the HBX zones” as adopted by the City Council.
- B. A minimum ten (10) foot rear yard depth is required when a rear lot line abuts any portion of a lot in a residential zone. Also, see Section 17.108.110 for reduced required rear yard depth next to an alley.
- C. See Section 17.108.080 for the required interior side yard width on a lot containing two or more living units and opposite a legally required living room window.
- D. When the rear yard of a reversed corner lot abuts a key lot that is in a residential zone, the required street side yard width of the reversed corner lot is one-half of the minimum front yard depth required on the key lot (see illustration 1-12a).
- E. Courts. On each lot containing a residential facility, courts shall be provided when and as required by Section 17.108.120.

17.65.120 Minimum usable open space.

The following table contains the minimum usable open space requirements per dwelling unit for the zones in this chapter.

Zone		
HBX-1	HBX-2	HBX-3
200 sf/unit	150 sf/unit	150 sf/unit

Note:

Usable open space is only required on lots with two units or more, and not required for single family homes with secondary units. Each square foot of private usable open space equals two square feet towards the total usable open space requirement. All usable open space shall meet the standards contained in Chapter 17.126, except that group usable open space may be located anywhere on the lot.

(Ord. 12772 § 1 (part), 2006)

17.65.130 Landscaping, paving, and buffering.

A. Submittal and approval of a landscaping and buffering plan for the entire site is required for the establishment of a new building facility (see code section 17.09.040 for definition), excluding secondary units of five hundred (500) square feet or less, and for additions to existing building facilities of over five hundred (500) square feet. The landscaping and buffering plan shall contain the following:

1. Landscaping and buffering that is consistent with the “Design Guidelines for the HBX Zones” as adopted by the City Council;
2. An automatic system of irrigation for all landscaping shown in the plan;
3. A minimum of one (1) fifteen-gallon tree, or substantially equivalent landscaping as approved by the Director of City Planning, for every twenty-five (25) feet of street frontage or portion thereof. On streets with sidewalks where the distance from the face of the curb to the outer edge of the sidewalk is at least six and one-half (6 ½) feet, the trees shall be street trees to the satisfaction of the City’s Tree Division.
4. At least one (1) fifteen (15) gallon tree in the parking lot for every six (6) parking spaces for projects that involve new or existing parking lots of 3,000 square feet or greater.
5. A minimum of five (5) feet of landscaping shall be required adjacent to the front and street side property lines for parking lots of three thousand (3,000) square feet or greater. Where parking stalls face into this required buffer area, the width of the required landscaping shall be increased by two (2) feet unless wheel stops are installed.

(Ord. 12776 § 3, Exh. A (part), 2006: Ord. 12772 § 1 (part), 2006)

17.65.140 Outdoor storage.

The outdoor storage of materials shall not exceed sixteen (16) feet in height on a lot. Further, outdoor storage may not be higher than eight (8) feet if both: (1) the storage is within fifteen (15) feet from any property line of a lot containing residential activities and (2) the storage faces any windows of a residential facility. Outdoor storage may also not be higher than eight (8) feet if it is within fifteen (15) feet from the front property line. The height of all outdoor storage shall also be restricted according to the Fire Code regulations. Sites with outdoor storage shall be screened in conformance to the “Design Guidelines for the HBX zones” as adopted by the City Council. (Ord. 12772 § 1 (part), 2006)

17.65.150 Special regulations for HBX work/live Facilities.

A. Definition. An “HBX work/live unit” means a room or suite of rooms that are internally connected maintaining a common household that includes (1) cooking space and sanitary facilities that satisfy the provisions of other applicable codes and (2) adequate working space reserved for, and regularly used by, one or more persons residing therein. An HBX work/live unit accommodates both residential and nonresidential activities but emphasizes the accommodation of commercial activities. An HBX work/live unit meets all applicable regulations contained in this section.

B. The establishment of an HBX work/live unit is permitted in the HBX zones if it meets and is consistent with the regulations and definitions contained in this section.

C. Regulations in this section do not supersede regulations contained in Section 17.102.190 relating to the conversion of buildings originally designed for commercial or industrial activities into joint living and working quarters.

D. Activity, parking, bicycle parking, loading, open space, and unit size standards. The following table contains the activities allowed in an HBX work/live unit; the minimum size of an HBX work/live unit; and the parking, bicycle parking, loading, and open space required for each HBX work/live unit:

Standard	Requirement	Notes
Activities allowed in an HBX work/live unit	Same permitted and conditionally permitted activities as described in Section 17.65.030 and any activity that would qualify as a home occupation in a residential facility (See Chapter 17.112)	
Required parking	One parking space per unit plus one additional unassigned visitor or employee parking space per five HBX work/live units	1
Required bicycle parking	With private garage for each unit: One short-term space for each 20 dwelling units; minimum requirement is two short-term spaces.	Without private garage for each unit: One long-term space for each four dwelling units; minimum requirement is two long term spaces. One short-term space for each 20 dwelling units; minimum requirement is two short-term spaces.
Required loading	Square feet of facility	Requirement
	Less than 25,000 square feet	No berth required
	25,000--69,999 square feet	One berth
	70,000--130,000 square feet	Two berths
	Each additional 200,000 square feet	One additional berth
Required usable open space	75 square feet of usable open space per unit	2
Minimum size of unit	No individual unit shall be less than eight hundred (800) square feet of floor area	

Notes:

1. See Chapter 17.116 for other off-street parking standards.
2. See Chapter 17.117 for other bicycle parking standards.
3. All required usable open space shall meet the usable open standards contained in Chapter 17. 126, except that all usable open space for HBX work/live units may be provided above ground. Further, each square foot of private usable open space equals two square feet towards the total usable open space requirement.

E. Each new HBX work/live unit shall qualify as at least one of the following Unit Types:

Unit Type	Maximum residential floor area	Special requirements	Separation between residential and nonresidential floor area
Type 1	One-third	None	Nonresidential floor area and residential floor area shall be located on separate floors (including mezzanines) or be separated by an interior wall (see Note 1, below, for an exception for kitchens).
Type 2	45 percent	There must be two entrances into the unit, one adjacent to the residential space, the other adjacent to the nonresidential space; the nonresidential entrance must be clearly designated as a business entrance separate from the residential entrance and be directly accessible by the public.	Nonresidential floor area and residential floor area shall be located on separate floors (including mezzanines) or be separated by an interior wall (see Note 1, below, for an exception for kitchens).
Type 3	55 percent	1. The majority of the nonresidential floor area for the unit must be at a public street level and directly accessible to the street; 2. The unit must have no residential floor area at the ground level; and 3. The ground floor entrance must be clearly designated as a business entrance.	Nonresidential floor area and residential floor area shall be located on separate floors (including mezzanines).

Note:

In Types 1 and 2, a kitchen may be open to non-residential floor area if the kitchen is adjacent to and directly accessible from a residential floor area or stairs that lead to residential floor area. In these unpartitioned kitchens, the kitchen is only required to be separated from the nonresidential floor area by a partition that can be opened and closed. The counters, cabinets, sink and appliances in the area that will function as a kitchen and the floor area that is four feet in front of these items shall be considered residential floor area.

F. All required plans for the creation of HBX work/live units shall (1) delineate areas designated to contain residential activities and areas designated to contain nonresidential activities and (2) contain a table showing the square footage of each unit devoted to residential and nonresidential activities.

G. For HBX work/live units, residential and nonresidential floor areas shall be designated according to the following standards:

1. Residential floor area shall be considered areas containing bedrooms, sleeping areas, and kitchens (not including kitchenettes).
2. Nonresidential floor area shall include floor areas designated for working.
3. The floor area of stairs and balconies shall not be considered floor area for the purpose of this subsection.
4. The floor area between residential rooms that will commonly be used for residential activities and foot traffic such as the corridors and areas between bedrooms, kitchens, residentially designated bathrooms, and other similar areas shall be considered residential floor area.
5. The floor area of bathrooms shall be counted according to the following rules:

- a. If there is only one bathroom in the unit, half of the bathroom shall be considered residential floor area and half shall be considered nonresidential floor area;
- b. If there is more than one bathroom in a unit the rules in the following table shall apply:

Bathroom access	Floor area calculation of bathroom
Bathroom can only be accessed through residential floor area	All of bathroom shall be considered residential floor area
Bathroom can be directly accessed from both nonresidential and residential floor area	Half of bathroom shall be considered residential floor area, the other half nonresidential floor area.
Bathroom can only be accessed through nonresidential floor area	All of bathroom shall be considered nonresidential floor area. However, if all bathrooms in the unit require access through nonresidential floor area, then at least one bathroom shall be considered residential floor area. In this case, the bathroom that is closest to or most conveniently accessed from residential floor area shall be designated as residential floor area.

6. In unpartitioned kitchens (see footnote 1 of the table contained in subsection E), the counters, cabinets, sink and appliances in the area that will function as a kitchen and the floor area that is four feet in front of these items shall be considered residential floor area.
7. If any part of a loft or mezzanine is designated as residential space according to rules above, then the entire loft or mezzanine space shall be considered residential floor area.
8. The Planning Director shall determine the designation of the floor area when the above standards do not clearly do so.

H. Each HBX work/live unit shall contain no more than one fully equipped kitchen. An HBX work/live unit may contain a second kitchenette to serve the nonresidential floor area. For the purposes of this section a kitchenette shall be considered a space with a counter that is no more than twenty (20) square feet, a sink, and an area for a refrigerator. No stovetop or oven (excluding microwave ovens) shall be permitted in a kitchenette.

I. Each HBX work/live unit shall have at least one public entrance that is directly adjacent to nonresidential floor area. A visitor traveling through this business entrance shall not be required to pass through any residential floor area in order to enter into the nonresidential area of the unit.

J. Any building permit plans for the construction or establishment of HBX work/live units shall (1) clearly state that the proposal includes work/live units and (2) label the units intended to be work/live units as work/live units. This requirement is to assure the City applies building codes appropriate for a work/live unit.

K. Each unit shall contain at least one tenant that operates a business within that unit. That tenant shall possess a valid and active City of Oakland Business Tax Certificate to operate a business out of the unit.

L. For any HBX work/live unit, a statement of disclosure shall be (1) provided to prospective owners or tenants before a unit or property is rented, leased, or sold and (2) in any covenant, conditions, and restrictions associated with a facility. This statement of disclosure shall contain the following acknowledgments:

1. The unit is in a nonresidential facility that allows commercial and/or light industrial activities that may generate odors, truck traffic, vibrations, noise and other impacts at levels and during hours that residents may find disturbing.

2. Each unit shall contain at least one tenant that operates a business within that unit. This tenant must possess an active City of Oakland Business Tax Certificate for the operation out of the unit.

M. Each building with an HBX work/live unit shall contain a sign that: (1) is permanently posted (2) is at a common location where it can be frequently seen by all tenants such as a mailbox, lobby, or entrance area (3) is made of durable material (4) has a minimum dimension of nine by eleven inches and lettering at least one-half an inch tall. This sign shall contain the following language: “This development contains work/live units. As such, please anticipate the possibility of odors, truck traffic, noise or other impacts at levels and hours that residents may find disturbing.” Further, City of Oakland regulations require that each unit have a tenant that (1) operates a business from that unit and (2) possesses an active City of Oakland Business Tax Certificate for this business.

N. HBX work/live units are nonresidential facilities and counted towards the nonresidential floor area ratio, not the residential density.

O. The development of HBX work/live units in an HBX zone shall not be considered adding housing units to the City’s rental supply and does not create “conversion rights” under the City’s condominium conversion ordinance, Chapter 16.36. The development standards for HBX work/live units are not intended to be a circumvention of the requirements of the City’s condominium conversion ordinance, Chapter 16.36.

P. Regular Design Review Criteria. Regular design review approval for HBX work/live units may be granted only upon determination that the proposal conforms to the regular design review criteria set forth in the design review procedure in Chapter 17.136 and to all of the following additional criteria:

1. That the exterior of a new building containing primarily HBX work/live units has a commercial or industrial appearance. This includes, but is not necessarily limited to, the use of nonresidential building styles or other techniques;

2. That a building containing HBX work/live units has nonresidential activities and nonresidential floor area on the ground floor or level and at street fronting elevations. These units shall have a significant ground floor street presence. The floor area facing the streets shall contain nonresidential activities and a depth of at least 20 feet for lots more than 35 feet wide, 15 feet otherwise. This ground level shall be either part of a larger HBX work/live Type 3 unit or its own independent commercial space;

3. That units on the ground floor or level of a building have nonresidential floor area that is directly accessible from and oriented towards the street;

4. That units on the ground floor or level of a building have a business presence on the street. This includes, but is not necessarily limited to, providing storefront style windows, interior space visible to the street, a business door that is oriented towards the street, a sign or other means that identifies the business on the door and elsewhere, a prominent ground floor height, or other techniques;

5. That the layout of nonresidential floor areas within a unit provides a functional and bona fide open area for working activities;

6. That the floor and site plan for the project include an adequate provision for the delivery of items required for a variety of businesses. This may include, but is not necessarily limited to, the following:

- a. Service elevators designed to carry and move oversized items,
- b. Stairwells wide and/or straight enough to deliver large items,
- c. Loading areas located near stairs and/or elevators and
- d. Wide corridors for the movement of oversized items.

7. That the floor and site plan for the project provide units that are easily identified as businesses and conveniently accessible by clients, employees, and other business visitors. (Ord. 12776 § 3, Exh. A (part), 2006; Ord. 12772 § 1 (part), 2006)

17.65.160 Special regulations for HBX live/work units.

A. Definition. “HBX live/work unit” means a room or suite of rooms that are internally connected maintaining a common household that includes: (1) cooking space and sanitary facilities that satisfy the provisions of other applicable codes; and (2) adequate working space reserved for, and regularly used by, one or more persons residing therein. An HBX live/work unit accommodates both residential and nonresidential activities. An HBX live/work unit meets all applicable regulations contained in this section.

B. The establishment of an HBX live/work unit is permitted in the HBX zones if it meets and is consistent with the regulations and definitions contained in this section.

C. Regulations in this section do not supercede regulations contained in Section 17.102.190 relating to the conversion of buildings originally designed for commercial or industrial activities into joint living and working quarters.

D. Activity, parking, loading, open space, and unit size standards. The following table contains the activities allowed in an HBX live/work unit, the minimum size of an HBX live/work unit, and the loading and open space for each HBX live/work unit:

Standard	Requirement		Note
Activities allowed in an HBX live/work unit	Same permitted and conditionally permitted activities as described in Section 17.65.030 and any activity that would qualify as a home occupation in a residential facility (See Chapter 17.112)		
Required parking	One parking space per unit		1
Required bicycle parking	With private garage for each unit:	Without private garage for each unit:	2
	One short-term space for each 20 dwelling units; minimum requirement is two short-term spaces.	One long-term space for each four dwelling units; minimum requirement is two long term spaces. One short-term space for each 20 dwelling units; minimum requirement is two short-term spaces.	
Required loading	Square feet of facility	Requirement	2
	Less than 50,000 square feet	No berth required	
	50,000--149,999 square feet	One berth	
	150,000--299,999 square feet	Two berths	
	Each additional 300,000 square feet	One additional berth	
Permitted density	Same as Section 17.65.070		
Required usable open space	Same as Section 17.65.130		

Notes:

1. See Chapter 17.116 for other off-street parking standards.
2. See Chapter 17.117 for other bicycle parking standards.
3. Chapter 17.116 contains other off-street loading standards. However, the minimum height or length of a required berth listed in Chapter 17.116 may be reduced upon the granting of regular design review approval (see Chapter 17.136), and upon determination that such smaller dimensions are ample for the size and type of trucks or goods that will be foreseeably involved in the loading operations of the activity served. This design review requirement shall supercede the requirement for a conditional use permit stated in Section 17.116.220.

E. The amount of floor area in an HBX live/work unit designated for and devoted to residential is not restricted.

F. Any building permit plans for the construction of HBX live/work units shall (1) clearly state that the proposal includes live/work facilities and (2) label the units intended to be live/work units. This requirement is to assure the City applies building codes appropriate for a live/work facility.

G. For any HBX Live/Work Facility a statement of disclosure shall be (1) provided to prospective owners or tenants before a unit or property is rented, leased, or sold and (2) in any covenant, conditions, and restrictions associated with a facility. This statement of disclosure shall contain an acknowledgment that the property is in a facility that allows commercial and/or light industrial activities that may generate odors, truck traffic, vibrations, noise and other impacts at levels and during hours that residents may find disturbing.

H. Each building with an HBX live/work unit shall contain a sign that: (1) is permanently posted; (2) is at a common location where it can be frequently seen by all tenants such as a mailbox, lobby, or entrance area; (3) is made of durable material; (4) has a minimum dimension of nine by eleven inches and lettering at least one-half an inch tall. This sign shall contain the following language: "This development contains live/work units. As such, please anticipate the possibility of odors, truck traffic, noise or other impacts at levels and hours that residents may find disturbing.

I. HBX live/work units are residential facilities, shall be counted towards the residential density, not the nonresidential floor area ratio, and may create "conversion rights" under the City's condominium conversion ordinance, Chapter 16.36. The same requirements contained in the City's condominium conversion ordinance that relate to residential units shall apply to HBX live/work units.

J. Regular Design Review Criteria. Regular design review approval for HBX live/work units may be granted only upon determination that the proposal conforms to the regular design review criteria set forth in the design review procedure in Chapter 17.136 and to all of the following additional criteria:

1. That the layout of nonresidential floor areas within a unit provides a functional and bona fide open area for working activities;
2. That, where appropriate for the type of businesses anticipated in the development, the floor and site plan for the project include an adequate provision for the delivery of items required for a variety of businesses. This may include, but is not necessarily limited to, the following:
 - a. Service elevators designed to carry and move oversized items,
 - b. Stairwells wide and/or straight enough to deliver large items,
 - c. Loading areas located near stairs and/or elevators and
 - d. Wide corridors for the movement of oversized items. (Ord. 12776 § 3, Exh. A (part), 2006; Ord. 12772 § 1 (part), 2006)

17.65.170 Special regulations for mini-lot and planned unit developments.

A. Mini-Lot Developments. In mini-lot developments, certain regulations otherwise applying to individual lots in the HBX-1, HBX-2 and HBX-3 zones may be waived or modified when and as prescribed in Section 17.102.320.

B. Planned Unit Developments. Large integrated developments shall be subject to the planned unit development regulations in Chapter 17.142 if they exceed the sizes specified therein. In developments which are approved pursuant to said regulations, certain uses may be permitted in addition to those otherwise allowed in the HBX-1, HBX-2 and HBX-3 zones, and certain of the other regulations applying in said zones may be waived or modified. (Ord. 12772 § 1 (part), 2006)

17.65.180 Other zoning provisions.

A. Parking and Loading. Off-street parking and loading shall be provided as prescribed in the off-street parking and loading requirements in Chapter 17.116.

B. Bicycle Parking. Bicycle parking shall be provided as prescribed in the bicycle parking regulations in Chapter 17.117.

C. Home Occupations. Home occupations shall be subject to the applicable provisions of the home occupation regulations in Chapter 17.112.

D. Nonconforming Uses. Nonconforming uses and changes therein shall be subject to the nonconforming use regulations in Chapter 17.114.

E. General Provisions. The general exceptions and other regulations set forth in Chapter 17.102 shall apply in the in the HBX-1, HBX-2 and HBX-3 zones.

F. Recycling Space Allocation Requirements. The regulations set forth in Chapter 17.118 shall apply in the HBX-1, HBX-2 and HBX-3 zones. (Ord. 12772 1 (part), 2006).